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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

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CFR Correction

In Title 7 of the Code of Federal Regulations, parts 300 to 399, revised as of January 1, 1999, page 200, first column, § 319.28 is corrected in paragraph (b)(1), second and twentieth lines, by removing ''Japan'' and adding in its place ''the country of origin''.

[FR Doc. 99–55541 Filed 12–13–99; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–69–AD; Amendment 39–11464; AD 99–26–05]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–25, PA–25–235, PA–25–260, PA–28S–160, PA–28S–180, PA–32S–300, PA–28–151, and PA–28–161 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to the following airplanes that incorporate certain Facet (manufactured by the Purolator Products Company) induction air filters:

—All The New Piper Aircraft, Inc. (Piper) Models PA–25, PA–25–235, PA–25–260, PA–28S–160, PA–28S–180, and PA–32S–300 airplanes; and—Piper Models PA–28–151 and PA–28–161 airplanes that incorporate a certain supplemental type certificate (STC).

This AD requires replacing these induction air filters. This AD results from reports of cracking, splitting, crumbling, and deterioration (referred to as damage hereon) of Facet/Purolator induction air filters manufactured between a certain time period. The actions specified by this AD are intended to prevent pieces of a damaged induction air filter from being ingested into the engine, which could result in reduced or loss of engine power.

DATES: Effective January 13, 2000.

Comments for inclusion in the Rules Docket must be received on or before February 17, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–69–AD, Room 1558, 901 Locust, Room 506, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–69–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Craft, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6089; facsimile: (770) 703–6097; e-mail address: ''Juanita.Craft@faa.gov''.

SUPPLEMENTARY INFORMATION:

Discussion

AD 99–05–09, Amendment 39–111057 (64 FR 10211, March 3, 1999), currently requires replacing certain Purolator/Facet induction air filters, Purolator part number (P/N) 638873, Model No. CA161PL, Piper P/N 460-632 (PS60007–2), that are installed on certain Piper PA–23, PA–24, PA–28, PA–32, and PA–34 series airplanes. These induction air filters were manufactured from January 1997 through September 1998; and are identified with a .250 (1/4)-inch high (white) ink stamp ''FACET–638873'', and may include ''FAA–PMA''.

Accomplishment of the actions required by AD 99–05–09 is required in accordance with the applicable maintenance manual, as specified in Piper Service Bulletin No. 1022, dated September 22, 1998, and Purolator Service Bulletin No.: SB090298.01, dated September 16, 1998.

The AD was the result of reports of deterioration, cracking, splitting, and crumbling (referred hereon as damage) of these Purolator/Facet induction air filters. Purolator utilized an incorrect curing time in the manufacturing process of the plastisol used in the induction air filters from January 1997 through September 1998. This incorrect curing time makes the induction air filters susceptible to the damage described above.

The actions specified in AD 99–05–09 are intended to prevent pieces of a damaged induction air filter from being ingested into the engine, which could result in reduced or loss of engine power.

Actions Since AD 99–05–09 Became Effective and The FAA's Determination

Since AD 99–05–09 became effective, the FAA has learned that the following airplanes also incorporate these Facet induction air filters:

—All The New Piper Aircraft, Inc. (Piper) Models PA–25, PA–25–235, PA–25–260, PA–28S–160, PA–28S–180, and PA–32S–300 airplanes; and

—Piper Models PA–28–151 and PA–28–161 airplanes that incorporate STC SA2946SO.

Because of this, the FAA has determined that (1) the same actions of AD 99–05–09 should apply to these Piper Models PA–25, PA–25–235, PA–25–260, PA–28S–160, PA–28S–180, PA–32S–300, PA–28–151, and PA–28–161 airplanes; and (2) AD action should be taken to prevent pieces of a damaged induction air filter from being ingested into the engine, which could result in reduced or loss of engine power.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other airplanes of the same type design to those referenced above, the FAA is issuing an AD. The AD requires replacing any Purolator/Facet

induction air filter, Purolator P/N 638873, Model No. CA161PL, Piper P/N 460–632 (PS60007–2), that:

—was manufactured anytime from January 1997 through September 1998; and

—is identified with a .250 (1/4)-inch high (white) ink stamp ''FACET–638873'', and may include ''FAA–PMA''.

Accomplishment of the replacement is required in accordance with the applicable maintenance manual, as specified in Piper Service Bulletin No. 1022, dated September 22, 1998, and Purolator Service Bulletin No.: SB090298.01, dated September 16, 1998.

Determination of the Effective Date of the AD

Since a situation exists (possible reduced or loss of engine power) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior 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 immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–CE–69–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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 (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–26–05 The New Piper Aircraft, Inc.: Amendment 39–11464; Docket No. 99–CE–69–AD.

Applicability: The following airplane model and serial numbers, certificated in any category, that are equipped with Purolator air filter part number (P/N) 638873, Model CA161PL, or Piper P/N 460–632 (PS60007–2):

Models	Serial numbers
PA–25	all serial number airplanes
PA–25–235	all serial number airplanes
PA–25–260	all serial number airplanes
PA–28S–160	all serial number airplanes
PA–28S–180	all serial number airplanes
PA–32S–300	all serial number airplanes
PA–28–151/161	all serial number airplanes that have Supplemental Type Certificate SA2946SO incorporated

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

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

To prevent pieces of a damaged induction air filter from being ingested into the engine, which could result in reduced or loss of engine power, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD, replace, with an FAA-approved induction air filter, any Purolator/Facet induction air filter, Purolator part number (P/N) 638873, Model No. CA161PL, Piper P/N 460–632 (PS60007–2), that incorporates the criteria presented in both paragraphs (a)(1) and (a)(2) of this AD. Accomplish this replacement in accordance with the applicable maintenance manual.

(1) Was manufactured anytime from January 1997 through September 1998; and

(2) Is identified with a .250 (1/4)-inch high (white) ink stamp ''FACET–638873'', and may include ''FAA–PMA''.

Note 2: This AD allows the aircraft owner or pilot to check the maintenance records to determine whether any Purolator/Facet induction air filter, Purolator P/N 638873, Model No. CA161PL, Piper P/N 460–632 (PS60007–2), has been installed between January 1, 1997, and January 13, 2000 (the effective date of this AD). See paragraph (c) of this AD for authorization.

Note 3: Piper Service Bulletin No. 1022, dated September 22, 1998, and Purolator Service Bulletin No.: SB090298.01, dated September 16, 1998, provide information relating to the subject of this AD, including procedures on how to identify the affected induction air filters.

(b) As of the effective date of this AD, no person shall install, on any affected airplane, any Purolator/Facet induction air filter, Purolator P/N 638873, Model No. CA161PL, Piper P/N 460–632 (PS60007–2), that incorporates the criteria presented in both paragraphs (a)(1) and (a)(2) of this AD.

(c) The owner/operator holding at least a private pilot's certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may check the maintenance records to determine whether any Purolator/Facet induction air filter, Purolator P/N 638873, Model No. CA161PL, Piper P/N 460–632 (PS60007–2), has been installed between January 1, 1997, and January 13, 2000 (the effective date of this AD). If one of these induction air filters is not installed, the AD does not apply and the owner/operator must make an entry into the aircraft records showing compliance with this AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(f) The service information that relates to the subject presented in this AD may be obtained from The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960. This information may be inspected at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri.

(g) This amendment becomes effective on January 13, 2000.

Issued in Kansas City, Missouri, on December 8, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–32369 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–19]

Amendment to Class D Airspace; Eglin AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class D airspace at Eglin AFB, FL. The Non-Directional Radio Beacon (NDB) Runway (RWY) 32 Standard Instrument Approach Procedure (SIAP) at Destin-Fort Walton Beach Airport has been amended. As a result, additional controlled airspace extending upward from the surface is needed to accommodate the SIAP at Destin-Fort Walton Beach Airport. An extension via the 147° bearing from the Destin NDB will be necessary. The length of the Class D airspace extension southeast of the NDB will be 7 miles, and the width of the airspace extension will be 5 miles.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On October 29, 1999, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D airspace at Eglin AFB, FL (64 FR 209). This amendment modifies Class D airspace at Eglin AFB. Designations for Class D airspace extending upward from the surface of the earth are published in FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class D designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Eglin AFB, FL.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO FL D Eglin AFB, FL [Revised]

Eglin AFB, FL
(Lat. 30°29′00″ N, long. 86°31′34″ W)
Destin-Fort Walton Beach Airport
(Lat. 30°24′00″ N, long. 86°28′17″ W)
Destin NDB

(Lat. 30°24′18″ N, long. 86°28′26″ W)
Duke Field
(Lat. 30°39′07″ N, long. 86°31′23″ W)
Hurlburt Field
(Lat. 30°25′44″ N, long. 86°41′20″ W)

That airspace extending upward from the surface, to and including 2,600 feet MSL within a 5.5-mile radius of Eglin AFB and within a 4-mile radius of Destin Fort Walton Beach Airport and within 2.5 miles each side of the 147° bearing from the Destin NDB, extending 7 miles southeast of the NDB, excluding the portion north of a line connecting the 2 points of intersection within a 5.2-mile radius circle centered on Duke Field; excluding the portion southwest of a line connecting the 2 points of intersection within a 5.3-mile radius of Hurlburt Field; excluding a portion east of a line beginning at lat. 30°30′43″ N, long. 86°26′21″ W, extending north of the 5.5-mile radius and north of a line beginning at lat. 30°30′43″ N, long. 86°26′21″ W, extending to the 5.5-mile radius.

* * * * *

Issued in College Park, Georgia, on December 2, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–32347 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–20]

Amendment to Class D Airspace; Jacksonville NAS Cecil Field, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class D airspace at Jacksonville NAS Cecil Field, FL, and will change the name of the airport to Cecil Field Airport. The U.S. Navy has discontinued operations at NAS Cecil Field, including decommissioning the Cecil Nondirectional Radio Beacon (NDB) and the Cecil Tactical Air Navigation (TACAN) navigational aids, thereby eliminating airspace extensions. The Jacksonville, FL, Port Authority has opened a contract airport traffic control tower at the airport. The control tower at Cecil Field is scheduled to be open 0800–1800, daily, Monday through Friday. Therefore, the Class D airspace hours of operation will be amended from continuous to part time.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On October 29, 1999, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D airspace at Jacksonville NAS Cecil Field, FL (64 FR 208). This amendment modifies Class D airspace at Jacksonville NAS Cecil Field, FL. Designations for Class D airspace extending upward from the surface of the earth are published in FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class D designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Jacksonville NAS Cecil Field, FL.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO FL D Jacksonville Cecil Field, FL [Revised]

Cecil Field, FL
(Lat. 30°13′07″N, long. 81°52′36″W)
Herlong Airport
(Lat. 30°16′40″N, long. 81°48′21″W)

That airspace extending upward from the surface, to and including 2,600 feet MSL, within a 5.5-mile radius of Cecil Field; excluding that airspace within a 1-mile radius of Herlong Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 7, 1999.

Wade T. Carpenter, Jr.,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–32348 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–18]

Amendment to Class D Airspace; Eastover, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class D airspace at Mc Entire ANGS, Eastover, SC. In accordance with a periodical review, the Non-Directional Radio Beacon (NDB) Runway (RWY) 32 Standard Instrument Approach Procedure (SIAP) requires additional

airspace. As a result, additional controlled airspace extending upward from the surface is needed to accommodate the SIAP at Mc Entire ANGS. An extension via the 164° bearing from the Mc Entire NDB for the NDB RWY 32 SIAP will be necessary. The length of the Class D airspace extension southeast of the NDB will be 6.3 miles, and the width of the airspace extension will be 5 miles.

EFFECTIVE DATE: 0901 UTC, February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On October 29, 1999, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class D airspace at Mc Entire ANGS, SC, (64 FR 209). This amendment modifies Class D airspace at Mc Entire ANGS. Designations for Class D airspace extending upward from the surface of the earth are published in FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class D designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class D airspace at Mc Entire ANGS, Eastover, SC.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 500 Class D Airspace

* * * * *

ASO SC D Eastover, SC [Revised]

Eastover, Mc Entire ANGS, SC
(Lat. 33°55′06″ N, long. 80°47′59″ W)
Mc Entire NDB
(Lat. 33°56′09″ N, long. 80°47′56″ W)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4.5-mile radius of Mc Entire ANGS and within 2.5 miles each side of the 164° bearing from the Mc Entire NDB, extending 6.3 miles southeast of the NDB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 2, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–32346 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 26 and 161

[USCG–1999–6141]

RIN 2115–AF92

Puget Sound Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard amends the designated monitoring areas of the Puget Sound Vessel Traffic Service (VTS). This amendment enhances safe navigation by moving a frequency-monitoring boundary so that mariners are no longer required to change designated frequencies and report to the VTS while attempting to negotiate a bend in the navigational channel.

DATES: This rule is effective on March 15, 2000, unless an adverse comment, or notice of intent to submit an adverse comment, reaches the Docket Management Facility on or before February 14, 2000. If we receive an adverse comment, or notice of intent to submit an adverse comment, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following methods:

(1) By mail to the Docket Management Facility (USCG–1999–6141), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.
(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
(3) By fax to the Docket Management Facility at 202–493–2251.
(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Jorge Arroyo, Office of Vessel Traffic Management (G–MWV), Coast Guard, telephone 202–267–6277 or E-mail jarroyo@comdt.uscg.mil. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

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 (USCG–1999–6141), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and scanning. If you mail your comments and would like to know they reached the Facility, 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 rule in view of them.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comment is anticipated. If no adverse comment or notice of intent to submit an adverse comment is received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, we will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if we receive an adverse comment or notice of intent to submit an adverse comment, we will publish a document in the **Federal Register** announcing withdrawal of all or part of this direct final rule. If an adverse comment applies to an amendment, paragraph, or section of this rule and it is possible to address that provision separately without defeating the purpose of this rule, we may adopt as final those provisions of this rule on which no adverse comment was received. Any provision of this rule that was the subject of an adverse comment will be withdrawn. If we decide to proceed with a rulemaking following receipt of an adverse comment, we will publish a separate Notice of Proposed Rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered ''adverse'' if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Discussion of Changes

To manage and communicate effectively with all vessels and users within the Puget Sound Vessel Traffic Service (VTS), we have divided the VTS area into two distinct monitoring areas. The designated radio frequency for each area will remain the same and are described in 33 CFR parts 26 and 161. If you use the VTS, you must change designated radio frequencies and report to the VTS when you are crossing the boundary between monitoring areas. Traditionally, a user moving between the two areas would make the report while attempting to negotiate a bend in the navigational channel.

In 1997, we made technological improvements to the communications and surveillance equipment at the Seattle Center of the VTS. As personnel at the Center became more adept with the upgraded equipment, they recognized that this situation could be alleviated with a slight alteration to the designated monitoring areas.

In an effort to enhance safe navigation and improve procedures within the Seattle Center, the boundary line that delineates the monitoring areas will be moved approximately 3 miles south of its existing location (i.e., from a line connecting Marrowstone Point and Lagoon Point to a line connecting Nodule Point and Bush Point). This rule does not change any substantive requirements of existing regulations. The purpose of this rulemaking is to change a frequency-monitoring boundary within the VTS area. We will move the boundary, described as ''a line connecting Marrowstone Point and Lagoon Point'' approximately 3 miles to the south and rename the boundary ''a line connecting Nodule Point and Bush Point.'' We have changed tables 26.03(f) and 161.12(b) to reflect the new frequency boundary.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This rule will not impose any additional costs on industry. It will not impose any new costs on the public because it does not create a new requirement. This rulemaking simply shifts the boundary between two existing monitoring areas.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This change in the location of a boundary will impose no new costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Comments submitted in response to this finding will be evaluated under the criteria in the ''Regulatory Information'' section of this preamble.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, or organization, or governmental organization and you have questions concerning its provisions or options for compliance, please contact Mr. Jorge Arroyo, Office of Vessel Traffic Management (G–MWV), Coast Guard, telephone 202–267–6277.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule will call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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.

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(i) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. The shift in the boundary line will have no impact on the environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 161

Harbors, Navigation (water), Reporting and Recordkeeping requirements, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 26 and 161 as follows:

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

1. The authority citation for part 26 continues to read as follows:

Authority: 14 U.S.C. 2; 33 U.S.C. 1201–1208; 49 CFR 1.45(b), 1.46; Rule 1, International Regulations for the Prevention of Collisions at Sea.

2. In § 26.03, in table 26.03(f), revise the entry for Seattle Traffic to read as follows:

§ 26.03 Radiotelephone required.

* * * * *

TABLE 26.03(F)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Vessel traffic services [1] call sign	Designated frequency [2] (channel designation)	Monitoring area
*	*	* * * * *
Puget Sound [5]		
Seattle Traffic [6]	156.700 MHz (Ch.14)	The navigable waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Nodule Point (48°01.5′N 122°40.05′W) and Bush Point (48°01.5′N 122°36.23′W) in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point (47°34′N 122°40′W) on Whidbey Island to the shoreline.
	156.250 MHz (Ch.5A)	The navigable waters of the Strait of Juan de Fuca east of 124°40′W, excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks (48°18′N 123°32′W); the navigable waters of the Strait of Georgia east of 122°52′W; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty of Juan de Fuca north and east of Race Rocks (48°18′N 123°32′W); the navigable waters of the Strait of Georgia east of 122°52′W; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Nodule Point (48°01.5′N 122°40.05′W) and Bush Point (48°01.5′N 122°36.23′W) and all waters of Whidbey Island north of a line drawn due east from the southernmost tip of Possession Point (47°34′N 122°40′W) on Whidbey Island to the shoreline.
*	*	* * * * *

Notes:

[1] VTS regulations are denoted in 33 CFR 161. All geographic coordinates (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).

[2] In the event of a communication failure either by the vessel traffic center or the vessel or radio congestion on a designated VTS frequency, communications may be established on an alternate VTS frequency. The bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13), is monitored in each VTS area; and it may be used as an alternate frequency, however, only to the extent that doing so provides a level of safety beyond that provided by other means.

* * * * * * *

[5] A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate vessel traffic center administers the rules issued by both nations; however, it will enforce only its own set of rules within its jurisdiction.

[6] Seattle Traffic may direct a vessel to monitor the other primary VTS frequency 156.250 MHz (Channel 5A or 14) depending on traffic density, weather conditions, or other safety factors, rather than strictly adhering to the designated frequency required for each monitoring area as defined above. This does not require a vessel to monitor both primary frequencies.

* * * * * * *

PART 161–VESSEL TRAFFIC MANAGEMENT

3. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46.

4. In § 161.12, in table 161.12(b), revise the heading for the second column and the entry for Puget Sound, Seattle Traffic to read as follows:

§ 161.12 Vessel operating requirements.

* * * * *

TABLE 161.12(B)—VESSEL TRAFFIC SERVICES (VTS) CALL SIGNS, DESIGNATED FREQUENCIES, AND MONITORING AREAS

Vessel traffic services call sign	Designated frequency [1] (channel designation)	Monitoring area
*	*	* * * * *
Puget Sound [4]		
Seattle Traffic [5]	156.700 MHz (Ch.14)	The navigable waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Nodule Point (48°01.5′N 122°40.05′W) and Bush Point (48°01.5′N 122°36.23′W) in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point (47°34′N 122°40′W) on Whidbey Island to the shoreline.
	156.250 MHz (Ch.5A)	The navigable waters of the Strait of Juan de Fuca east of 124°40′W, excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks (48°18′N 123°32′W); the navigable waters of the Strait of Georgia east of 122°52′W; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty of Juan de Fuca north and east of Race Rocks (48°18′N 123°32′W); the navigable waters of the Strait of Georgia east of 122°52′W; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Nodule Point (48°01.5′N 122°40.05′W) and Bush Point (48°01.5′N 122°36.23′W) and all waters of Whidbey Island north of a line drawn due east from the southernmost tip of Possession Point (47°34′N 122°40′W) on Whidbey Island to the shoreline.
*	*	* * * * *

Notes:

[1] In the event of a communication failure either by the vessel traffic center or the vessel or radio congestion on a designated VTS frequency, communications may be established on an alternate VTS frequency. The bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13), is monitored in each VTS area; and it may be used as an alternate frequency, however, only to the extent that doing so provides a level of safety beyond that provided by other means.

* * * * * * *

[4] A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate vessel traffic center administers the rules issued by both nations; however, it will enforce only its own set of rules within its jurisdiction.

[5] Seattle Traffic may direct a vessel to monitor the other primary VTS frequency, 156.250 MHz (Channel 5A or 14) depending on traffic density, weather conditions, or other safety factors, rather than strictly adhering to the designated frequency required for each monitoring area as defined above. This does not require a vessel to monitor both primary frequencies.

* * * * * * *

Dated: December 3, 1999.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–32097 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–6505–8]

OMB Approvals Under the Paperwork Reduction Act; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act for Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under Section 112(r) of the Clean Air Act. The final rule establishing the list of regulated substances and threshold quantities under CAA section 112(r) was published on January 31, 1994 (59 FR 4478, ''List Rule''), which also includes provisions and procedures for submitting a petition to add or delete a substance. The requirements for the Risk Management Program was published on June 20, 1996 (61 FR 31668, ''RMP Rule''). EPA combined the information collection requirements promulgated under these two rules.

EFFECTIVE DATE: December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, 202–260–7249.

SUPPLEMENTARY INFORMATION: EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. This amendment updates the table to list those information collection requirements in the List Rule and the RMP Rule. EPA combined the information collection requirements promulgated under these two rules, which was approved by OMB on September 30, 1999 (OMB Control No. 2050–0144). The affected regulations, Chemical Accident Prevention Provisions, are codified at 40 CFR part 68. 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 listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, EPA finds that further notice and comment is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to amend this table without prior 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 (Public Law 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 Procedure 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 Executive Order 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 Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety 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 December 14, 1999. The List Rule was promulgated prior to the effective date of the Congressional Review Act. The RMP Rule which was promulgated in June 1996, was submitted 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 in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: December 2, 1999.

Oscar Morales,

Director, Collection Strategies Division, Office of Information Collection.

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, 1318, 1321, 1326, 1330, 1342, 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 revising the entry for ''68.120(a), (e), and (g)'' and adding 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.
* * * * *	
Chemical Accident Prevention Provisions	
68.12	2050–0144
68.15	2050–0144
68.39	2050–0144
68.42	2050–0144
68.48	2050–0144
68.50	2050–0144
68.52	2050–0144
68.56	2050–0144
68.58	2050–0144
68.60	2050–0144
68.65	2050–0144
68.67	2050–0144
68.69	2050–0144
68.71	2050–0144
68.73	2050–0144
68.75	2050–0144
68.79	2050–0144
68.81	2050–0144
68.83	2050–0144
68.85	2050–0144
68.95	2050–0144
68.120(a), (e), and (g)	2050–0144
68.150	2050–0144
68.155	2050–0144
68.160	2050–0144
68.165	2050–0144
68.168	2050–0144
68.170	2050–0144
68.175	2050–0144
68.180	2050–0144
68.185	2050–0144
68.190	2050–0144
68.200	2050–0144
68.215	2050–0144
68.220	2050–0144

* * * * *

[FR Doc. 99–32379 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6508–7]

RIN 2060–A158

Title V Operating Permit Deferrals for Area Sources: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks; Ethylene Oxide Commercial Sterilization and Fumigation Operations; Perchloroethylene Dry Cleaning Facilities; Halogenated Solvent Cleaning Machines; and Secondary Lead Smelting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: This action continues to allow permitting authorities the discretion to defer Clean Air Act (Act) title V operating permit requirements until December 9, 2004, for area sources of air pollution that are subject to five NESHAPs. These amendments continue to relieve industrial sources, State, local, and tribal agencies, and the EPA Regional Offices of an undue regulatory burden during a time when available resources are needed to implement the title V permit program for major sources. Under these amendments, sources must continue to meet all applicable requirements, including all applicable emission control, monitoring, recordkeeping, and reporting requirements established by the respective NESHAP.

The title V operating permit deferral is an option at the permitting authority's discretion under EPA-approved State operating permit programs and not an automatic deferral that the source can invoke. Thus, State operating permit authorities are free to require area sources subject to the five NESHAPS to obtain title V permits. In areas where no State operating permit program is in effect, and the Federal operating permit program is administered by EPA, we will defer the requirement for title V permitting for these area sources until December 9, 2004.

EFFECTIVE DATE: December 14, 1999.

ADDRESSES: The following dockets, containing supporting information for the original rulemakings, are available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays: Docket No. A–88–11, subpart M NESHAP; Docket No. A–88–02, subpart N NESHAP; Docket No. A–88–03, subpart O NESHAP; Docket No. A–92–39, subpart T NESHAP; Docket No. A–92–43, subpart X NESHAP. These dockets are available for public inspection at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street SW, Washington, DC 20460, telephone (202) 260–7548, Room M–1500, Waterside Mall (ground floor). We may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: For further information on today's action, contact Mr. Rick Colyer, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711, telephone number (919) 541–5262, fax number (919) 541–0942, or e-mail: colyer.rick@epa.gov. For further information regarding applicability of your source to today's action, contact your title V permitting authority.

SUPPLEMENTARY INFORMATION: *Judicial Review.* We proposed these amendments on August 18, 1999 (64 FR 45116). This action promulgating these amendments constitutes final administrative action concerning that proposal. Under section 307(b)(1) of the Act, judicial review of these final amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by February 14, 2000. Under section 307(d)(7)(B) of the Act, only an objection to this rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the Act, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding brought by us to enforce these requirements.

Technology Transfer Network. The Technology Transfer Network (TTN) is a network of our electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. You can access the TTN through the Internet at http://www.epa.gov/ttn/. If you need more information on the TTN, call the HELP line at (919) 541–5384.

The preamble outline follows.

I. What types of facilities are potentially affected by these amendments?
II Summary of the Proposed Rule and Description of the Final Rule
III. What has changed since proposal?
IV What comments did we receive on the proposed amendments?
V. What are the administrative requirements for these amendments?
A. Executive Order 12866: Regulatory Planning and Review
B. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
C. Executive Order 13132: Federalism
D. Congressional Review Act
E. Unfunded Mandates Reform Act
F. Regulatory Flexibility Act
G. Paperwork Reduction Act
H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
I. National Technology Transfer and Advancement Act

I. What types of facilities are potentially affected by these amendments?

The regulated categories and entities potentially affected by this action include:

Category	North American Industry Classification System Codes	Examples of Potentially Regulated Entities.
Industry	331492	Secondary lead smelters.
	332, 333, 334, 335, 336, 447	Halogenated solvent cleaning machines at fabricated metal product manufacturing facilities, machinery manufacturing facilities, computer and electronic product manufacturing facilities, electrical equipment, appliance, and component manufacturing facilities, transportation equipment manufacturing facilities, and gasoline stations.
	332, 333, 334, 335, 336	Chromium electroplating machines at fabricated metal product manufacturing facilities, machinery manufacturing facilities, computer and electronic product manufacturing facilities, electrical equipment, appliance, and component manufacturing facilities, and transportation equipment manufacturing facilities.
	8123	Dry cleaning and laundry facilities.
	3391	Ethylene oxide sterilizers at medical equipment and supplies manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers of the entities likely to be affected by this action. This table lists the types of entities that we are now aware could be affected by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, etc., is affected by this action, you should carefully examine the applicability criteria in the following sections of title 40 of the Code of Federal Regulations (CFR):

- § 63.320, perchloroethylene dry cleaning.
- § 63.340, chromium electroplating.
- § 63.360, ethylene oxide sterilizers.
- § 63.460, halogenated solvent cleaners.
- § 63.541, secondary lead smelters.

If you have questions regarding the applicability of this action to a particular entity, consult your title V permitting authority.

II. Summary of the Proposed Rule and Description of the Final Rule

The purpose of EPA's proposed amendments was to allow title V permitting authorities to extend the deadline for area sources subject to five NESHAPs for submitting title V permit applications. The source categories covered by the proposal were hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide commercial sterilization and fumigation operations, perchloroethylene dry cleaning facilities, secondary lead smelting facilities, and halogenated solvent cleaning machines at area sources. We have previously allowed permitting authorities to defer permit applications for these area sources in a series of rulemakings (60 FR 29484, June 5, 1995; 61 FR 27785, June 3, 1996; and 64 FR 37683, July 13, 1999). Those provisions expire on December 9, 1999. Since the conditions prompting the allowance for previous deferrals have not changed (see 64 FR 45116, August 18, 1999), we proposed to extend the deferral provisions for the five NESHAPs for another 5 years. We also proposed to revise the relevant regulations in order to improve their understandability, as directed by President Clinton's June 1, 1998, Executive Memorandum on Plain Language in Government Writing.

Our authority for establishing the deferrals is section 502(a) of the Act, which allows us to exempt non-major sources from the permitting requirement if we find that compliance with title V is impracticable, infeasible, or unnecessarily burdensome on the sources. Our General Provisions implementing section 112 of the Act provide that unless we explicitly exempt or defer area sources subject to a NESHAP from the title V permitting requirement, they are subject to permitting (40 CFR 63.1(c)(2)(iii)). As a result, under 40 CFR 70.3(b)(2), 71.3(b)(2) and 63.1(c)(2), we are to determine whether area sources will be required to obtain title V permits when we adopt the underlying NESHAP.

When we initially established the ability for permitting authorities to defer these area sources from title V, we stated that we would decide whether to adopt permanent exemptions by the time the deferrals expired, and that we would continue to evaluate the permitting authorities' implementation and enforcement of the NESHAP requirements for area sources not covered by title V permits, the likely benefit of permitting such sources, and the costs and other burdens on such sources associated with obtaining title V permits. However, as we explained in the August 18, 1999, proposal, we do not yet have sufficient information to determine whether permanent exemptions are warranted for these area sources and are continuing to evaluate the other considerations. Thus, we are not prepared to make decisions that either permanently relieve these area sources from title V or that require them to become immediately subject to the permitting requirement.

Moreover, we noted that many permitting authorities are struggling to timely issue initial title V permits to major sources and other sources that have been subject to the permitting requirement since the beginning of the program, and that we are concerned about the impact of subjecting area sources to the permit application deadlines on permitting authorities. We stated that we believe the most reasonable approach is to extend the status quo for one more 5-year cycle of permitting while we obtain necessary information, rather than to decide by default by allowing the existing deferral to expire.

Today's final amendments adopt the amendments as proposed and extend the option of approved part 70 permitting authorities to defer the subject area sources from the part 70 permitting requirements. The deferral may extend until December 9, 2004. The deferral is not an automatic benefit provided to the sources. Rather, permitting authorities may exercise their discretion to either defer the area sources or to require them to apply for and obtain part 70 permits. Some permitting authorities may decide that area sources in the subject source categories warrant permitting based on local considerations or other factors, or they may have in place streamlined permitting mechanisms (such as the use of general permits or ''permits by rule'') that minimize the burden on both the permitting authority and the source.

For area sources that are not covered by an effective approved part 70 program and are subject to the EPA-administered part 71 permitting program, today's final rule amendments hereby announce that area sources subject to the five NESHAPS mentioned above are deferred from permitting under part 71 until December 9, 2004. For purposes of both part 70 and part 71, for the reasons discussed in the proposal (64 FR 45116, August 18, 1999) and as explained below, we conclude that requiring all area sources subject to the NESHAPs that are being amended by today's rulemaking to obtain title V permits at this time would constitute an impracticable, infeasible and unnecessary burden on these area sources, and would be an additional burden on the permitting authorities that have not yet determined that they are prepared to begin permitting these sources.

III. What Has Changed Since Proposal?

We received seven comment letters, most of which supported the proposed deferral extension. We have considered all comments received (summarized and responded to in the next section) and concluded that no changes from proposal are necessary.

IV. What Comments Did We Receive on the Proposed Amendments?

The following paragraphs contain summaries of the comments we received on the proposal and our responses.

Comment: Most commenters supported the proposed deferral of title V permitting of area sources. Commenters provided numerous reasons for their support, including assertions that the subject area sources are already adequately controlled, and that there would be no additional environmental benefit of requiring them to get permits; that permitting would impose a significant unnecessary burden on regulatory agencies and/or sources; that the deferral will allow EPA additional time to determine whether permanent title V exemptions for area sources are appropriate; that additional time is necessary for permitting authorities to review and issue title V permits to sources currently required to obtain title V permits; and that current rules and permitting mechanisms already sufficiently address area sources under State and local programs.

Response: We appreciate the support for the proposed extension of the deferral. The EPA understands that these area sources are already required to comply with emissions standards regardless of whether they are required to obtain permits. However, there are some general advantages to permitting that should not be overlooked. Requiring sources to obtain title V permits helps assure that complex applicability determinations, *i.e.*, which requirements apply and how, are resolved prior to the issuance of a permit. In addition to providing clarity for a source, the resolution of a source's applicability issues facilitates both civil and criminal enforcement of the source's applicable requirements. In the process of applying for a title V permit, many sources have discovered that they

are out of compliance with various applicable requirements. The regulations at 40 CFR parts 70 and 71 require sources to self-certify compliance with applicable requirements initially and annually and provide additional assurance of ongoing emissions reductions. Permitting provides an opportunity for the public to comment on whether a source is complying with its applicable requirements. Permits also require prompt reporting of deviations from the permit. In short, one of the benefits of title V permitting is that it enhances the effectiveness of rules.

We are also aware that some States and local agencies subject these sources to non-title V permitting programs that may serve purposes similar to those of title V. At this point in the implementation of title V, we agree that there may be significant undue burden on permitting authorities not prepared for area source permitting and on area sources preparing title V permit applications. Some permitting authorities did not fully anticipate the amount of work necessary to implement the title V program, and clearly some of these question whether the additional work of permitting thousands of area sources provides a commensurate benefit. Moreover, many of these permitting authorities are currently struggling to issue permits to major sources and other covered sources, and are not yet prepared to add to this significant permitting responsibility.

While for some permitting authorities this problem could possibly be overcome by using more streamlined permitting approaches, e.g., general permits (see §§ 70.6(d) and 71.6(d)), we may use the deferral period to consider ways to reduce the permitting burden on area sources and to better accommodate the needs of area source permitting. We will also use the additional time to assess whether or not permanent exemptions are appropriate.

We agree that permitting authorities should be allowed to defer, if necessary, title V permitting for area sources, if additional time is necessary to issue permits to sources currently required to obtain title V permits. It is apparent that title V permitting is not at the stage originally envisioned when the part 70 rules were promulgated. At this point in time, EPA anticipated that most, if not all, part 70 permits would have been issued to sources subject to the program upon its effective date, and that permitting authorities would be in a better position to expand the program to other sources. However, many permitting authorities need additional time to issue permits to sources that are currently subject to the program and, therefore, are not at an implementation stage that allows them to shift their attention to area sources.

Comment: One commenter claimed that the deferred area sources would be allowed to continue to emit chemicals unchecked into the air, exposing employees and the public to uncontrolled levels of the emitted chemicals during the deferral period. This commenter also felt that funding of expanding the title V permit program to cover area sources would be no problem because permit fees would make it unnecessary to draw upon limited existing resources. This commenter was also concerned that the permitting deferral would impede public access to environmental data. The commenter stressed the benefits of the permitting process, including those involving consistent reporting procedures, improved measurements of pollution, improved air quality data, and greater public participation.

Response: The permit program does not directly control emissions to the air, but as discussed above enhances compliance assurance with all applicable requirements including emissions limitations. The permit is essentially a comprehensive document reflecting the regulatory requirements that the source must already meet. The existing regulatory requirements that impose emission standards, including these five Maximum Achievable Control Technology (MACT) rules, irrespective of the title V permit, provide the air emission reduction requirements, and most of the monitoring, recordkeeping, and reporting requirements under the Act that are needed to determine and enforce compliance. All of these rules are still in effect, and sources must comply with them. Therefore, the absence of a title V permit for an area source subject to a NESHAP will not allow it to emit pollutants ''unchecked'' into the air.

While EPA agrees that title V permit fees should be set at levels high enough to allow the permitting authority to hire and retain qualified permit writers, we are not convinced that the ability to charge area sources fees alone would enable permitting authorities to immediately expand their title V programs to cover area sources. This is because permitting authorities have also faced significant problems in timely issuance of permits to major sources, which are also covered by fees. Since area sources are far more numerous than major sources, we expect that forcing an expansion at this point could raise problems apart from adequate funding. Many permitting authorities at the beginning of the title V permit program did not fully anticipate what was involved in implementing the title V program, have still not caught up on their backlog of major source permit applications, and may not, merely through imposing fees, feel prepared to expand title V permitting to area sources.

Finally, while the presence of a title V permit does enhance public access to information and facilitates citizen participation in enforcement, the permit deferral should not deny public access to environmental information. All non-confidential emissions information that underlying applicable requirements direct sources to send to implementing agencies is publically available under the applicable rule requirements, regardless of the source's permit status (see 40 CFR 63.15).

Comment: One State permitting authority commenter believes that area source permitting can occur without creating an undue burden by issuing title V general permits, or ''permits by rule,'' to area sources. This commenter further recommended establishing a strong compliance assistance program to enhance the permitting program. In addition, the commenter supported a strong inspection program and good recordkeeping requirements. However, the commenter felt that reporting requirements were an ineffective burden for most area sources. Finally, the commenter recommended that should EPA decide to continue the deferral as proposed, it should use the deferral period to review and revise the title V program to make it more appropriate for area sources.

Response: The commenter is correct in pointing out that general permits issued under 40 CFR parts 70 and 71 can be used and can be an effective way to issue permits to area sources without creating an undue burden for the source categories being covered by the general permits. The commenter provides a good example of the discretionary nature of the deferral. The deferral being promulgated in today's rulemaking does not automatically apply to every non-Federal title V permitting authority. Rather, this rulemaking allows non-Federal permitting authorities to choose whether deferral from title V permitting for area sources subject to one or more of these five MACT standards is appropriate for the area sources in question. In this case, the commenter has been able to structure his permitting program so that the permitting authority can issue permits to area sources easily and with little additional burden to the sources themselves. The commenter has also implemented a strong compliance

assistance program, coupled with a strong inspection program and good recordkeeping requirements to complement the general permits being issued. The EPA applauds the commenter's ability to overcome potential difficulties in permitting thousands of area sources.

However, there are many permitting authorities that continue to experience difficulties in issuing title V permits, even to major sources. This, in turn, would put a burden on the area sources that would have to get permits if the deferral were to expire because the permitting authority may not be able to provide much assistance to area sources in preparing their permit applications. Many permitting authorities may not be able to simply emulate the permitting approach taken by the commenter because of legislative or other constraints. This is evidenced by the other permitting authorities that commented in support of the deferral.

The EPA will take under advisement the commenter's suggestions that we review and revise, if necessary, the area source component of the title V permit program during the deferral period. The EPA is not at this point prepared to commit to such a revision or even agree that one is appropriate, but would welcome further comments on this issue.

Comment: Several commenters further recommended a permanent exemption from title V permitting for area sources subject to these five MACT standards.

Response: For essentially the same reasons that we are not prepared to immediately require permits for area sources, we are not promulgating a permanent exemption for these area sources at this time. That is, EPA is not in a position to conclude whether these sources should or should not be required to obtain permits. Several permitting authorities are currently able to accommodate area source permitting. The EPA will weigh the burden of title V permitting of area sources with the advantages of title V permitting in making future decisions regarding permanent exemptions. The EPA will use this deferral period to determine if title V permitting is necessary for certain or all area sources subject to these five MACT standards and deferred as of this rulemaking from title V permitting until December 9, 2004. As stated in the first deferral rulemaking for these five MACT source categories, we will also continue to evaluate State and local agencies' implementation and enforcement of these five MACT standards for area sources not covered by title V permits, the likely benefit of permitting such sources, and the costs and other burdens on such sources associated with obtaining a title V permit (see 61 FR 27785 (June 3, 1996)).

V. What Are the Administrative Requirements for These Amendments?

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that these amendments do not qualify as a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, are not subject to review by OMB.

B. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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

These amendments do not alter the control standards imposed by 40 CFR part 63, subparts M, N, O, T, or X for any source, including any that may affect communities of the Indian tribal governments. Under the amendments, sources must continue to meet all applicable requirements, including all applicable emission control, monitoring, recordkeeping, and reporting requirements established by the respective NESHAP. Hence, today's action does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these amendments.

C. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), 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'' are 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. The 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.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide OMB in a separately identified section of the preamble to the rule, a

federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

These final amendments 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. These amendments impose no requirements on the States, and simply allow the States the option to exercise their discretion to defer certain area sources from title V permitting. These amendments neither preempt States from requiring these sources to obtain permits, nor impose any burden on States seeking to do so. Rather, the intent of these amendments is to continue to allow States and their area sources to avoid burdens that would befall them if EPA were to allow the current regulatory provisions to expire. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. 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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that these amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year nor do they significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Thus, today's amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

F. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final amendments. The EPA has also determined that these amendments will not have a significant economic impact on a substantial number of small entities, because they impose no additional regulatory requirements on owners or operators of affected sources and allow State and federal permitting authorities to continue to relieve owners or operators of such sources of regulatory requirements that may otherwise apply if this action is not taken.

G. Paperwork Reduction Act

These amendments do not require the collection of any information. Therefore, the requirements of the Paperwork Reduction Act do not apply.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

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 Executive Order 12866, and (2) concerns and environmental health or safety risk that the 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 too other potentially effectively and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. These amendments are not subject to Executive Order 13045 because they do not establish an environmental standard intended to mitigate health or safety risks.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are

developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

These amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated December 8, 1999.

Carol M. Browner,

Administrator.

For the reasons cited in the preamble, part 63, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart M—[Amended]

2. Section 63.320 is amended by revising paragraph (k) to read as follows:

§ 63.320 Applicability.

* * * * *

(k) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR parts 70 or 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

Subpart N—[Amended]

3. Section 63.340 is amended by revising paragraph (e)(2) to read as follows:

§ 63.340 Applicability and designation of sources.

* * * * *

(e) * * *

(2) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR parts 70 or 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

Subpart O—[Amended]

4. Section 63.360 is amended by revising paragraph (f) to read as follows:

§ 63.360 Applicability.

* * * * *

(f) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR parts 70 or 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

* * * * *

Subpart T—[Amended]

5. Section 63.468 is amended by revising paragraph (j) to read as follows:

§ 63.468 Reporting requirements.

* * * * *

(j) The Administrator has determined, pursuant to section 502(a) of the Act, that if you are an owner or operator of any batch cold solvent cleaning machine that is not a major source and is not located at a major source, as defined under 40 CFR 63.2, 70.2, or 71.2, you are exempt from title V permitting requirements under 40 CFR parts 70 or 71, as applicable, for that source, provided you are not otherwise required to obtain a title V permit. If you own or operate any other solvent cleaning machine subject to the provisions of this subpart, you are also subject to title V permitting requirements. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

* * * * *

Subpart X—[Amended]

6. Section 63.541 is amended by revising paragraph (c) to read as follows:

§ 63.541 Applicability.

* * * * *

(c) If you are the owner or operator of a source subject to the provisions of this subpart, you are also subject to title V permitting requirements under 40 CFR parts 70 or 71, as applicable. Your title V permitting authority may defer your source from these permitting requirements until December 9, 2004, if your source is not a major source and is not located at a major source as defined under 40 CFR 63.2, 70.2, or 71.2, and is not otherwise required to obtain a title V permit. If you receive a deferral under this section, you must submit a title V permit application by December 9, 2005. You must continue to comply with the provisions of this subpart applicable to area sources, even if you receive a deferral from title V permitting requirements.

[FR Doc. 99–32325 Filed 12–9–99; 3:21 pm]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7301]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut:					
Hartford	Town of Berlin	September 7, 1999, September 14, 1999, *New Britain Herald*.	Ms. Bonnie Therrien, Town of Berlin Manager, Berlin Town Hall, 240 Kensington Road, Berlin, Connecticut 06037.	December 13, 1999.	090022 D
Hartford	Town of West Hartford.	August 11, 1999, August 18, 1999, *Hartford News*.	Mr. Barry Feldman, West Hartford Town Manager, West Hartford Town Hall, 50 South Main Street, West Hartford, Connecticut 06107.	November 16, 1999.	095082
Hartford	Town of West Hartford.	August 26, 1999, *West Hartford News*.	Mr. Barry Feldman, Town of West Hartford Manager, West Hartford Town Hall, 50 South Main Street, West Hartford, Connecticut 06107.	September 17, 1999.	095082 C

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Hartford	Town of Wethersfield.	July 15, 1999, July 27, 1999, *The Hartford Courant*.	Mr. Lee Erdmann, Town of Wethersfield Manager, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.	October 18, 1999	090040
Florida:					
Alachua	City of Alachua	August 16, 1999, August, 23 1999, The Gainesville Sun.	The Honorable James Lewis, Mayor of the City of Alachua, P.O. Box 9, Alachua, Florida 32616,.	February 9, 2000	120001 C
Hillsborough	Unincorporated Areas.	August 5, 1999, August 12, 1999, *Tampa Tribune*.	Mr. Daniel A. Kleman, Hillsborough County Administrator, Hillsborough County Center, 26th Floor, P.O. Box 1110, Tampa, Florida 33601.	July 28, 1999	120112 D
Sarasota	Unincorporated Areas.	July 15, 1999, July 22, 1999, *Sarasota Herald-Tribune*.	Mr. Jim Ley, Sarasota County Administrator, 1660 Ringling Boulevard, Sarasota, Florida 34236.	July 8, 1999	125144 D
Illinois:					
Cook	City of Elgin	September 10, 1999, September 17, 1999, *The Courier News*.	The Honorable Ed Schock, Mayor of the City of Elgin, 150 Dexter Court, Elgin, Illinois 60120–5555.	September 3, 1999.	170087 D
DuPage	City of Elmhurst	June 4, 1999, June 11, 1999, *The Elmhurst Press*.	The Honorable Thomas D. Marcucci, Mayor of the City of Elmhurst, 209 North York Street, Elmhurst, Illinois 60126–2892.	May 26, 1999	170205 C
Cook	Village of Midlothian.	August 12, 1999, August 19, 1999, *Midlothian Bremen Messenger*.	Mr. Thomas J. Murawski, Village of Midlothian President, 14801 South Pulaski Road, Midlothian, Illinois 60445.	August 3, 1999	170127 C
Cook	Village of Orland Park.	July 28, 1999, August 4, 1999, *The Daily Southtown*.	The Honorable David J. McLaughlin, Mayor of the Village of Orland Park, Village Hall, 14700 South Ravinia Avenue, Orland Park, Illinois 60642.	November 2, 1999	170140 D
Cook	Village of Palatine	June 21, 1999, June 28, 1999, *Daily Herald*.	Mr. Michael Cassady, Village of Palatine Manager, 200 East Wood Street, Palatine, Illinois 60067–5339.	September 26, 1999.	175170
Will	Village of Shorewood.	August 20, 1999, August 27, 1999, *The Herald-News*.	Mrs. Bertha J. Hofer, Village of Shorewood President, 903 West Jefferson Street, Shorewood, Illinois 60431.	August 12, 1999	170712 E
Kentucky:					
Daviess	City of Owensboro	June 1, 1999, June 8, 1999, *Messenger-Inquirer*.	The Honorable Reid Haire, Daviess County Judge/Executive, Daviess County Courthouse, P.O. Box 1716, Owensboro, Kentucky 42302.	May 24, 1999	210062 C
Maine:					
Lincoln	Town of Boothbay Harbor.	October 7, 1999, October 14, 1999, *Boothbay Register*.	Mr. Dabney A. Lewis, Code Enforcement Officer, 11 Howard Street, Boothbay Harbor, Maine 04538.	September 28, 1999.	230213 B
Massachusetts:					
Barnstable	Town of Falmouth	June 29, 1999, July 6, 1999, *Enterprise*.	Mr. Peter Bayer, Falmouth Town Administrator, 59 Town Hall Square, Falmouth, Massachusetts 02540.	June 22, 1999	255211 G
Michigan:					
Macomb	Township of Macomb.	July 22, 1999, July 29, 1999, *The Macomb Daily*.	Mr. John D. Brennan, Macomb Township Supervisor, 19925 Twenty-Three Mile Road, Macomb, Michigan 48042.	July 16, 1999	260445 B
New Hampshire:					
Rockingham	City of Portsmouth	October 14, 1999, October 21, 1999, *Portsmouth Herald*.	The Honorable Evelyn Sirrell, Mayor of the City of Portsmouth, Municipal Complex, P.O. Box 628, Portsmouth, New Hampshire 03801.	October 6, 1999	330139 B
New Jersey:					
Union	Borough of Roselle.	August 19, 1999, August 26, 1999, *Spectator Leader*.	The Honorable Joseph L. Picaro, Mayor of the Borough of Roselle, 210 Chestnut Street, Roselle, New Jersey 07203.	August 10, 1999	340472 A
New York:					
Herkimer	Town of Winfield	October 27, 1999, November 3, 1999, *The West Winfield Star*.	Mr. Adelbert Hall, Town of Winfield Supervisor, 152 Rose Road, West Winfield, New York 13491.	April 20, 2000	360323 B

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
North Carolina:					
Buncombe	City of Ashville	August 24, 1999, August 31, 1999, *Ashevlle Citizen-Times*.	The Honorable Leni Stinick, Mayor of the City of Asheville, P.O. Box 7148, Asheville, North Carolina 28802.	August 16, 1999 ..	370032 D
Mitchell	Town of Bakersville.	May 26, 1999, June 2, 1999, *Mitchell News-Journal*.	The Honorable Charles Vines, Mayor of the Town of Bakersville, P.O. Box 53, Bakersville, North Carolina 28705.	November 22, 1999.	370162 C
Mitchell	Unincorporated Areas.	May 26, 1999, June 2, 1999, *Mitchell News-Journal*.	Mr. Mike Robinson, Mitchell County Manager, P.O. Box 409, Bakersville, North Carolina 28705.	November 22, 1999.	370161 C
Ohio:					
Montgomery ..	Unincorporated Areas.	September 3, 1999, September 10, 1999, *Dayton Daily News*.	Ms. Deborah Feldman, Montgomery County Administrator, 451 West Third Street, Dayton, Ohio 45422.	December 9, 1999	390775 C
Richland	City of Shelby	June 8, 1999, June 15, 1999, *Daily Globe*.	The Honorable Doris Payne-Biglin, Mayor of the City of Shelby, 23 West Main Street, Shelby, Ohio 44875.	June 1, 1999	390479 B
Cuyahoga	City of Westlake ...	October 27, 1999, November 3, 1999, *Westlake*.	The Honorable Dennis M. Clough, Mayor of the City of Westlake, 27216 Hilliard Boulevard, Westlake, Ohio 44145.	February 1, 2000	390136 C
Pennsylvania:					
Lackawanna ..	Borough of Old Forge.	July 21, 1999, July 28, 1999, *The Scranton Times*.	The Honorable Phillip Tagliaterra, Mayor of the Borough of Old Forge, Town Hall, 310 South Main Street, Old Forge, Pennsylvania 18518.	October 26, 1999	42535 B
Cumberland ..	Township of Silver Spring.	August 23, 1999, August 30, 1999, *Patriot News*.	Mr. William S. Cook, Manager of the Township of Silver Spring, 6475 Carlisle Pike, Mechanicsburg, Pennsylvania 17055.	November 28, 1999.	420370 B
South Carolina:					
Richland	Unincorporated Areas.	August 6, 1999, August 13, 1999, *The State*.	Mr. T. Cary McSwain, Richland County Administrator, 2020 Hampton Street, Columbia, South Carolina 29202.	July 30, 1999	450170 H
Tennessee:					
Rutherford	City of Murfreesboro.	August 20, 1999, August 27, 1999, *Daily News Journal*.	The Honorable Richard Reeves, Mayor of the City of Murfreesboro, P.O. Box 1139, Murfreesboro, Tennessee 37133.	November 25, 1999.	470168 D
Rutherford	Unincorporated Areas.	August 20, 1999, August 27, 1999, *Daily News Journal*.	Ms. Nancy R. Allen, Rutherford County Executive, County Courthouse, Public Square, Room 101, Murfreesboro, Tennessee 37130.	November 25, 1999.	470165 D
Shelby	Unincorporated Areas.	September 8, 1999, September 15, 1999, *The Commercial Appeal*.	The Honorable Jim Rout, Mayor of Shelby County, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	September 2, 1999.	470214 D

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32359 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7308]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the

Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and country	Location	Dates and name of newpaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Pima Borough.	City of Tucson	Sept. 30, 1999, Oct. 7, 1999, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	Sept. 10, 1999	040076
Oklahoma:					
Tulsa	City of Broken Arrow.	Sept. 28, 1999, Oct. 5, 1999, *Broken Arrow Ledger.*	The Honorable James Reynolds, Mayor, City of Broken Arrow, P.O. Box 610, Broken Arrow, Oklahoma 74013.	Sept. 8, 1999	400236
Tulsa	City of Tulsa	Sept. 30, 1999, Oct. 7, 1999, *Tulsa World.*	The Honorable M. Susan Savage, Mayor, City of Tulsa, 200 Civic Center, Tulsa, Oklahoma 74103.	Sept. 8, 1999	405387

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32358 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of

the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Colorado: El Paso (FEMA Docket No. 7300).	City of Colorado Springs.	July 22, 1999, July 29, 1999, Gazette Telegraph.	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	July 1, 1999	080060
Idaho: Ada (FEMA Docket No. 7300).	Unincorporated Areas.	July 21, 1999, July 28, 1999, The Idaho Statesman.	The Honorable Vernon Bisterfeldt, Chairman, Ada County Board of Commissioners, 650 West Main Street, Boise, Idaho 83702.	Oct. 26, 1999	160001
Idaho: Ada (FEMA Docket No. 7300).	City of Eagle	July 21, 1999, July 28, 1999, Valley News.	The Honorable Rick Yzaguirre, Mayor, City of Eagle, 310 East State, Eagle, Idaho 83616.	Oct. 26, 1999	16000
Kansas: Sedgwick (FEMA Docket No. 7300).	City of Wichita	July 21, 1999, July 28, 1999, Wichita Eagle.	The Honorable Bob Knight, Mayor, City of Witchita, City Hall, 455 North Main Street, First Floor, Wichita, Kansas 67202.	June 18, 1999	200328
Missiouri: Lincoln (FEMA Docket No. 7300).	City of Troy	Aug. 4, 1999, Aug. 11, 1999, Lincoln County Journal.	The Honorable Charles H. Kemper, Mayor, City of Troy, 200 Main Street, Troy, Missouri 63379.	July 9, 1999	290641
Texas: Collin (FEMA Docket No. 7300).	City of Allen	July 21, 1999, July 28, 1999, Allen American.	The Honorable Kevin Lilly, Mayor, City of Allen, One Butler Circle, Allen, Texas 75013.	June 21, 1999	480131
Texas: Cameron (FEMA Docket No. 7300).	Unincorporated Areas.	Aug. 6, 1999, Aug. 13, 1999, Brownsville Herald.	The Honorable Gilberton Hinojosa, Cameron County Judge, 964 East Harrison, Brownsville, Texas 78520.	July 2, 1999	48101

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Texas: Dallas (FEMA Docket No. 7300).	City of Dallas	July 15, 1999, July 22, 1999, Dallas Morning News.	The Honorable Ron Kirk, Mayor, City of Dallas, City Hall, 1500 Marilla, Dallas, Texas 75201.	June 10, 1999	480171
Texas: Tarrant, Dallas and Ellis (FEMA Docket No. 7300).	City of Grand Prairie.	July 22, 1999, July 29, 1999, Grand Prairie News.	The Honorable Charles V. England, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053.	June 25, 1999	484472
Texas: Dallas (FEMA Docket No. 7300).	City of Irving	July 22, 1999, July 29, 1999, Irving News.	The Honorable Joe Putnam, Mayor, City of Irving, P.O. Box 152288, Irving, Texas 75015–2288.	June 25, 1999	480180
Texas: Tarrant (FEMA Docket No. 7300).	City of Keller	Aug. 3, 1999, Aug. 10, 1999, Keller Citizen.	The Honorable Dave Phillips, Mayor, City of Keller, P.O. Box 770, Keller, Texas 76244.	July 6, 1999	480602
Texas: Denton (FEMA Docket No. 7300).	City of Lewisville ..	Aug. 4, 1999, Aug. 11, 1999, Lewisville News.	The Honorable Bobbie J. Mitchell, Mayor, City of Lewisville, P.O. Box 299002, Lewisville, Texas 75029–9002.	July 6, 1999	480195
Texas: Gregg and Harrison (FEMA Docket No. 7300).	City of Longview ..	July 13, 1999, July 20, 1999, Longview News–Journal.	The Honorable David McWhorter, Mayor, City of Longview, P.O. Box 1952 Longview, Texas 75606–1952.	Oct. 18, 1999	480264
Texas: Bexar (FEMA Docket No. 7300).	City of San Antonio.	July 14, 1999, July 21, 1999, San Antonio Express-News.	The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	Oct. 19, 1999	480045
Texas: Guadalupe (FEMA Docket No. 7300).	City of Schertz	July 15, 1999, July 22, 1999, The Herald.	The Honorable Hal Baldwin, Mayor, City of Schertz, P.O. Drawer I, Schertz, Texas 78154.	June 8, 1999	480269

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32355 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No

environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date modification	Community number
Georgia: Cobb (FEMA Docket No. 7277).	City of Marietta	Dec. 11, 1998, Dec. 18, 1998, *Marietta Daily Journal*.	The Honorable Ansley Meaders, Mayor of the City of Marietta, P.O. Box 609, Marietta, Georgia 30061.	Mar. 18, 1999	130226 F
Georgia: Richmond (FEMA Docket No. 7285).	Unincorporated Areas.	Feb. 10, 1999. Feb. 17, 1999, *The Augusta Chronicle*.	The Honorable Bob Young, Mayor of Richmond County, City-County Municipal Building, 530 Greene Street, Room 806, Augusta, Georgia 30911.	May 18, 1999	130158
Illinois: DuPage (FEMA Docket No. 7277).	Village of Bensenville.	Dec. 11, 1998, Dec. 18, 1998, *Bensenville Press*.	Mr. John C. Gels, Bensenville Village President, Village Hall, 700 West Irving Park Road, Bensenville, Illinois 60106.	Mar. 18, 1999	170200 C
Illinois: DuPage (FEMA Docket No. 7285).	Unincorporated Areas.	Feb. 16, 1999, Feb. 23, 1999, *Daily Herald*.	Mr. Robert Schillerstrom, Chairman of the DuPage County Board, DuPage Center, 421 North County Farm Road, Wheaton, Illinois 60187.	May 24, 1999	170197 D
Illinois: Kane (FEMA Docket No. 7293).	Unincorporated Areas.	Dec. 10, 1998, Dec. 17, 1998, *The Courier-News*.	Mr. Michael W. McCoy, Chairman of the Kane County, Board of Commissioners, 719 South Batavia Avenue, Geneva, Illinois 60134.	Mar. 17, 1999	170896 D
Illinois: Lake (FEMA Docket No. 7293).	Unincorporated Areas.	May 13, 1999, May 20, 1999, *The News Sun*.	Mr. Jim LaBelle, Chairman of the Lake County Board, 18 North County Street, 10th Floor, Waukegan, Illinois 60085.	Aug. 18, 1999	170357 F
Illinois: McHenry (FEMA Docket No. 7293).	Village of Cary	Feb. 26, 1999, Mar. 5, 1999, *The Northwest Herald*.	The Honorable Donald Huffer, Mayor of the Village of Cary, 255 Stonegate Road, Cary, Illinois 60013.	June 3, 1999	170475

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date modification	Community number
Illinois: McHenry (FEMA Docket No. 7293).	Unincorporated Areas.	Feb. 26, 1999, Mar. 5, 1999, *The Northwest Herald*.	Mr. Michael Tryon, McHenry County Board Chairperson, McHenry County Government Center, 220 North Seminary Avenue, Woodstock, Illinois 60098.	June 3, 1999	170732
Illinois: Cook (FEMA Docket No. 7293).	Village of South Barrington.	May 11, 1999, May 18, 1999, *Daily Herald*.	The Honorable Patricia Graft, Mayor of the Village of South Barrington, 30 South Barrington Road, South Barrington, Illinois 60010.	Aug. 16, 1999	170161 C
Illinois: Lake (FEMA Docket No. 7293).	City of Waukegan	May 14, 1999, May 21, 1999, *The News-Sun*.	The Honorable Bill Durkin, Mayor of the City of Waukegan, 106 North Utica, Waukegan, Illinois 60085.	May 7, 1999	170397 F
Maryland: Allegany (FEMA Docket No. 7277).	Unincorporated Areas.	Dec. 16, 1998, Dec. 23, 1998, *The Cumberland Times-News*.	Mr. Bernard L. Loar, President, Allegany County Board of Commissioners, 701 Kelly Road, Suite 405, Cumberland, Maryland 21502–3401.	Mar. 23, 1999	240001 A
Massachusetts: Middlesex (FEMA Docket No. 7293).	Town of Billerica ..	May 10, 1999, May 17, 1999, *Lowell Sun*.	Mr. Richard A. Montuori, Billerica Town Manager, Billerica Town Hall, 365 Boston Road, Billerica, Massachusetts 01821.	Aug. 15, 1999	250183 C
Minnesota: Anoka (FEMA Docket No. 7293).	City of Blaine	Jan. 8, 1999, Jan. 15, 1999, *Blaine-Spring Park Life*.	The Honorable Thomas Ryan, Mayor of the City of Blaine, 9150 Central Avenue Northeast, Blaine, Minnesota 55434–3499.	April 15, 1999	270007
Ohio: Fairfield and Franklin (FEMA Docket No. 7277).	City of Columbus	Nov. 27, 1998, Dec. 4, 1998, *The Columbus Dispatch*.	The Honorable Gregory S. Lashutka, Mayor of the City of Columbus, City Hall, 90 West Broad Street, Columbus, Ohio 43215.	Mar. 4, 1999	390170 G
Ohio: Franklin (FEMA Docket No. 7277).	Unincorporated Areas.	Nov. 27, 1998, Dec. 4, 1998, *The Columbus Dispatch*.	Ms. Arlene Shoemaker, President of the Franklin County, Board of Commissioners, 373 South High Street, Columbus, Ohio 43215.	Mar. 4, 1999	390167 G
Tennessee: Sullivan (FEMA Docket No. 7293).	City of Bristol	May 21, 1998, May 28, 1998, *Bristol Herald-Center*.	The Honorable Elmer Doak, Mayor of the City of Bristol, P.O. Box 1189, Bristol, Tennessee 37621.	May 14, 1999	470182 B
Virginia: Arlington (FEMA Docket No. 7293).	Unincorporated Areas.	Jan. 21, 1999, Jan. 28, 1999, *The Arlington Journal*.	Mr. William T. Donahue, County Manager, 2100 Clarendon Boulevard, Suite 813, Arlington, Virginia 22201.	April 28, 1999	515520
Wisconsin: Oconto (FEMA Docket No. 7293).	City of Oconto	April 28, 1999, May 5, 1999, *Oconto County Review*.	The Honorable Joseph Bralick, Mayor of the City of Oconto, 1210 Main Street, Oconto, Wisconsin 54153.	Aug. 3, 1999	550297 B
Wisconsin: Oconto (FEMA Docket No. 7293).	Unincorporated Areas.	April 28, 1999, May 5, 1999, *Oconto County Review*.	Mr. Kevin Hamann, Oconto County Administrative Coordinator, 301 Washington Street, Oconto, Wisconsin 54153.	Aug. 3, 1999	550294 A

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32354 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of Flooding and Location	#Depth in feet above ground. *Elevation in feet (NGVD)
FLORIDA	
Green Cove Springs (City), Clay County (FEMA Docket No. 7287)	
Governors Creek:	
At confluence with St. Johns River	*5
Immediately downstream of Idlewild Avenue	*8
Buckeys Creek:	
Approximately 1,200 feet upstream of confluence with Governors Creek	*5
Approximately 1.2 miles upstream of confluence with Governors Creek	*19
St. Johns River:	
For its entire reach within the community	*5
Maps available for inspection at the Planning and Zoning Office, 229 Walnut Street, City Hall, Green Cove Springs, Florida.	
GEORGIA	
Gainesville (City), Hall County (FEMA Docket No. 7283)	
Walnut Creek:	
Approximately 1,785 feet upstream of private drive	*950
Approximately 0.72 mile upstream of private drive	*963
Maps available for inspection at the Hall County Joint Administration Building, Engineering Office, 300 Green Street, Room 309, Gainesville, Georgia.	

Hall County (Unincorporated Areas) (FEMA Docket No. 7283)	
Balus Creek:	
Approximately 2,000 feet downstream of McEver Road	*1,082
Approximately 875 feet upstream of Landrum Education Drive	*1,174
Balus Creek Tributary 1:	
Approximately 50 feet upstream of confluence with Balus Creek	*1,100
Approximately 575 feet upstream of Old Oakwood Road	*1,132
Caney Fork Creek:	
At confluence with Walnut Creek	*847
Approximately 1,650 feet upstream of Sloan Mill Road	*1,062
Deaton Creek:	
At confluence with Mulberry Creek	*823
Approximately 2.0 miles upstream of Oliver Road	*921
Lollis Creek:	
At confluence with Sherwood Creek	*853
Approximately 175 feet upstream of Upper Looper Lake Dam	*929
Mitchell Creek:	
At confluence with Lollis Creek	*874
Just downstream of Swansey Road	*1,001
Mulberry Creek:	
Approximately 1.13 miles downstream of State Route 211	*800
Just downstream of Martin Road	*981
Mulberry Creek Tributary:	
At confluence with Mulberry Creek	*885
Approximately 0.7 mile upstream of Elizabeth Lane	*974
Sherwood Creek:	
At confluence with Mulberry Creek	*838
At county boundary	*920
Walnut Creek:	
At county boundary	*829
Approximately 1.2 miles upstream of Lee Land Road	*963
East Fork Little River:	
Approximately 0.66 mile downstream of Brookton Lula Road and approximately 0.28 mile east of the intersection of Cleveland Highway and Wild Smith Road	*1,241
Maps available for inspection at the Hall County Joint Administration Building, Engineering Office, 300 Green Street, Room 309, Gainesville, Georgia.	

Oakwood (City), Hall County (FEMA Docket No. 7283)	
Balus Creek:	
Approximately 150 feet downstream of McEver Road	*1,087
Approximately 1,425 feet upstream of Landrum Education Drive	*1,176
Balus Creek Tributary No. 1:	
At confluence with Balus Creek	*1,100
Approximately 75 feet upstream of Old Oakwood Road	*1,130
Maps available for inspection at the Oakwood City Hall, 4009 Railroad, Oakwood, Georgia.	
MAINE	
Temple (Town), Franklin County (FEMA Docket No. 7267)	
Temple Stream:	
At downstream Farmington/Temple corporate limit	*457
At upstream Avon/Temple corporate limit	*957
Henry Mitchell Brook:	
At confluence with Temple Stream	*550
Approximately 0.6 mile upstream of Mitchell Brook Road	*848
Gus Mitchell Brook:	
At confluence with Temple Stream	*553
Approximately 1,500 feet upstream of Intervale Road	*592
Edes Brook:	
At confluence with Temple Stream	*592
Approximately 2,350 feet upstream of Intervale Road	*683
Drury Pond Outlet:	
At confluence with Temple Stream	*556
Approximately 700 feet upstream of Waltonen Road	*556
Mud Pond Outlet:	
At confluence with Drury Pond	*556
At Mud Pond Dam	*604
Unnamed Brook:	
At confluence with Drury Pond	*556
Approximately 100 feet upstream of Staples Pond Road	*647
Staples Pond Outlet:	
At confluence with Mud Pond	*604
At Staples Pond Dam	*705
Drury Pond:	
Entire shoreline within community	*556
Mud Pond:	
Entire shoreline within community	*604
Staples Pond:	
Entire shoreline within community	*705
Varnum Pond:	
Entire shoreline within community	*758
Maps available for inspection at the Temple Town Hall, 258 Temple Road, Temple, Maine.	
MICHIGAN	
Ash (Township), Monroe County (FEMA Docket No. 7259)	
Stony Creek:	
At corporate limits with Township of Frenchtown	*608
Approximately 200 feet upstream of corporate limits with Township of Frenchtown	*608
Maps available for inspection at the Ash Township Hall, 1677 Ready Road, Carleton, Michigan.	

Berlin (Charter Township), Monroe County (FEMA Docket No. 7259)	
Huron River:	
At confluence with Lake Erie	*579
Approximately 0.9 mile upstream of U.S. Turnpike	*579
Mouillee Creek:	
At confluence with Lake Erie	*579
Approximately 40 feet downstream of Hagerman Road	*579
Swan Creek:	
At confluence with Lake Erie	*579
Approximately 3.29 miles upstream of confluence with Lake Erie	*579
At Labo Road	*590

Source of Flooding and Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 400 feet upstream of Labo Road	*590
Lake Erie:	
Along entire shoreline within community	*579
Laudenschlager Drain:	
At confluence with Lake Erie	*579
Approximately 0.5 mile downstream of Hagerman Road	*579
Maps available for inspection at the Berlin Charter Township Hall, 8000 Swan View Road, Newport, Michigan.	
Dundee (Township), Monroe County (FEMA Docket No. 7259)	
River Raisin:	
Approximately 835 feet downstream of Ann Arbor Railroad	*648
Approximately 100 feet downstream of Ann Arbor Railroad	*649
Maps available for inspection at the Dundee Township Hall, 179 Main Street, Dundee, Michigan.	
Erie (Township), Monroe County (FEMA Docket No. 7259)	
Bay Creek:	
At the confluence with Lake Erie	*579
Approximately 50 feet downstream of CONRAIL	*579
Lake Erie:	
Along entire shoreline within community	*579
Maps available for inspection at the Erie Township Hall, 2065 Erie Street, Erie, Michigan.	
Estral Beach (Village), Monroe County (FEMA Docket No. 7259)	
Lake Erie:	
Entire shoreline affecting community	*579
Maps available for inspection at the Estral Beach Village Hall, 7194 Lakeview, Newport, Michigan.	
Frenchtown (Charter Township), Monroe County (FEMA Docket No. 7259)	
Sandy Creek:	
At confluence with Lake Erie	*579
Approximately 300 feet downstream of North Dixie Highway	*579
Stony Creek:	
At confluence with Lake Erie	*579
Approximately 450 feet upstream of North Dixie Highway	*579
Lake Erie:	
Along entire shoreline within community	*579
Maps available for inspection at the Charter Township of Frenchtown Building Department, 2744 Vivian Road, Monroe, Michigan.	
LaSalle (Township), Monroe County (FEMA Docket No. 7259)	
Otter Creek:	
At confluence with Lake Erie	*579
At downstream side of CONRAIL	*579
Lake Erie:	
Along entire shoreline within community	*579
Maps available for inspection at the LaSalle Township Hall, LaPlaisance Road and South Dixie Highway, LaSalle, Michigan.	
London (Township), Monroe County (FEMA Docket No. 7259)	
Saline River:	
Approximately 1.37 miles downstream of U.S. Route 23	*678
Approximately 1.08 miles downstream of U.S. Route 23	*679
Maps available for inspection at the London Township Hall, 13613 Tuttle Hill Road, Milan, Michigan.	
Luna Pier (City), Monroe County (FEMA Docket No. 7259)	
Lake Erie:	
Entire shoreline affecting community	*579
Maps available for inspection at the Luna Pier City Hall, 4357 Buckeye Street, Luna Pier, Michigan.	
Monroe (Charter Township), Monroe County (FEMA Docket No. 7259)	
Plum Creek:	
At the confluence with Lake Erie	*579
Approximately 180 feet downstream of Detroit and Toledo Shoreline Railroad	*579
Lake Erie:	
Along entire shoreline within community	*579
Maps available for inspection at the Monroe Charter Township Hall, Zoning Department, 4925 West Dunbar Road, Monroe, Michigan.	
Monroe (City), Monroe County (FEMA Docket No. 7259)	
River Raisin:	
At confluence with Lake Erie	*579
Lake Erie:	
Approximately 0.2 mile upstream of Interstate 75 ..	*579
Along entire shoreline within community	*579
Plum Creek:	
At confluence with Lake Erie	*579
Approximately 300 feet downstream of Detroit and Toledo Shoreline Railroad	*579
Maps available for inspection at the City of Monroe Engineering Department, 120 East First Street, Monroe, Michigan.	
MINNESOTA	
Minneota (City), Lyon County (FEMA Docket No. 7291)	
South Branch Yellow Medicine River:	
At downstream corporate limits	*1,146
Approximately 0.93 mile upstream of 1st Street ...	*1,170
Maps available for inspection at the Minneota City Hall, 129 East 1st Street, Minneota, Minnesota.	
MISSISSIPPI	
Lauderdale County (Unincorporated Areas) (FEMA Docket No. 7283)	
Newell Branch:	
Approximately 150 feet downstream of U.S. Route 45	*344
At downstream side of U.S. Route 45	*344
Harbour Creek:	
Approximately 350 feet downstream of U.S. Route 45	*342
At U.S. Route 45	*346
Maps available for inspection at the Lauderdale County Tax Assessor's Office, 500 Constitution Avenue, Meridian, Mississippi.	
Meridian (City), Lauderdale County (FEMA Docket No. 7283)	
Gallagher Creek:	
At Norfolk Southern Railway	*308
Approximately 50 feet upstream of State Route 493	*425
Harbour Creek:	
At U.S. Route 45	*446
Approximately 1,025 feet upstream of Windover Circle	*412

Source of Flooding and Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Magnolia Creek:	
Approximately 50 feet downstream of C Street	*321
Approximately 100 feet upstream of 36th Street	*380
Newell Branch:	
At upstream side of U.S. Route 45	*345
Approximately 1,150 feet upstream of 61st Street	*412
Robbins Branch:	
Approximately 150 feet downstream of U.S. Route 45	*330
Approximately 2,800 feet upstream of 52nd Court	*428
Maps available for inspection at the Meridian City Hall, 601 24th Avenue, Meridian, Mississippi.	
NEW HAMPSHIRE	
Lincoln (Town), Grafton County (FEMA Docket No. 7283)	
East Branch Pemigewasset River:	
Approximately 0.66 mile downstream of Richard Cooper Memorial Bridge	*758
Approximately 1.4 miles upstream of Loon Mountain Bridge	*1,067
Maps available for inspection at the Lincoln Town Hall, Main Street, Lincoln, New Hampshire.	
Woodstock (Town), Grafton County (FEMA Docket No. 7275)	
East Branch Pemigewasset River:	
Approximately 200 feet upstream of confluence with Pemigewasset River	*720
At upstream corporate limits	*758
Maps available for inspection at the Woodstock Town Office, 165 Lost River Road, North Woodstock, New Hampshire.	
NORTH CAROLINA	
Durham (City), Durham County (FEMA Docket No. 7295)	
Rocky Creek:	
At confluence with Third Fork Creek	*283
Approximately 150 feet upstream of Briggs Avenue	*330
Third Fork Creek:	
Approximately 0.83 mile downstream of South Roxboro Road	*251
Approximately 30 feet upstream of East Forest Hills Boulevard	*309
Third Fork Creek Tributary A:	
Approximately 900 feet upstream of Abandoned Road	*251
Approximately 780 feet upstream of Rollingwood Drive	*285
Third Fork Creek Tributary C:	
Approximately 800 feet downstream of South Roxboro Road	*251
Approximately 30 feet upstream of Princeton Avenue	*316
Third Fork Creek Tributary D:	
At confluence with Third Fork Creek	*252
Approximately 60 feet upstream of Morningside Drive	*286
Third Fork Creek Tributary E:	
At confluence with Third Fork Creek	*289
Approximately 420 feet downstream of Ward Street	*323
Third Fork Creek Tributary:	
At confluence with Third Fork Creek Tributary C	*275
Approximately 125 feet downstream of Archdale Road	*306
Maps available for inspection at the Durham City Hall, Public Works Department, 101 City Hall Plaza, Durham, North Carolina.	
VIRGINIA	
Buena Vista (City), Rockbridge County (FEMA Docket No. 7291)	
Maury River:	
Approximately 100 feet upstream from Columbia Mills Dam	*850
Approximately 2 miles downstream of 10th Street	*806
Just downstream of West 29th Street	*851
Maps available for inspection at the Buena Vista Municipal Building, 2039 Sycamore Avenue, Buena Vista, Virginia.	
Glasgow (Town), Rockbridge County (FEMA Docket No. 7291)	
Maury River:	
Just upstream of CSX Transportation	*724
Approximately 1.75 miles upstream from State Route 130	*737
Maps available for inspection at the Glasgow Town Hall, 1100 Blue Ridge Road, Glasgow, Virginia.	
Lexington (City), Rockbridge County (FEMA Docket No. 7291)	
Maury River:	
Approximately 2,600 feet downstream of U.S. Route 11	*916
Approximately 3,200 feet upstream of U.S. Route 11	*926
Woods Creek:	
Confluence with Maury River	*920
Approximately 1,150 feet upstream from Stone Lane	*920
Maps available for inspection at the Lexington City Hall, 300 East Washington Street, Lexington, Virginia.	
Rockbridge County (Unincorporated Areas) (FEMA Docket No. 7291)	
Irish Creek:	
At confluence with South River	*1,024
Approximately 450 feet upstream from State Route 608	*1,024
Maury River:	
Just upstream of CSX Railway	*724
Approximately 0.6 mile upstream of U.S. Route 11	*926
South River:	
Approximately 1,250 feet downstream from CSX Transportation	*880
Approximately 1,750 feet upstream of State Route 56	*1,468
Maps available for inspection at the Rockbridge Zoning Office, 150 South Main Street, Lexington, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32357 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or

remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
LOUISIANA	
Caddo Parish (and Incorporated Areas) (FEMA Docket No. 7294)	
Logan Bayou:	
Approximately 500 feet downstream of Kansas City Southern Railroad	*180
Approximately 800 feet upstream of Kansas City Southern Railroad	*188
At Roy Road	*193
Approximately 3,000 feet upstream of Shreveport Blanchard Highway (State Route 173)	*200
Red River:	
Approximately 5.3 miles downstream of 70th Street (just east of the intersection of Flourney Lucas Road and Youree Drive)	*160
Approximately 8,300 feet upstream of Interstate 220	*174
Choctaw Bayou:	
Approximately 7,800 feet downstream of Blanchard Furr Road (tributary backwater area near Kansas City Southern Railroad)	*193
Approximately 100 feet downstream of Blanchard Furr Road	*208
Caddo Lake:	
Along shoreline of Caddo Lake, including tributary backwater	*184
Maps are available for inspection at the Caddo Parish Courthouse, 525 Marshall Street, Suite 200, Shreveport, Louisiana.	
Maps are available for inspection at the Town of Blanchard Town Hall, 110 Main Street, Blanchard, Louisiana.	
Maps are available for inspection at the Town of Mooringsport Town Hall, 122 West Croom Street, Mooringsport, Louisiana.	
Maps are available for inspection at the City of Shreveport City Hall, 1234 Texas Avenue, Shreveport, Louisiana.	
MISSOURI	
Independence (City) Jackson County (FEMA Docket No. 7294)	
Sugar Creek:	
At Independence Avenue	*816
At Park Avenue	*914
Mill Creek:	
Approximately 250 feet downstream from Kentucky Road	*810
Approximately 950 feet upstream of South Park Road	*960
Spring Branch:	
Approximately 7,500 feet downstream of Missouri State Highway 78	*750
At Kiger Road	*886
South Fork Spring Branch:	
At confluence with Spring Branch	*823
Approximately 80 feet upstream of Lee's Summit Road	*864
Bundschu Creek:	
At confluence with Little Blue River	*739
Approximately 450 feet downstream from the Union Pacific Railroad	*748
At Powell Road	*777
Crackerneck Creek:	
At confluence with the Little Blue River	*754
Approximately 3,750 feet upstream from confluence with the Little Blue River	*754
Just upstream of Partridge Drive	*958

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
North Fork Crackerneck Creek:	
At confluence with Crackerneck Creek	*754
Approximately 2,500 feet upstream of Viking Road	*859
Adair Creek:	
At confluence with the Little Blue River	*763
At Noland Road	*911
Adair Creek Tributary No. 1:	
At confluence with Adair Creek	*813
Approximately 40 feet downstream of Interstate 70	*844
Adair Creek Tributary No. 2:	
At confluence with Adair Creek	*857
Approximately 190 feet downstream from Interstate 70	*895
Rock Creek:	
Approximately 140 feet downstream from Kentucky Road	*746
At 32nd Street	*902
Maps are available for inspection at the City of Independence, Department of Public Works (Engineering), 111 East Maple, Independence, Missouri.	
MONTANA	
Yellowstone County (Unincorporated Areas) (FEMA Docket No. 7294)	
Alkali Creek:	
Approximately 960 feet above confluence with Yellowstone River	*3,096
Just upstream of Main Street (U.S. Highway 87 and 312)	*3,153
Approximately 2,200 feet downstream of Black Pine Street	*3,159
Approximately 1,100 feet downstream of Black Pine Street	*3,166
Maps are available for inspection at the Yellowstone County Emergency and General Services Department, 217 North 27th, Room 309, Billings, Montana.	
NEW MEXICO	
Los Lunas (Village), Valencia County (FEMA Docket No. 7254)	
Rio Grande (Main Channel):	
Just downstream of Main Street	+4,855
Just upstream of Main Street	+4,855
Rio Grande (West Overbank):	
Approximately 1,600 feet downstream of Lopez Road	+4,845
Approximately 12,400 feet upstream of East Main Street	+4,864
Rio Grande (East Overbank):	
Approximately 2,700 feet downstream of State Route 49	+4,848
Approximately 2,000 feet upstream of State Route 49	+4,853
Maps are available for inspection at the Village of Los Lunas, City Hall, 660 Main Street, Los Lunas, New Mexico.	
NORTH DAKOTA	
Jamestown (City) Stutsman County (FEMA Docket No. 7294)	
James River:	
Approximately 1.87 miles (9,875 feet) downstream of Midland Continental Railroad	*1,379
Approximately 1.64 miles (8,675 feet) upstream of 4th Avenue Northwest	*1,398
Pipestem Creek:	
At confluence with James River	*1,392
Approximately 0.21 mile (1,100 feet) above confluence with James River	*1,393
Approximately 1.04 miles (5,475 feet) upstream of Burlington Northern Railroad	*1,407
Maps are available for inspection at the City of Jamestown, City Hall, 102 3rd Avenue Southeast, Jamestown, North Dakota.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32356 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7299]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determi-nations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood

Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Georgia	Floyd County (Unincorporated Areas).	Coosa River	Approximately 1.20 miles downstream of the confluence of Horseleg Creek.	*595	*594
			Approximately 0.36 mile upstream of the confluence of Horseleg Creek.		
		Horseleg Creek	At Horseleg Creek Road southwest	None	*596
			Just downstream of confluence of South Fork Horseleg Creek.	None	*607
		South Fork Horseleg Creek.	Approximately 475 feet downstream of Terry Lane.	None	*609
			Approximately 449 feet upstream of Terry Lane.	None	*630
Maps available for inspection at the Floyd County Public Works Department, 337 Blacks Bluff Road, Rome, Georgia. Send comments to Mr. Kevin Poe, Floyd County Manager, P.O. Box 946, Rome, Georgia 30162–0946.					
Georgia	Rome (City), Floyd County.	Coose River	Approximately 1.20 miles downstream of confluence of Horseleg Creek (at corporate limits).	*595	*594
			Approximately 1,800 feet downstream of the confluence of Etowah River.	*596	595
		Etowah River	Approximately 2,400 feet upstream of the confluence of Tributary A.	None	*600
		Little Dry Creek	At Charlton Street	*598	*597
			At Redmond Road	*598	597
Maps available for inspection at the City of Rome Building Inspection Department, 601 Broad Street, Rome, Georgia. Send comments to Mr. John Bennett, City of Rome Manager, P.O. Box 1433, Rome, Georgia 30162.					
Massachusetts	Braintree (Town), Norfolk County.	Cochato River	Upstream face of Richardi Reservoir Dam No. 1.	*107	*105
			Braintree/Randolph corporate limits	*108	*109
Maps available for inspection at the Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, Massachusetts. Send comments to Mr. Peter LaPolla, Braintree Town Planner, One J.F.K. Memorial Drive, Braintree, Massachusetts 02184.					
Massachusetts	Holbrook (Town), Norfolk County.	Cochato River	Randolph/Holbrook corporate limits	*121	*119
			Approximately 50 feet downstream of North Shore Road.	*128	*127
Maps available for inspection at the Holbrook Town Hall, 50 North Franklin Street, Holbrook, Massachusetts. Send comments to Mr. Paul Mullane, Holbrook Town Administrator, 50 North Franklin Street, Holbrook, Massachusetts 02343.					
Massachusetts	Randolph (Town), Norfolk County.	Cochato River	At downstream corporate limits	*107	*105
			At Randolph/Holbrook corporate limits, approximately 1,200 feet upstream of Private Dam.	None	*119

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Randolph Town Hall, 1 Turner Lane, Randolph, Massachusetts.					
Send comments to Mr. Brian Howard, Chairman of the Town of Randolph Board of Selectmen, 1 Turner Lane, Randolph, Massachusetts 02368–3967.					
Minnesota	Brown County (Unincorporated Areas).	Minnesota River	Approximately 2.15 miles downstream of Chicago and North Western Railroad.	*804	*805
			Downstream side of U.S. Highway 14	*810	*809
		Cottonwood River	At confluence with Minnesota River	*806	*807
			Approximately 1,000 feet downstream of Chicago & North Western Railroad Bridge.	*806	*807
		Backwater Effects of the Minnesota River.	Downstream side of the upstream County boundary.	None	*823
Maps available for inspection at the Brown County Planning and Zoning Office, Brown County Courthouse, New Ulm, Minnesota.					
Send comments to Mr. Charles Enter, Brown County Administrator, P.O. Box 248, New Ulm, Minnesota 56073–0248.					
New York	Frankfort (Town), Herkimer County.	Mohawk River	At the downstream corporate limits with Village of Ilion.	None	*395
			Approximately 1.36 miles upstream of Dyke Road.	None	*407
Maps available for inspection at the Frankfort Town Hall, 140 South Litchfield Street, Frankfort, New York.					
Send comments to Mr. Joseph Kinney, Town of Frankfort Supervisor, 140 South Litchfield Street, Frankfort, New York					
New York	New Bremen (Town), Lewis County.	Black River	Approximately 100 feet downstream of State Route 410.	None	*737
			Approximately 0.95 mile upstream of Lowville and Beaver River Railroad.	None	*743
Maps available for inspection at the New Bremen Town Hall, RR 3, Lowville, New York.					
Send comments to Mr. Frederick J. Schneider, New Bremen Town Supervisor, RR 1, Box 85, Castorland, New York 13620.					
North Carolina	Albemarle (City), Stanly County.	Little Long Creek	From a point approximately 1,200 feet downstream of Morgan Road.	*411	*410
			To a point approximately 100 feet downstream of Centerview Church Road.	*479	*478
		Poplin Creek	At the confluence with Little Long Creek	*420	*416
			To a point approximately 0.50 mile downstream of Aquadale Road.	*420	*419
		Town Creek	At the confluence with Little Long Creek	*450	*446
			To a point approximately 9.75 feet downstream of Snuggs Road.	*450	*449
Maps available for inspection at the City of Albermarle Engineering Department, 144 North Second Street, Albemarle, North Carolina.					
Send comments to The Honorable Roger Snyder, Mayor of the City of Albemarle, P.O. Box 190, Albemarle, North Carolina 28002–0190.					
North Carolina	Stanly County (Unincorporated Areas).	Little Long Creek	From a point approximately 1,200 feet downstream of Morgan Road.	*411	*410
			To a point approximately 200 feet downstream of Morgan Road.	*414 D*412	
		Rocky River	At a point approximately 3.1 miles downstream of State Route 1145 (River Road).	None	*475
			At point approximately 300 feet at upstream county boundary.	None	*482
Maps available for inspection at the Stanly County Planning & Zoning Department, 201 South Second Street, 3rd Floor, Albemarle, North Carolina.					
Send comments to Mr. John Whitehurst, Stanly County Manager, 201 South Second Street, Albemarle, North Carolina 28001.					
West Virginia	Logan County (Unincorporated.	Mud Fork	At the confluence with Copperas Mine Fork.	*675	*676
			Approximately 1,960 feet upstream from CSX Railroad.	*675	*676
		Copperas Mine Fork	At the confluence with Island Creek	*675	*676
			Approximately 1,070 feet downstream from County Route 9 and County Route 4.	*675	*676

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Island Creek	Approximately 140 feet upstream of confluence of Guyandotte River.	*662	*661
			Approximately 1,425 feet upstream of confluence of Cow Creek.	*851	850
Maps available for inspection at the Logan County Courthouse, County Clerk's Office, 300 Stratton Street, Room 101, Logan, West Virginia.					
West Virginia	Morgan County (Unincorporated Areas).	Cacapon River	Approximately 200 feet upstream of the confluence with the Potomac River.	None	*454
			Approximately 1,405 feet upstream of the most upstream crossing of State Route 9.	None	*584
Maps available for inspection at the Morgan County Courthouse, 202 Fairfax Street, Berkeley Springs, West Virginia Send comments to Mr. Glen R. Stotler, President of the Morgan County Commission, P.O. Box 28, Berkeley Springs, West Virginia 25411.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32361 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–98–4733; Amdt. 192–88; 195–68]

RIN 2137–AD25

Pipeline Safety: Gas and Hazardous Liquid Pipeline Repair

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a safety performance standard for the repair of corroded or damaged steel pipe in gas or hazardous liquid pipelines. Because present safety standards specify particular methods of repair, operators must get approval from government regulators to use innovative repair technologies. The performance standard is likely to encourage technological innovations and reduce repair costs without reducing safety.

EFFECTIVE DATE: This final rule takes effect January 13, 2000.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow at (202) 366–4559 or furrowl@rspa.dot.gov. You can read comments and other material in the docket at this internet web address: http://dms.dot.gov. General information about our pipeline safety program can be obtained at http://ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Listed below are safety standards in 49 CFR part 192 for gas transmission and distribution lines and 49 CFR part 195 for hazardous liquid pipelines that specify methods of repairing corrosion and other defects in metallic pipe.

Section	Pipe	Defect	Repair Method
§ 192.309(b)	Certain steel transmission lines or mains.	Dent of particular characteristic	Remove by cutting out length of pipe
§ 192.485(a)	Metallic transmission lines	Large area of general corrosion does not support maximum allowable operating pressure (MAOP).	Remove by cutting out length of pipe, unless operating pressure is reduced
§ 192.487(a)	Metallic distribution lines (except cast or ductile iron).	Large area of general corrosion does not support MAOP or has more than 70% wall loss.	Remove by cutting out length of pipe
§ 192.713	High-stress steel transmission lines.	Imperfection or damage impairs serviceability.	Remove by cutting out length of pipe, or install full-encirclement split sleeve
§ 192.717	Steel transmission lines	Leaking defect	Remove by cutting out length of pipe, install full-encirclement welded split sleeve, or apply other specified repair methods
§ 195.416(f)	Steel pipeline	Large area of general corrosion reduces wall thickness below minimum in pipe specification.	Replace with coated pipe, unless operating pressure is reduced

Because these standards prescribe methods of repair rather than what the repair should accomplish, the standards lack flexibility. They do not allow operators to use new or more innovative repair technologies. They also discourage operators from developing new repair methods that may be more economical. In contrast, under less

restrictive standards in Parts 192 and 195, operators may and do use methods besides pipe replacement and split sleeves, such as composite pipe wraps, grinding, hot tapping, and weld deposition, to repair corroded or damaged pipe. For example, a gouge that impairs the serviceability of a steel gas transmission line not covered by § 192.713 may be repaired under § 192.703(b) by any method that returns the pipe to a safe condition.

In recent years, we and a few state pipeline safety agencies waived the requirements of §§ 192.485(a) and 192.713 so operators could use a new repair system called Clock Spring® wrap to simplify and reduce the average cost of repairs (60 FR 10630; February 27, 1995). This system, which consists of a fiberglass/polyester composite material coiled with adhesive in layers over a filler, reinforces steel pipe that has certain non-leaking defects. According to tests and analyses done by the Gas Research Institute, when properly installed, the system permanently restores the pressure containing capability of the pipe (D.R. Stephens, Summary of Validation of Clock Spring for Permanent Repair of Pipeline Corrosion Defects, GRI–98/0227, Gas Research Institute, Chicago, Illinois, October 1998).

Notice of Proposed Rulemaking

Recognizing the need for flexibility in §§ 192.309(b), 192.485(a), 192.487(a), 192.713, and 195.416(f), we published a notice of proposed rulemaking (NPRM) to amend these rules to permit operators to use repair methods that meet a performance standard (64 FR 16882; April 7, 1999). The standard we proposed was that the repair method be able to ''permanently restore the serviceability of the pipe,'' a result comparable to that expected from replacing damaged pipe or installing a full-encirclement split sleeve. We explained that such restoration would be permanent if the repair were expected to last as long as the pipe under normal operating and maintenance conditions.

For assurance that a repair method indeed meets the performance standard, we further proposed that the method must have undergone ''reliable engineering tests and analyses.'' Although no guidelines for these tests and analyses were proposed, we said ''the tests and analyses need only be what a reasonable and prudent professional engineer would consider adequate to demonstrate compliance with the performance standard.''

Besides the performance standard, we also proposed to drop the priority that §§ 192.713 and 192.717 give to pipe replacement whenever it is feasible to take a damaged pipeline out of service. And we proposed to terminate the requirement in these sections that replacement pipe have ''similar or greater design strength'' than the pipe being replaced. We think this requirement is overly conservative, and the safety of replacement pipe is otherwise governed by the material, design, construction, and testing requirements of Part 192.

Discussion of Comments

We received comments from the following sources in response to the NPRM:

Trade association: American Gas Association

Interstate gas pipeline operators: Colorado Interstate Gas Company, CMS Energy Corporation, Duke Energy Corporation, Enron Gas Pipeline Group, Paiute Pipeline Company, and Southern Natural Gas Company

Gas distribution operators: Southwest Gas Corporation and Consumers Energy Company

Manufacturer: Clock Spring Company, L.P.

Engineering firm: Stress Engineering Services, Inc.

Engineering consultant: Foy Milton, PE

Of the 12 commenters, four (Consumers Energy Company, Paiute Pipeline Company, Southern Natural Gas Company, and Southwest Gas Corporation) supported the proposed rules without change; one (Foy Milton) opposed use of a performance standard for pipe repairs; one (American Gas Association) supported the proposals but suggested a minor editorial change, which is included in final § 192.717; and the remaining six commenters favored the proposals in general but suggested substantive changes. Our disposition of the lone opposing comment and those comments suggesting substantive changes is discussed under the following headings.

Specification vs. Performance

Asserting advantages of the existing specification-type standards (uniformity of application, ease of understanding, voluntary standards committee backing, and disallowance of unacceptable repair methods), Foy Milton urged us not to go forward with the proposed rule changes. While we agree that specification-type standards may be appropriate in some instances, they are not the standards of choice for mechanisms undergoing advancements in technology. Specification-type standards deny operators the flexibility to choose the most cost-effective technology to do a particular job, in this case repairing corroded or other damaged pipe. They also create a disincentive for operators to invest in the development of new technology. Moreover, properly crafted performance standards can bar the use of unacceptable technology. Therefore, we did not adopt this commenter's suggestion.

Clarity of Proposal

As discussed above, we proposed to widen operators' choices of repair methods by allowing pipe to be ''repaired by a method that can permanently restore the serviceability of the pipe, as shown by reliable engineering tests and analyses.'' The Colorado Interstate Gas Company thought this wording could be misinterpreted to require tests and analyses of completed repairs. This commenter suggested we use the following alternative wording to emphasize that the repair method is to be tested and analyzed: ''* * * using a method qualified by reliable engineering tests and analyses, each repair must permanently restore the serviceability of the pipe.''

After considering the matter, we think the syntax of the proposed requirement for tests and analyses could possibly cause the requirement to be misconstrued to apply to completed repairs rather than repair methods. Therefore, in the final rules, we revised the wording of the proposal as follows to better indicate the purpose of the tests and analyses: ''repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.'' We did not adopt the commenter's suggested rewrite because we believe it would, perhaps inadvertently, regulate completed repairs in addition to repair methods, a result not intended by the proposal.

Test Criteria

The Clock Spring Company was concerned that operators' freedom of interpretation under the proposed rules might threaten the integrity of repairs made by non-traditional methods. This commenter suggested we augment the proposal by including minimum test criteria, such as long term strength, environmental compatibility, and dynamic forces, and require that testing be consistent with ASTM D2992–96, Standard Practice for Obtaining Hydrostatic or Pressure Design Basis for ''Fiberglass'' (Glass-Fiber-Reinforced Thermosetting-Resin) Pipe and Fittings. Alternatively, the company

recommended that we devise testing criteria based on the years of engineering experience in developing Clock Spring wrap. Similarly, Stress Engineering Services, Inc., a participant in proving the integrity of two composite repair methods, Clock Spring wrap and Armor Plate Pipe Wrap, thought guidelines for testing new composite repair methods were needed to properly assess critical technical issues. Enclosed with this comment was a set of 15 guidelines for testing composite materials.

In sharp contrast, the Enron Gas Pipeline Group said the proposed testing and analyses requirement is unnecessary. As support for this position, Enron cited performance standards, such as § 195.422, as having satisfactorily controlled safety problems without requiring tests and analyses to demonstrate compliance. Enron also contended that performance standards implicitly require operators to prove that methods used to achieve compliance will indeed do so, and that requiring tests and analyses would hinder operators' freedom to use innovative technologies.

Our position, like the proposal, lies between these two different views. We are not persuaded that the proposed testing requirement needs strengthening. By and large, the pipeline industry's repair practices have been very conservative and slow to incorporate non-traditional methods. For example, the industry did not use Clock Spring or Armor Plate until after ample hard evidence was produced to prove the lasting integrity of pipe repaired by these methods. And the quality of these repairs, a great many of which have been done without the need for a waiver of Part 192 or 195 standards, is shown by the lack of reports of incidents or near-incidents attributable to faulty repairs. We think the industry is unlikely to take any less conservative approach to new repair technologies that may become available for use in the future.

At the same time, we still believe that a requirement for tests and analyses is needed. Given that pipe replacement and full-encirclement split sleeves are time-tested methods of pipe repair, a requirement for reliable engineering tests and analyses will provide public confidence in the safety of innovative methods intended as alternatives to these time-tested methods. The lack of similar requirements elsewhere in the regulations is not sufficient reason to drop a proposed requirement intended to assure the integrity of innovative repair alternatives. Enron did not explain why the proposed requirement, which is consistent with current industry practices, would hinder future innovation. Although we agree with Enron that without such a requirement operators would still have to demonstrate the validity of their compliance efforts, the nature of such demonstrations would be discretionary and could have less probative value than reliable engineering tests and analyses.

Furthermore, a majority of commenters apparently support our position. Except for Foy Milton, who advised us not to change the existing rules, seven of the remaining eleven commenters supported the proposed rules in general and expressed no specific opinion on the proposed requirement for reliable engineering tests and analyses. Also, as discussed below, our two pipeline safety advisory committees approved the proposed rules without recommending any change to this requirement.

In the NPRM, we described the ''reliable engineering tests and analyses'' that would be necessary to show that a particular repair method will perform as required. We said the tests and analyses need only be what a reasonable and prudent professional engineer would consider adequate to demonstrate compliance with the performance standard. We recognize that licensed professional engineers may differ on what information is necessary to demonstrate the performance of particular technologies in particular circumstances. But the experience of Clock Spring and Armor Plate wraps can serve as a model in determining the technical issues to resolve and the relevant substantiating tests and analyses. We will look to this experience to guide our inspections for compliance with the final rule. In this regard, we would welcome opportunities to preview new pipeline repair technologies in the development stage to avert possible compliance issues later on when the technologies are marketed.

With the growth of repair technology, we expect that voluntary efforts will respond to any possible demand for uniform testing criteria. As mentioned above, Stress Engineering has already moved in this direction for certain composite wraps. And other firms and organizations may develop additional criteria for different repair techniques. Such criteria could be incorporated in voluntary standards, such as ASME B31.4 or B31.8, or in publications such as GPTC/ANSI Z380.1, Guide for Gas Transmission and Distribution Piping Systems. We now use these documents as a guide to acceptable practices in judging compliance with many performance standards in Parts 192 and 195.

Repair by Replacement

Duke Energy, CMS Energy, and Enron suggested that because pipe replacement is one of several methods that could be used under proposed §§ 192.485(a), 192.487(a), and 192.713(a) to repair corroded or damaged pipe, these rules would be clearer if they referred only to repair rather than to both replacement and repair. Although the premise of this comment is correct, the proposed rules distinguished replacement from other methods of repair because throughout Parts 192 and 195 replacement is distinguished from other methods of repair. This distinction is significant because pipe replacement triggers safety requirements, such as those involving pipe design, construction, and pressure testing, that do not apply to other methods of pipe repair. Giving special emphasis to replacement in repair rules highlights the need for replacement pipe to meet these additional safety requirements. So we do not think the commenters' suggestion would necessarily contribute to overall clarity.

Corrosion Repairs

Duke Energy, CMS Energy, and Enron suggested that including the proposed performance standard under §§ 192.485(a) and 192.487(a) was redundant, because corrosion repairs would be subject to the same standard under proposed § 192.713(a). But this observation is only partially correct, because § 192.713(a) applies only to certain high-stress steel transmission lines, while §§ 192.485(a) and 192.487(a) apply to all metallic transmission or distribution lines. If the proposed performance standard were not included under §§ 192.485(a) and 192.487(a), corrosion repairs on pipelines not covered by § 192.713(a) would not be subject to the proposed standard. So we have left the proposed performance standard in final §§ 192.485(a) and 192.487(a).

Leak Repairs

Duke Energy, CMS Energy, and Enron further suggested that the proposed performance standard under § 192.713(a) for non-leaking defects should apply to leaking defects as well. This change, they said, would be consistent with the purpose of the rulemaking and allow the removal of § 192.717, which requires specific repair methods for transmission line leaks.

We did not propose to apply the proposed performance standard to methods of repairing pipe leaks because

the impetus for this rulemaking, Clock Spring wrap, is not designed to repair leaks. Still, as explained in the NPRM, the purpose of this rulemaking is to make the pipe repair regulations more flexible so that operators have incentives to innovate and greater freedom in selecting repair methods. And, as the commenters indicated, achieving this goal does not depend on whether the defect to be repaired is leaking nor on the availability of a non-traditional leak repair method that qualifies under the proposed performance standard. In fact, adopting the proposed performance standard to authorize alternative leak repair methods is likely to foster the development of new methods of leak repair. Therefore, since the proposed performance standard is suitable for both non-leaking and leaking defects and applying the standard to the repair of leaking defects furthers the purpose of the NPRM, we have added the proposed performance standard to § 192.717 to cover the permanent repair of leaks on transmission lines. As discussed below, our gas pipeline safety advisory committee supported this action.

Contrary to the commenters' suggestion, however, merely extending § 192.713 to cover leaking defects would not enable removal of § 192.717. Section 192.717 is broader in scope; it applies to all steel transmission lines, not just those that come under § 192.713.

Reducing Operating Pressure

Duke Energy, CMS Energy, and Enron asked that we amend § 192.713 to state that operators may reduce the maximum allowable operating pressure of defective pipe to a safe level instead of permanently repairing the pipe. Section 192.485 allows this alternative on corroded transmission line pipe where a safe operating pressure can be calculated under accepted engineering guidelines based on the remaining strength of the corroded pipe (e.g., ASME B31.G–1991). After the MAOP is reduced to a safe level, the corrosion no longer impairs the serviceability of the pipe, making the repair requirement of § 192.713 inapplicable. But we are not aware of comparable engineering guidelines for determining the safe operating pressure of steel pipe that has defects other than corrosion, such as scratches, gouges, or dents. Although operators may reduce operating pressure as a temporary protective measure under § 192.711, in the absence of such guidelines, there is no accepted way to judge what amount of pressure reduction will restore the serviceability of the defective pipe and make removal or repair unnecessary. Therefore, we have not included the suggested amendment in final § 192.713.

Both the existing and proposed § 192.713 call for a reduction in operating pressure to a safe level during repairs. But Duke Energy, CMS Energy, and Enron pointed out that such a reduction is unnecessary if the operating pressure is already at a level safe for repairs. These commenters suggested that the rule merely provide that the operating pressure be at a safe level during repairs. We believe this interpretation is a reasonable application of the current rule, so we have included the suggested change in the final rule.

Dents Found During Construction

Existing § 192.309(b) requires removal of unsafe dents found during the construction of certain transmission lines and mains. We proposed to allow operators to repair these dents with methods that qualify under the performance standard discussed above. But Enron said the existing, more restrictive requirement is appropriate for pipeline construction and saw no need for change. Alone among the commenters, it said the existing removal requirement is reasonable because, during construction, the dented pipe is accessible and not yet in service, and machinery and labor are on site or readily available. We are not swayed by this reasoning, however. Although we agree the burden of removal may be lessened somewhat by the circumstances of construction, we find it more reasonable to adopt a regulation that permits remedial options that can provide equivalent safety at possibly less cost. Final § 192.309(b) is, therefore, adopted as proposed.

Advisory Committee Consideration

We presented the NPRM for consideration by the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) at a meeting in Washington, DC on May 4, 1999. The TPSSC is RSPA's statutory advisory committee for gas pipeline safety and the THLPSSC is RSPA's statutory advisory committee for hazardous liquid pipeline safety. Each committee has 15 members, representing industry, government, and the public, who are qualified to consider the technical feasibility, reasonableness, cost-effectiveness, and practicability of proposed pipeline safety standards. Both committees voted unanimously to approve the proposed rules and to approve the associated risk assessment information contained in the Regulatory Evaluation, which is discussed below. A transcript and report of each committee's consideration of the NPRM is available in the docket.

During the May 4th meeting, one advisory committee member questioned the appropriateness of the term ''generally corroded'' in the first sentence of § 195.416(f). This sentence reads: ''Any pipe that is found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must be replaced with coated pipe that meets the requirements of this part.'' The member suggested that revising this requirement to refer to pipe that has ''general corrosion'' would clarify the meaning. In considering this suggestion, we found that the terms ''generally corroded'' and ''general corrosion'' are used in §§ 192.485(a), 192.487(a), 195.416(f), and 195.418(d) to refer to areas of corrosion other than corrosion pitting. Indeed, the two terms are used interchangeably in § 192.487(a). Given the common intended meaning of both terms, which our experience indicates is universally understood and applied in the pipeline industry, and the lack of any compliance difficulty caused by the term ''generally corroded,'' we decided not to adopt the member's suggested change to § 195.416(f).

As discussed above under Leak Repairs, Duke Energy, CMS Energy, and Enron suggested that the proposed performance standard is suitable for leaking as well as non-leaking defects. To help us assess this comment, at the November 4, 1999, TPSSC meeting in Washington, DC, we asked the TPSSC for advice on whether we should add the performance standard to § 192.717, which prescribes repair methods for leaks on gas transmission lines. The TPSSC voted, with one abstention, to support including the performance standard in § 192.717. A transcript and report of the TPSSC's consideration of this matter is available in the docket.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

DOT does not consider this rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993), and the Office of Management and Budget (OMB) has not reviewed this rulemaking document. Also, DOT does not consider this rulemaking significant under its regulatory policies and procedures (44 FR 11034; February 26, 1979).

The final rules provide operators flexibility to choose the most cost-effective method of repairing pipe, while maintaining public safety. Thus, the rules will not add costs to industry, government, or the public. In fact, the rules should reduce operators' costs of transporting oil and gas, and perhaps the price consumers pay for these products. In comments on a proposed waiver to the Panhandle Eastern Corporation (58 FR 13823; March 15, 1993), the American Gas Association estimated that industry could save $6.5 million a year by using composite wrap to repair corroded or damaged pipe. Although part of the gas pipeline industry is already realizing these savings because of the Panhandle and other waivers, the final rules will create a similar opportunity for savings by the entire oil and gas pipeline industry. And still more savings could possibly result from the use of innovative technologies not covered by the waivers. In fact, this rulemaking fosters the use and development of new repair technologies without additional cost to the regulated industry. A Final Regulatory Evaluation document is available for review in the docket.

B. Regulatory Flexibility Act

This rulemaking will not impose additional requirements on pipeline operators, including small entities that operate regulated pipelines. Rather, the rules offer operators the opportunity to use more economical methods of repairing corroded or damaged pipe. Thus, this rulemaking may reduce costs to operators, including small entities. Based on the facts available about the expected impact of this rulemaking, I certify, under section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12612

This rulemaking will not have substantial direct effects on states, on the relationship between the Federal 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 (52 FR 41685; October 30, 1987), RSPA has determined that the final rules do not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Executive Order 13084

The final rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13084, ''Consultation and Coordination with Indian Tribal Governments.'' Because the rules will not significantly or uniquely affect Indian tribal governments, the funding and consultation requirements of Executive Order 13084 do not apply.

E. Paperwork Reduction Act of 1995

This rulemaking contains no information collection that is subject to review by OMB under the Paperwork Reduction Act of 1995.

F. Unfunded Mandates Reform Act of 1995

This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rulemaking.

G. National Environmental Policy Act

We have analyzed the final rules for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). We prepared an Environmental Assessment (64 FR 16884; April 7, 1999) in which we concluded that the proposed action would not significantly affect the human environment because alternative repair methods would have to be as reliable as those the pipeline safety regulations currently allow. Thus any alternative method would provide the same level of pipe protection that the current repair methods provide. Based on this Environmental Assessment and no receipt of information showing otherwise, we have prepared a Finding of No Significant Impact (FONSI). This FONSI has been made part of the docket.

H. Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize ''double zero'' not as 2000 but as 1900. This glitch, the Year 2000 Problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 Problem.

This rulemaking does not require business process changes or require modifications to computer systems. Because this rulemaking does not affect the ability of organizations to respond to the Year 2000 problem, we have not delayed the effectiveness of the final rules.

List of Subjects

49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR parts 192 and 195 are amended as follows:

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

2. In § 192.309, paragraph (b) introductory text is revised to read as follows:

§ 192.309 Repair of steel pipe.

* * * * *

(b) Each of the following dents must be removed from steel pipe to be operated at a pressure that produces a hoop stress of 20 percent, or more, of SMYS, unless the dent is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe:

* * * * *

3. Section 192.485(a) is revised to read as follows:

§ 192.485 Remedial measures: Transmission lines.

(a) *General corrosion.* Each segment of transmission line with general corrosion and with a remaining wall thickness less than that required for the MAOP of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on actual remaining wall thickness. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

* * * * *

4. Section 192.487(a) is revised to read as follows:

§ 192.487 Remedial measures: Distribution lines other than cast iron or ductile iron lines.

(a) *General corrosion.* Except for cast iron or ductile iron pipe, each segment of generally corroded distribution line pipe with a remaining wall thickness less than that required for the MAOP of the pipeline, or a remaining wall thickness less than 30 percent of the nominal wall thickness, must be replaced. However, corroded pipe may be repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

* * * * *

§ 192.711 [Amended]

5. In § 192.711(b), remove ''§ 192.717(a)(3)'' and add ''§ 192.717(b)(3)'' in its place.

6. Section 192.713 is revised to read as follows:

§ 192.713 Transmission lines: Permanent field repair of imperfections and damages.

(a) Each imperfection or damage that impairs the serviceability of pipe in a steel transmission line operating at or above 40 percent of SMYS must be—

(1) Removed by cutting out and replacing a cylindrical piece of pipe; or

(2) Repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

(b) Operating pressure must be at a safe level during repair operations.

7. Section 192.717 is revised to read as follows:

§ 192.717 Transmission lines: Permanent field repair of leaks.

Each permanent field repair of a leak on a transmission line must be made by—

(a) Removing the leak by cutting out and replacing a cylindrical piece of pipe; or

(b) Repairing the leak by one of the following methods:

(1) Install a full encirclement welded split sleeve of appropriate design, unless the transmission line is joined by mechanical couplings and operates at less than 40 percent of SMYS.

(2) If the leak is due to a corrosion pit, install a properly designed bolt-on-leak clamp.

(3) If the leak is due to a corrosion pit and on pipe of not more than 40,000 psi (267 Mpa) SMYS, fillet weld over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half of the diameter of the pipe in size.

(4) If the leak is on a submerged offshore pipeline or submerged pipeline in inland navigable waters, mechanically apply a full encirclement split sleeve of appropriate design.

(5) Apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

PART 195—[AMENDED]

8. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

9. Section 195.416(f) is revised to read as follows:

§ 195.416 External corrosion control.

* * * * *

(f) Any pipe that is found to be generally corroded so that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances must be replaced with coated pipe that meets the requirements of this part. However, generally corroded pipe need not be replaced if—

(1) The operating pressure is reduced to be commensurate with the limits on operating pressure specified in this subpart, based on the actual remaining wall thickness; or

(2) The pipe is repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

* * * * *

Issued in Washington, DC on December 8, 1999.

Kelley S. Coyner,

Administrator.

[FR Doc. 99–32274 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–3421]

RIN No. 2127–AH60

Federal Motor Vehicle Safety Standards; Head Impact Protection

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of a final rule amending Standard No. 201, Occupant Protection in Interior Impact, to permit, but not require, the installation of dynamically deploying upper interior head protection systems. These systems are currently being used by some vehicle manufacturers to provide added head protection in lateral crashes. Since compliance with the upper interior head protection requirements of the standard as originally adopted would often not be practicable at points located at or near the places where these dynamic systems are stored, the final rule allowed vehicles equipped with the systems to meet slightly reduced requirements at those points. However, these vehicles were also required to meet new requirements in a side crash into a pole to ensure that the systems enhance safety.

This document grants two petitions, and amends Standard No. 201 accordingly. The American Automobile Manufacturers Association (AAMA) requested that NHTSA delete a humidity range specification for calibration of the test device used in the car-to-pole test on the basis that the specification was both unnecessary and difficult to meet. Noting that the final rule specified a broad range of potential impact speeds for the car-to-pole test, the Association of International Automobile Manufacturers, Inc. (AIAM) requested that the agency specify a narrower speed range for this test.

This document also denies two other petitions. Mercedes-Benz of North America (Mercedes) argued that the reduced requirements should apply not only to points near the stored dynamic systems, but also to points covered by those systems when they are deployed. Chrysler Corporation (Chrysler) objected to a requirement that manufacturers choosing one of the compliance test options must select which option it is using at the time of certification and may not, after selecting one test option, rely on a different test option to demonstrate compliance.

DATES: *Effective Date:* The amendments made in this rule are effective February 14, 2000.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than January 28, 2000.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For legal issues: Mr. Otto Matheke, Office of the Chief Counsel, NHTSA, 400 Seventh

Street, SW, Washington, DC 20590. Mr. Matheke's telephone number is (202) 366–5253. His facsimile number is (202) 366–3820. For non-legal issues: Dr. William Fan, Office of Crashworthiness Standards, NPS–11, Dr. Fan's telephone number is (202) 366–4922. His facsimile number is (202) 366–4329.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 201 requires passenger cars, trucks, buses, and multipurpose passenger vehicles (MPVs) with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less to provide head protection during a vehicle crash when the occupant's head strikes either the dashboard area or the upper vehicle interior, i.e., pillars, side rails, headers, or the roof of the vehicle. The upper interior impact protection requirements were added by a final rule issued by NHTSA in August 1995. Compliance with the upper interior impact protection requirements was required to be achieved in a 24 kilometers per hour (km/h) (15 miles per hour (mph)) in-vehicle component impact tests in which a free-motion headform (FMH) is propelled into specified target points. In response to that final rule, the agency received a number of petitions for reconsideration. NHTSA announced that it was treating those petitions relating to dynamically deployed head impact protection systems as petitions for rulemaking.

On March 7, 1996, the agency published an advance notice of proposed rulemaking (ANPRM) to assist the agency in evaluating the issues raised by dynamically deployed upper interior head protection systems (61 FR 9136). In the ANPRM, the agency noted that the areas in which dynamically deployed head impact protection systems may be stored may coincide with Standard No. 201 target points. Use of dynamic systems might be precluded by the upper interior impact protection requirements of Standard No. 201 since the padding or other countermeasures needed to meet those requirements could interfere with the design and operation of dynamic systems. To address inflatable dynamic systems, the agency discussed the possibility that if it could develop a clear, precise definition for determining which points are protected by inflatable devices, it might propose subjecting vehicles equipped with these systems to a less severe test with 19 km/h (12 mph) headform impacts at all points that would be covered by the devices when inflated. These tests would be conducted with the devices in their undeployed state. The performance of the devices while deployed would be tested in a side impact test into a fixed rigid pole at 30 km/h (18.6 miles per hour) or a side impact with a moving deformable barrier representing a motor vehicle at 50 km/h (31 miles per hour).

Following consideration of the comments submitted in response to the ANPRM, the agency issued a Notice of Proposed Rulemaking (NPRM) on August 26, 1997. (62 FR 45202). The NPRM proposed adding alternative performance requirements and test procedures to Standard No. 201 to accommodate development of various types of dynamically deployed upper interior head protection systems, including inflatable ones. Under the agency's proposal, manufacturers would have the option of demonstrating compliance with Standard No. 201 by choosing one of three options. Option 1 specified performing free motion headform (FMH) impacts at 24 km/h (15 mph) at all test points specified in the August 1995 final rule. Options 2 and 3 specified FMH testing at reduced impact speeds at those areas located directly over a stowed dynamic system. To ensure that these systems offered safety benefits when deployed, options 2 and 3 specified testing of the deployed system at impact speeds above 24 km/h (15 mph). Option 2 would have required FMH impact testing against target points at 29 km/h (18 mph) with the system deployed. Option 3 employed a full scale side impact at 29 km/h (18 mph) into a fixed pole. The NPRM further stated that manufacturers electing one of these options would have to do so not later than the time when the vehicle is certified.

On August 4, 1998, NHTSA published a final rule (63 FR 41451—Docket Number NHTSA–98–3847) amending Standard No. 201 to provide new compliance options allowing vehicles to be equipped with inflatable dynamically deployed head impact protection systems. These systems are similar in operation to frontal air bags, i.e., in the event of a crash, a sensor triggers an inflator which rapidly fills a stowed air bag with gas. As the gas expands, the air bag deploys from its stowed position and interposes itself between the occupant and other areas of the vehicle. However, unlike frontal air bags, the systems addressed in the amendments to Standard No. 201 are deployed in side impacts. When deployed, they provide protection to the head and upper torso of occupants by inflating between the occupant and the vehicle's side window opening or A- and B-Pillars.

After careful consideration of the comments received in response to the NPRM, the agency decided to drop one of the test options discussed in the NPRM, Option 2, and adopted a refined version of Option 3, a vehicle-to-pole test. The modification to the vehicle-to-pole test included an expansion of the area over a stowed dynamic system subject to testing at the reduced 19 km/h (12 mph) FMH impact speed, changed specifications for the rigid pole, minor changes to the specifications for vehicle test attitude to accommodate different vehicle propulsion systems, and a modification to the proposed seating procedure for the SID/HIII dummy used in the test. The final rule also stated that a manufacturer choosing a particular test option must select the option by the time it certifies the vehicle and may not thereafter select a different test option for compliance purposes.

Petitions for Reconsideration of August 1998 Final Rule

The Mercedes Petition for Reconsideration

Mercedes submitted a petition for reconsideration of the August 1998 final rule, arguing that the reduced requirements should apply not only to the target points near the stored dynamic systems, but also to points covered by those systems when they are deployed. As set forth in S6.2:

> * * * targets that are over any point inside the area measured along the vehicle interior within 50 mm (2.0 inch) of the periphery of the stowed system * * * shall be impacted by the free motion headform specified in S8.9 at any speed up to and including 19 km/h (12 mph).

Mercedes argued that this definition should be expanded by replacing the existing language in S6.2 with the following:

> Take a silhouette of a fully inflated dynamic system in side view. Reduce this silhouette to areas consisting of inflated chambers. Reduce these areas further by a 25 mm (1.0") border. Perpendicularly project the remaining area of the silhouette onto the vehicle's inner surface. Target points within this projection shall be considered to be protected by the dynamic system. Quilted seams between two inflated chambers would not be considered to interrupt the protected area.

In support of this definition, Mercedes argued that its language more properly reflected the function of a dynamic system by ensuring that those target points that are shielded by the system, as well as those that are merely over the stowed system, are allowed to comply with the reduced impact speeds in in-vehicle testing.

To further support its position, Mercedes stated that in its cars, the belt anchorage D-ring on the B-pillar (target point BP2) is usually covered by the B-pillar trim. The company believes that this design is safer than adjustable belt anchorages with the belt anchorage D-ring outside the B-pillar trim. However, Mercedes claims that the adjustable D-ring inside the trim needs free moving space, making installation of the padding required to comply with the 24 km/h (15 mph) impact requirement extremely difficult. The company submitted that use of a less restrictive definition of target points subject to the lower in-vehicle impact speeds would recognize the actual function of inflatable systems and prevent Mercedes from having to install a more aggressive adjustable belt anchorage with the D-ring outside the B-pillar trim to meet the existing requirements of Standard No. 201.

Following the publication of the August 1997 NPRM, Mercedes, Volvo, Volkswagen of America (VW), BMW of North America (BMW), Toyota , Autoliv, and the American Automobile Manufacturers' Association (AAMA) commented that those target points protected by the deployed system should also be tested at the 19 km/h (12 mph) impact speed. While encouraging the agency to adopt this definition, those commenters did not, in NHTSA's view, provide any additional insights or assistance in formulating a definition for target areas that are, in fact, ''protected'' by a dynamic system. The agency declined to adopt any definition of ''protected'' target points when it issued the August 1998 final rule. As we explained at the time, we found a practicable and comprehensive definition of target points ''covered'' or ''protected'' by a dynamic system to be elusive. We also noted that excluding ''protected'' target points may result in a target area being protected for one class or size of occupant and not for another. Another matter of concern for the agency was the fact that dynamic systems may provide vastly different degrees of impact protection depending on the system configuration and design. Based on these difficulties, as well as our interest in expediting issuance of the final rule, we decided not to alter the definition of target points subject to lower impact speeds that was proposed in the NPRM.

Mercedes suggests a definition of ''protected'' target points based on making a lateral projection of a reduced silhouette of an inflated system. All target points within the projection would be presumed to be shielded by an inflated system, and therefore pose a reduced threat to occupants. The scheme is suitable for dynamic system designs similar to the one Mercedes now employs—an inflatable curtain that issues from the roof rails and expands downward over the window openings. As this design covers a relatively large area, the definition urged by Mercedes could arguably be appropriate for that design.

Nevertheless, we are denying the Mercedes petition. The agency believes that inflatable curtain systems and similar devices, including the BMW Inflatable Tubular Structure (ITS), may offer significant safety benefits in side impacts. The actual benefits and performance of such systems, particularly in protecting the head in impacts other than side impacts, have not yet been ascertained or evaluated by NHTSA. The agency is concerned that inflatable curtains and similar systems may not perform well in impacts other than side impacts—which accounted for over 90 percent of fatal and 75 percent of injury-producing crashes in 1997. In order to ensure that countermeasures perform adequately in a range of impacts, Standard No. 201 provides that the FMH may be fired at target areas within a range of vertical and horizontal approach angles. In the case of B-pillar targets, range of permissible horizontal approach angles spans 150 degrees. We are concerned that Standard No. 201 does not now incorporate requirements sufficient to ensure the performance of dynamic systems in impacts other than direct side impacts. Depending on the system design and the sensors employed, a dynamic system may not even deploy in an oblique crash. Furthermore, if the system were to deploy, it may not ''protect'' a target point (and vehicle occupants) when struck at a 15 degree angle as it would when struck at a 90 degree angle. In promulgating the final rule allowing dynamic head protection systems, the agency's intent was to modify the existing provisions of Standard No. 201 to allow the installation and use of those systems. In regards to benefits, costs, and performance, the agency focused on what modifications needed to be made to Standard No. 201 to accommodate dynamically deployed systems and what benefits, if any, could be shown if such systems were allowed.

This led to an examination of the principal obstacle posed by Standard No. 201 to the use of dynamic systems—the potential for interference between padding and other countermeasures with a deploying dynamic system—and dynamic system performance in side impacts, particularly in side impacts against a rigid pole. Using the data available at the time, we were able to determine, based on the assumption that a dynamic system would be stored in an area alongside or in the roof rails, or in the A-pillars and B-pillars, that the safety benefits offered by dynamic systems in side impacts into poles outweighed the possible safety consequences of reducing padding or other countermeasures in those areas. An analysis of the costs and benefits of allowing lower impact speeds in all areas that may be ''protected'' by a dynamic system was not performed. Most significantly, the agency does not possess, nor did Mercedes submit, any data establishing the benefits, if any, from the ''protection'' provided by a dynamic system in crash modes other than a side rigid pole impact.

This is not to say that dynamically deployed head protection devices like the Mercedes inflatable curtain will not have the potential to offer significant safety benefits. Nonetheless, NHTSA believes that significant issues must be resolved before the agency could adopt modifications to Standard No. 201 similar to those suggested by the Mercedes petition. One obstacle which must be resolved is the method of determining which points are ''protected'' by an inflatable device.

The issue raised by the Mercedes petition has been repeatedly examined by the agency. In its August 1997 NPRM, the agency expressed its view of the proper methodology for selecting target points that would be impacted at lower speeds in vehicles with dynamic systems. In addition to proposing that target points located over undeployed systems be subject to lower impacts in the in-vehicle test portion of Option 3, the agency also discussed the agency's efforts to derive a methodology for determining target points ''protected'' by a deployed dynamic system. Since a deployed system could conceivably shield occupants from those ''protected'' target points, the agency said that it might be appropriate to allow these points, regardless of their proximity to a stowed dynamic system, to be subject to lower impact speeds in the in-vehicle test. To that end, NHTSA discussed alternative means for attempting to define which target points are ''protected.'' While the methodology suggested by Mercedes—using a perpendicular projection within the perimeter of the outline of the inflated device—may be suitable for vehicles using inflatable curtain systems, it has limitations when applied to vehicles with other types of dynamically deployed systems. For example, the BMW ITS covers a narrower portion of the window opening and B-pillar when

it inflates. If the definition of ''protected'' target points urged by Mercedes were applied to this system, ''protected'' target areas could be approached and struck from directions other than those perpendicular to the outline of the inflated system, particularly in the case of smaller or out of position occupants. While this limitation is particularly telling in the example of the BMW ITS, it illustrates that the Mercedes methodology assumes that occupants and their heads will be moving along a plane perpendicular to the inflated system. While the agency could adopt a particular methodology for determining which points are protected and to limit its application to those types of systems for which it is suitable, e.g., to inflatable curtain systems, the agency is mindful that manufacturers may choose any number of types and configurations of dynamically deployed head protection systems. We are concerned that were we to adopt a methodology suitable for one system, but not suitable for others, we would potentially place ourselves in the position of having to modify Standard No. 201 on a case-by-case basis. This would add to the complexity of Standard No. 201 and would further strain agency resources.

We are also concerned that if we were to grant the Mercedes petition, we would not be in a position to assess the performance of an inflated dynamic system in protecting occupants in any impact other than a side impact into a rigid pole. As noted above, the August 1998 final rule was intended to allow the installation of dynamically deployed head protection systems based on our conclusion that the safety benefits offered by those systems in a single crash mode were sufficient to outweigh any safety losses associated with reducing the impact speed requirements for target points directly over an undeployed system. The Mercedes petition requests NHTSA to assume that all target points ''protected'' by a deployed dynamic system will, when impacted, present a lesser threat of injury than the same points would under the existing standard. The agency does not believe that this assumption is justifiable, particularly since a test for gauging the performance of dynamic systems in protecting the head against impacts with specific targets in the vehicle interior has not yet been developed. While the agency proposed a test in the August 27, 1997 NPRM which could be adapted for this purpose, that test, described in the agency proposal as Option 2, presented many technical challenges. The Option 2 proposal, which called for firing the FMH into an inflated dynamic system, could be used as performance test for dynamic systems in protecting ''covered'' target points. However, as reflected by the comments received in response to the NPRM, a large number of complex issues that would have had to be resolved if Option 2 or a variant of Option 2 were to be employed. These issues cannot be resolved quickly.

Mercedes also urged the agency to adopt its suggested definition of ''protected'' target areas based on an example of the difficulties in attempting to meet certain requirements of Standard No. 201. According to Mercedes, it currently places the D-Ring of the B-Pillar belt anchorage underneath the B-Pillar trim. In order to meet the seat belt anchorage adjustment requirements found in S7.1.2 of Standard No. 208, ''Occupant Crash Protection,'' the D-Ring and anchorage move inside an open space underneath the surface trim. According to Mercedes, adding padding or other countermeasures to meet the 24 km/h (15 mph) impact requirement now applicable to this target area, BP2, would make this design impracticable and require the company to install ''a more aggressive adjustable belt anchorage,'' i.e., one whose D-Ring is not covered by the B-Pillar trim.

We are not convinced that this example supports the relief Mercedes seeks. As noted above, the August 1998 Final Rule modified Standard No. 201 to the extent needed to allow the introduction of dynamic systems. The B-Pillar belt anchorage design employed by Mercedes may have particular characteristics having safety significance, but it is not a component that serves any function in either the storage, deployment or inflation of dynamic systems. Unlike those target locations now subject to reduced in-vehicle-test impact speeds, the use of thicker padding or other countermeasures at this anchorage location would not prevent the installation of a dynamic head protection system.

We also observe that the Mercedes request that the B-Pillar belt anchorage target, BP2, be tested at 19 km/h (12 mph) in the undeployed test, is identical to its prior request in its comments on the NPRM. We note that, in repeating this request, Mercedes has not submitted any new data or arguments to support the relief it seeks. As we indicated when we adopted the August 1998 final rule, NHTSA is concerned that an adequate definition of points ''protected'' by a dynamic system would be difficult to develop. Moreover, the agency is concerned that Standard No. 201 cannot now adequately test the ability of dynamic systems to ''protect'' certain target points. It should also be noted that Mercedes has not contended that it cannot install other countermeasures on its adjustable belt anchorage that would allow its vehicles to comply.

The Chrysler Petition for Reconsideration

Chrysler submitted a petition for reconsideration objecting to provisions in S6.1 and S6.2, which state that a manufacturer choosing one of the compliance test options must select, not later than the time of certification, which option it is using and may not, after selecting one test option, rely on a different test option to demonstrate compliance. The company argues that the regulatory text in the final rule contains new requirements concerning the selection of options and that the omission of these new requirements from the NPRM deprived Chrysler of an opportunity to comment. Chrysler further alleges that NHTSA, in specifying that a manufacturer must irrevocably select one test option, has not considered the case in which a manufacturer has elected to certify a vehicle to both test options. Chrysler contends that if it chose to present evidence of compliance with both test options to the agency, NHTSA could not refuse to conduct an alternative test. In the company's view, a failure to comply under one test option cannot constitute a noncompliance if the vehicle complies with another optional test.

In our August 1997 NPRM, we proposed that manufacturers of vehicles equipped with dynamically deployed head impact protection systems would be able to demonstrate compliance with Standard No. 201 through the use of one of three optional tests. In that proposal, the test options were set forth in S6.1 and S6.2. These two sections differ only to the extent that S6.1 is applicable to vehicles manufactured after September 1, 1998 and before September 1, 2002, and S6.2 applies to vehicles manufactured after September 1, 2002. Both sections proposed that vehicles ''shall conform, [to one of the proposed optional performance tests] at the manufacturer's option with said option selected prior to, or at the time of, certification of the vehicle.''

We did not receive any comments objecting to the proposal that manufacturers would have to select one of the test options before or at the time that it certifies the vehicle. As we noted in our discussion in the final rule of situations involving multiple options,

the agency needs to know which option has been selected by a manufacturer so it can perform the appropriate compliance test. We also noted that the regulatory text in the final rule differed from that contained in the NPRM, as the final rule clarified the requirement that manufacturers selecting a specific test option at the time of certification could not later select a different test option to establish compliance. Accordingly, S6.1 and S6.2 of the regulatory text in the final rule both provide that ''The manufacturer shall select the option by the time it certifies the vehicle and may not thereafter select a different option for the vehicle.''

Chrysler contends that the addition of language to the proposed rule indicating that manufacturers may not later rely on a different test option constitutes a significant departure from the regulatory text in the proposed rule. We believe that examination of the language in both the proposed rule and the final rule demonstrates that the proposal and the final rule are, for all practical purposes, identical. As proposed in the NPRM, S6.1 and S6.2 indicated that vehicles must conform to *one* of the proposed test options (emphasis added) and that the selection of the test option must be made prior to or at the time of certification. The final rule substituted the phrase ''the option'' for the proposal's directive that manufacturers must use ''one of the following'' test options. In regard to time at which the single option must be selected, the proposed versions of S6.1 and S6.2 indicated that the selection must be made ''prior to, or at the time of,'' certification while the final rule directed that the option must be selected ''by the time it [the manufacturer] certifies the vehicle.'' To further clarify the agency's position regarding the use of a single test option for certification, S6.1 and S6.2 of the final rule provided that manufacturers ''may not thereafter select a different option for the vehicle.''

The language of the proposed rule specified two conditions: manufacturers could choose only one test option when certifying a vehicle and manufacturers must make this choice before or at the time they certify their vehicle. Implicit in the proposal was the irrevocability of that choice. The two proposed conditions did not allow for the reliance on a second test option at any time. In both instances, only one test option could be relied upon for certification, and no allowance was made for manufacturers to rely upon another test option after the vehicle was certified.

Chrysler also argues that we have failed to consider the case in which a manufacturer elects to certify a vehicle to both of the options contained in S6.1 and S6.2 of the final rule. In that event, the company contends that if the manufacturer presents evidence of compliance with both test options to the agency, we could not refuse to conduct both tests to determine compliance. The company reasons that failure to comply with one test option would be immaterial if the vehicle complied with another option.

We disagree with Chrysler's view. We note that both the proposed rule and the final rule explicitly state that a manufacturer may only choose one option in certifying a vehicle. While nothing in the final rule prevents a manufacturer from attempting to build vehicles that satisfy both options, we note that the primary reason for allowing the pole test option was the assertion by several manufacturers that it would be impossible for vehicles with dynamically deployed head protection systems to meet the FMH test requirements set out in the 1995 amendments to the standard. Conversely, vehicles without dynamically deployed head protection systems cannot meet the requirements of the vehicle-to-pole test. For certification purposes, the agency needs to know which single option the manufacturer has chosen.

In providing optional test procedures in this rule, the agency intended to facilitate the efforts of some manufacturers to use new safety technologies to protect the public. In offering these test options, we did not intend to increase the agency's test burden or, for that matter, those of the manufacturers. Nor did we intend to allow manufacturers to escape the consequences of their failure to comply with an intended compliance option by getting a ''second bite at the apple.'' We fail to see how expanding the test burdens of the agency would represent a sensible allocation of public resources.

Chrysler's position also assumes that NHTSA has the authority to create test options, but does not have the authority to establish reasonable limitations on their use. The agency believes it to be eminently reasonable to expect that certification be done responsibly and accurately. Indeed, the Vehicle Safety Act provides that a person may not issue a certificate if, exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. 15 U.S.C. 30115. Moreover, certification of a vehicle to a particular test option creates certain expectations of performance in both the agency and among consumers. In any event, Chrysler's argument presents a hypothetical question, as vehicles designed to meet one option do not meet the other and, accordingly, a manufacturer would not be able to switch options.

Thus, for the reasons stated above, NHTSA adheres to its view that when a vehicle has been certified to one option, a failure to comply with the requirements of that option establishes not only that the vehicle has been falsely or improperly certified, but that it also fails to comply with the standard. Of course, the manufacturer of such a noncompliant vehicle may file a petition for an exemption from the recall requirements of the statute (49 U.S.C. 30118–30120) on the basis that the noncompliance is inconsequential to motor vehicle safety (see 49 U.S.C. 30118(d) and 30120(h) and 49 CFR Part 556). However, we note that compliance test procedure options are offered for a variety of reasons, and that vehicles or equipment meeting one test option may not provide the same safety benefits as those meeting another test option. See the discussions of safety concerns (II. H) and other issues (II. I) in the August 1998 final rule.

The AAMA Petition for Reconsideration

Section S8.27.4 of the August 1998 final rule provides both temperature and humidity specifications for the test dummy used in the side-to-pole test. AAMA submitted a petition for reconsideration requesting that NHTSA consider eliminating the humidity specification for the vehicle-to-pole crash test option found in Standard No. 201. The organization argued that this provision, which specifies a humidity range at which the test dummy must be maintained during the crash test, should be eliminated due to the difficulty of controlling humidity in the environment in which a full scale test must take place. AAMA explained that it had overlooked this provision in its review of the NPRM and thus failed to indicate in its comments that this particular provision is impracticable. The organization asked that we reconsider our decision to include the humidity range provision in the option. The organization submitted that it would be difficult or impossible for manufacturers to maintain a specific humidity range for the test dummy in the large open spaces where full scale crash testing is performed. AAMA noted that there is no humidity range requirement for similar crash tests in Standard No. 208 and Standard No. 214.

We believe that AAMA's objection is well founded. The temperature and the humidity ranges proposed in the NPRM

and incorporated into the final rule were derived from the Hybrid III dummy head/neck certification test procedure. This humidity range specification is not incorporated into other agency full scale crash tests using the Hybrid III dummy head and neck because maintaining a specific humidity range in such testing is not practicable and was inadvertently inserted in the August 1998 final rule. Accordingly, we are removing the humidity range requirement in S8.27.4. Of course, consistent with the agency's longstanding interpretation that when a standard is silent with respect to a particular test condition, vehicles must be able to comply under all conditions (except where the language or the context of the standard indicates otherwise), vehicles must be able to comply with the requirements of the Standard at any humidity level. Therefore, while NHTSA does not expect humidity to have a significant impact on test results, the fact that a manufacturer has conducted a test at one humidity level in which the performance requirements are met will not necessarily be determinative if an agency-conducted test at another humidity level indicates that a vehicle does not comply.

The AIAM Petition for Reconsideration

AIAM submitted a petition for reconsideration requesting that the agency consider modifying the impact speed specified in the final rule for the vehicle-to-pole test. This impact speed, which is set forth in S6.1(b)(3) and S6.2(b)(3), indicates that the vehicle impact with the rigid pole shall take place ''at any velocity up to and including 29 kilometers per hour (18 mph).'' AIAM argues that this requirement is unduly burdensome in that it requires testing at all potential vehicle impact speeds of 29 km/h (18 mph) and below, including speeds below those where dynamic head protection systems are intended to deploy and that this burden is so great as to dissuade manufacturers from introducing dynamic head protection systems. AIAM suggested two alternative vehicle test speeds: 27 ± 1.6 km/h (17 ± 1 mph), or any velocity between 26 and 29 km/h (16–18 mph).

We agree that sections S6.1(b)(3) and S6.2(b)(3) of the August 1998 final rule require vehicles that are certified to the vehicle-to-pole test to satisfy the performance requirements at any vehicle velocity up to and including 29 km/h (18 mph). Upon further review, NHTSA believes it is appropriate for the agency to modify this impact speed requirement to reduce test burdens and to reflect the fact that dynamic systems would not deploy at lower speeds where they would be of doubtful utility.

The agency's goal in selecting a maximum impact speed for the vehicle-to-pole test was to assure that dynamic head protection systems would provide an appropriate level of benefits in side crashes. As packaging of these systems limited the countermeasures that could be installed in areas directly over an undeployed system, accommodating dynamic systems required that the FMH impact speed for target points located in those areas be reduced. In order to ensure that dynamic head protection systems offered safety benefits that exceeded the reduction in safety represented by these reduced FMH impact speeds, NHTSA specified that they would have to satisfy the applicable injury criteria in a 29 km/h (18 mph) lateral crash of a vehicle into a fixed, narrow object.

The impact speed requirement for the vehicle-to-pole test must be high enough to ensure that a dynamic system offers demonstrable safety benefits. At the same time, testing at impact speeds below which a dynamic head protection system would deploy or offer any meaningful safety benefits would serve no purpose.

We have concluded that instead of requiring compliance at all vehicle speeds up to 29 km/h (18 mph) in the vehicle-to-pole test, the agency should specify a range for this impact speed. Accordingly, we are responding to the AIAM petition for reconsideration by amending the impact speed requirement currently found in S6.1(b)(3) and S6.2(b)(3) to specify that the vehicle must satisfy the injury criteria of 1000 HIC in vehicle impacts with the rigid pole at any velocity between 24 km/h (15 mph) and 29 km/h (18 mph). In specifying this range, the agency is continuing to ensure that dynamic head protection systems offer meaningful safety benefits in relatively severe crashes while simultaneously placing a lower limit on the test impact speed that reduces test burdens and is consistent with facilitating the introduction and use of dynamic systems. The 24 km/h (15 mph) lower limit is, in NHTSA's view, appropriate for ensuring that dynamic systems will deploy and provide safety benefits when they are needed. Use of the 24 km/h (15 mph) speed as a lower bound provides greater assurance that dynamic systems will provide adequate protection in lower speed crashes.

Research conducted prior to the issuance of the August 1995 final rule establishing Standard No. 201's head impact requirements revealed that when a vehicle experiences an abrupt change in velocity, the head of an occupant of that vehicle experiences, during an interior impact, a smaller change in velocity. For example, when a vehicle experiences a 20.1 km/h (13 mph) change in velocity, an occupant's head experiences a 16.1 km/h (10 mph) change in velocity. In the August 1995 final rule, the agency established a FMH impact speed—a head speed—of 24 km/h (15 mph) as an appropriate impact speed because that speed represented the point at which occupants experience moderate to serious (AIS 2 and AIS 3) injuries. If a vehicle experiences a 24 km/h (15 mph) change in velocity when striking a rigid pole, an occupant will experience a smaller change in head velocity of approximately 19.3 km/h (12 mph) in an interior impact. At this speed, impact with an upper interior component would be likely to result in moderate or no injury, i.e., AIS 2 or less. We have therefore concluded that setting a lower limit of 24 km/h (15 mph) in the rigid pole test is sufficient to ensure that dynamic head protection systems offer safety benefits in relatively severe crashes, while not inappropriately detracting from safety in less severe impacts (i.e., those below 24 km/h (15 mph)).

Conclusion

For the reasons stated above, the petitions for reconsideration submitted by Mercedes and Chrysler are denied. The petitions submitted by AAMA and AIAM are granted and Standard No. 201 is amended accordingly.

III. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this final rule under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rule was not reviewed under E.O. 12866, ''Regulatory Planning and Review'' and is not considered significant under the Department of Transportation's regulatory policies and procedures.

The agency has not prepared a Final Regulatory Evaluation describing the economic and other effects of this rulemaking action as it believes that the amendments in this final rule will reduce costs and that this cost reduction will be minimal. One effect of this action is to eliminate a requirement that a test dummy be maintained at a specified humidity during a full scale crash test. The agency has doubts that any vehicle manufacturer or test facility would, had this requirement remained

in effect, actually have had the capability to meet the humidity requirements. We believe that elimination of the requirement will not have a significant impact on costs as NHTSA believes that few, if any, manufacturers or test facilities actually attempted to meet the humidity requirement. Similarly, the agency also believes that the reductions in cost associated with the remaining change to the standard, are also minimal. This action changes the required impact speed for a full scale crash test from a wide range—0 to 29 km/h—to a narrower range. While this change clearly reduces the range of speeds at which the test could be run, it is not likely to change how this test would be run. Manufacturers, and the agency itself, are most likely to run compliance tests at the speed or speeds which will most severely test a vehicle's compliance with the standard. In fact, it is most likely that manufacturers will choose to test at or near the test speed used by the agency in its own laboratory test procedure. The narrowing of the test speed set forth in the regulation itself, is not likely to change this practice.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this final rule under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. The amendments contained in this final rule will simplify test procedures and reduce test burdens and costs. Further, the amendments primarily affect passenger car and light truck manufacturers which are not small entities under 5 U.S.C. 605(b). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). The agency estimates that there are at most five small final stage manufacturers of passenger cars in the U.S. and no small manufacturers of light trucks, producing a combined total of at most 500 cars each year.

The primary effect of the final rule will be on manufacturers of passenger cars and LTVs. If LTVs are produced with these systems some time in the future and provided as incomplete vehicles to final stage manufacturers, which are generally small businesses, these final stage manufacturers may have to certify compliance. However, as noted above, the amendments in this final rule are limited to changes in test procedures which should reduce test burdens and costs.

Other entities which qualify as small businesses, small organizations and governmental units will be affected by this rule to the extent that they purchase passenger cars and LTVs. They will not be significantly affected, as the slight potential cost reductions associated with this action should not affect the purchase price of new motor vehicles.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism) and Unfunded Mandates Act

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. NHTSA has determined that the amendment does not have sufficient federalism implications to warrant application of the requirements of section 6 of the Executive Order to this rule.

In issuing this final rule to simplify test procedures and requirements for the optional test procedures for dynamic head protections systems, the agency notes, for the purposes of the Unfunded Mandates Act, that it is reducing or eliminating costs. As this rulemaking does not require manufacturers to meet new minimum performance requirements, but modifies aspects of existing optional test procedures, it does not impose new costs.

E. Civil Justice Reform

This amendment does not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' This action modifies requirements for a test procedure that does not currently have any counterpart, in a final form, promulgated or accepted by any voluntary consensus bodies.

H. Paperwork Reduction Act

This rule does not contain any collection of information requirements requiring review under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended to read as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.201 is amended by revising S6.1(b)(3), S6.2(b)(3), and S8.27.4 as follows:

* * * * *

S6.1 *Vehicles manufactured on or after September 1, 1998 and before September 1, 2002.*

* * * * *

(a) * * *

(b) * * *

(3) Each vehicle shall, when equipped with a dummy test device specified in Part 572, Subpart M, and tested as specified in S8.16 through S8.28, comply with the requirements specified in S7 when crashed into a fixed, rigid pole of 254 mm in diameter, at any velocity between 24 kilometers per hour (15 mph) and 29 kilometers per hour (18 mph).

* * * * *

S6.2 *Vehicles manufactured on or after September 1, 2002.*

* * * * *

(a) * * *

(b) * * *

(3) Each vehicle shall, when equipped with a dummy test device specified in Part 572, Subpart M, and tested as specified in S8.16 through S8.28, comply with the requirements specified in S7 when crashed into a fixed, rigid pole of 254 mm in diameter, at any

velocity between 24 kilometers per hour (15 mph) and 29 kilometers per hour (18 mph).

* * * * *

S8.27 *Anthropomorphic test dummy—vehicle to pole test.*

* * * * *

S8.27.4 The stabilized temperature of the test dummy at the time of the side impact test shall be at any temperature between 20.6 degrees C. and 22.2 degrees C.

* * * * *

Issued on December 6, 1999.

Rosalyn G. Millman,

Acting Administrator.

[FR Doc. 99–32132 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648–AN04

[Docket No. 991207319–9319–01; I.D. 111099B]

International Fisheries; Pacific Tuna Fisheries; Harvest Quotas

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

ACTION: 1999 quotas for yellowfin and bigeye tuna.

SUMMARY: NMFS announces the 1999 quotas and associated purse seine and baitboat fishery conservation measures for the eastern Pacific Ocean, consistent with recommendations by the Inter-American Tropical Tuna Commission (IATTC) and approved by the Department of State under the terms of the Tuna Conventions Act. If these quotas are reached, subsequent documents will be published announcing the dates on which the fisheries will close and any associated conservation measures to implement the quotas.

DATES: Effective December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Svein Fougner, Assistant Regional Administrator, Sustainable Fisheries Division, Southwest Region, NMFS, 562–980–4040.

SUPPLEMENTARY INFORMATION: The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949, and implemented through the Tuna Conventions Act (16 U.S.C. 955). The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of tunas and tuna-like fishes in the Eastern Pacific Ocean (EPO). The IATTC has maintained a scientific research and fishery monitoring program for many years, and it annually assesses the status of stocks of tuna and the fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of the stocks and promote viable fisheries. The Convention Area includes all waters in the EPO within the area bounded by the mainland of the Americas, lines extending westward from the mainland of the Americas along the 40° N. lat. and 40° S. lat. parallels, and 150° W. long. The IATTC has designated a Commission Yellowfin Regulatory Area (CYRA) in which the total catch of yellowfin tuna may be limited. This consists of the waters in the Convention Area bounded by a line extending westward from the mainland of North America along the 40° N. lat. parallel, and connecting the following coordinates: 40° N. lat., 125° W. long.; 20° N. lat., 125° W. long.; 20° N. lat., 120° W. long.; 5° N. lat., 120° W. long.; 5° N. lat., 110° W. long.; 10° S. lat., 110° W. long.; 10° S. lat., 90° W. long.; 30° S. lat., 90° W. long; and then eastward along the 30° S. lat. parallel to the coast of South America.

At its annual meeting June 5–11, 1999, the IATTC adopted a resolution dealing with yellowfin tuna conservation. This resolution set an initial quota of 225,000 metric tons (mt) for yellowfin tuna taken by purse seine vessels in the CYRA. This quota could be raised by up to three successive increments of 15,000 mt each if the Director of IATTC concludes from examination of available data that such increases will pose no substantial danger to the stocks. This is consistent with the practice of the IATTC over many years, and has historically been supported by the United States.

At a subsequent meeting in October 1999, the IATTC adopted a new resolution for implementing the 1999 yellowfin tuna quota. Under this resolution, the quota is 265,000 mt. The directed baitboat and purse seine fisheries for yellowfin tuna would be closed when the quota is reached, except that the fisheries would be closed on December 2, 1999, even if the quota were not reached. This document confirms that this resolution has been approved by the Department of State as it is consistent with the resolution adopted in June 1999.

In another resolution in July 1999, the IATTC recommended that action be taken to limit the catch of bigeye tuna in the purse seine fisheries to 40,000 mt in 1999, with the limit to be implemented by prohibiting purse seine sets on all types of floating objects in the Convention Area when this harvest level is reached. The Department of State has also approved this recommendation.

The yellowfin quota is based on a 1999 assessment of the condition of the stock of yellowfin harvested in the CYRA. The assessment indicates that the yellowfin stock is healthy and is estimated to be able to sustain a fishery of 270,000 to 290,000 mt per year throughout EPO. The quota for the CYRA is conservative relative to estimated maximum sustainable yields. The IATTC noted that the yield per recruit (and ultimate sustainable harvests) depends on the fishing strategy employed, with larger fish (and higher yield per recruit) for fishing associated with dolphin and smaller fish (and lower yield per recruit) for fishing associated with floating objects.

Classification

This action is authorized by 50 CFR part 300 subpart C.

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

The Assistant Administrator for Fisheries, NOAA finds for good cause under 5 U.S.C. 553(b)(B) that providing prior notice and an opportunity for public coment on this action is unnecessary. The rule authorizing this action provides for quotas agreed to by the IATTC and approved by the Department of State to be effective upon direct notification of the U.S. tuna fishing industry. Providing prior notice and an opportunity for public comment would serve no useful purpose. The Assistant Administrator for Fisheries, NOAA, finds, for good cause under 5 U.S.C. 553(d)(3), that a 30-day delay in effectiveness for these 1999 quotas would be contrary to the public interest. Such a delay would prevent the quotas from being in place before they are exceeded and the fisheries closed.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Authority: 16 U.S.C. 951-961 and 971 *et seq.*

Dated: December 7, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–32321 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981224323–9226–02; I.D. 120198B]

RIN 0648–AL23

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements; Correction

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

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule pertaining to Fisheries of the Exclusive Economic Zone Off Alaska published in the **Federal Register** on November 15, 1999.

DATES: Effective December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden; 907–586–7228.

SUPPLEMENTARY INFORMATION: Need for Correction

A final rule was published in the **Federal Register** on November 15, 1999, revising several sections of regulations that pertain to permits, recordkeeping, and reporting requirements for groundfish fisheries of the Exclusive Economic Zone off Alaska. That document contained errors in General Requirements for Recordkeeping and Reporting.

NMFS is correcting these errors and is making no substantive change to the document in question.

Corrections

In rule FR Doc. 99–28294 published on November 15, 1999 (64 FR 61964) make the following corrections.

§ 679.5 [Corrected]

1. On page 61972, in the second column, third line, correct paragraph (a)(l)(iii) by removing ''§ 679.5(a) through (j)'' and adding in its place ''§ 679.5(a) through (k).''

2. On page 61974 in the second column, first line, correctly designate paragraph (a)(6)(v)(A)(*2*)(*ii*) as paragraph (a)(6)(v)(A)(*2*)(*iii*).

3. On page 61980 in the first column, insert five stars below paragraph (l)(5)(vi).

Dated: December 2, 1999.

Andrew A. Rosenberg,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–32088 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 239
Tuesday, December 14, 1999

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–185–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 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 Airbus Model A330 and A340 series airplanes, that currently requires repetitive operational tests of the override mechanism of the trimmable horizontal stabilizer (THS) to determine if the system functions correctly; and corrective action, if necessary. This action would require replacement of existing flight control primary computers (FCPC) with improved FCPC's, which would terminate the repetitive operational tests. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this proposal are intended to prevent uncommanded movement of the THS, which could result in reduced controllability of the airplane.

DATES: Comments must be received by January 13, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the 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–185–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–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On December 31, 1997, the FAA issued AD 98–01–15, amendment 39–10277 (63 FR 1909, January 13, 1998), applicable to certain Airbus Model A330 and A340 series airplanes, to require repetitive operational tests of the override mechanism of the trimmable horizontal stabilizer (THS) to determine if the system functions correctly, and corrective action, if necessary. That action was prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to prevent uncommanded movement of the trimmable horizontal stabilizer (THS) in the event of a failure of the manual override switch in the open position and the THS control wheel blocked by either the pilot or a mechanical control jam. Such uncommanded movement of the THS, if not corrected, could result in reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

In the preamble to AD 98–01–15, the FAA indicated that the actions required by that AD were considered ''interim action'' until final action was identified, at which time further rulemaking action would be considered. The FAA now has determined that further rulemaking action is indeed necessary to require replacement of certain Aerospatiale flight control primary computers (FCPC) with improved Aerospatiale FCPC's, which would constitute terminating action for the repetitive operational tests of the override mechanism of the THS. This proposed AD follows from that determination and allows opportunity for public comment.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998 (for Model A330 series airplanes), and Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998 (for Model A340 series airplanes). These service bulletins provide information on replacement of FCPC's with improved FCPC's of computer standard L14 having a new part number. The service bulletins also provide instructions on modification of FCPC's to the new standard by replacement or reprogramming of the FCPC on-board replacement modules (OBRM), and subsequent change of the FCPC part number to the new part number. The

Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory and issued French airworthiness directives 98–124–069(B) and 98–126–085(B), both dated March 11, 1998, in order to ensure the continued airworthiness of these airplanes in France.

Airbus has developed production modification 45631 (for Model A330 series airplanes) and production modification 45485 (for Model A340 series airplanes). These modifications involve the installation of improved FCPC's on these airplanes during production, which would eliminate the need for the repetitive operational tests of the override mechanism of the THS.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–01–15 to continue to require repetitive operational tests of the override mechanism of the trimmable horizontal stabilizer (THS) to determine if the system functions correctly; and corrective action, if necessary. The proposed AD would add a new requirement for replacement of all FCPC's with improved FCPC's, which would constitute terminating action for the repetitive operational tests of the override mechanism of the THS described previously. The replacement would be required to be accomplished in accordance with Airbus Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998 (for Model A330 series airplanes), and Airbus Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998, described previously.

Differences Between Proposed Rule and Foreign AD

The proposed AD would differ from the parallel French airworthiness directive in that the proposed AD would not require replacement of the flight control secondary computers. The DGAC does require such replacement; however, that action addresses a different unsafe condition from that identified in this proposed AD. The FAA will address this different unsafe condition in separate action, as necessary.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the operational test required by AD 98–01–15, and retained in this proposed AD, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the operational test on U.S. operators is estimated to be $60 per airplane, per test cycle.

It would require approximately 2 work hours to accomplish the FCPC replacements (or 9 work hours if the FCPC on-board replacement modules have been replaced or reprogrammed), at an average labor rate of $60 per work hour. Required parts would be provided to the operator at no charge. Based on these figures, the cost impact of the FCPC replacements proposed by this AD on U.S. operators would be $120 or $540 per airplane.

Accomplishment of the FCPC replacements proposed by this AD would allow operators to terminate the repetitive operational tests required by AD 98–01–15, thereby offsetting the cost of the actions proposed by this AD.

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 39–10277 (63 FR 1909, January 13, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 99–NM–185–AD. Supersedes AD 98–01–15, Amendment 39–10277.

Applicability: The following airplanes, certificated in any category, equipped with Aerospatiale Flight Control Primary Computer (FCPC), part number (P/N) LA2K01500190000:

- Model A330–301, –321, –322, –341, and –342 series airplanes; excluding those on which Aerospatiale FCPC's, P/N LA2K01500210000 (Airbus Modification 45631), have been installed.
- Model A340–211, –212, –213, –311, –312, and –313 series airplanes; excluding those on which Aerospatiale FCPC's, P/N LA2K01500210000 (Airbus Modification 45485), have been installed.

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 prevent uncommanded movement of the trimmable horizontal stabilizer (THS), which could result in reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 98–01–15

(a) Within 500 flight hours after January 28, 1998 (the effective date of AD 98–01–15, amendment 39–10277), perform an operational test of the THS override mechanism to determine if the override system functions correctly, in accordance with paragraph (a)(1) or (a)(2) of this AD, as applicable. Repeat the operational test thereafter at intervals not to exceed 500 flight hours.

(1) For Model A330 series airplanes: Perform the test in accordance with Airbus Service Bulletin A330–27–3051, dated February 13, 1997; and, prior to further flight, repair any discrepancy in accordance with this service bulletin.

(2) For Model A340 series airplanes: Perform the test in accordance with Airbus Service Bulletin A340–27–4058, dated February 13, 1997; and, prior to further flight, repair any discrepancy in accordance with this service bulletin.

New Requirements of This AD

(b) Within 15 months after the effective date of this AD, accomplish the actions specified by either paragraph (b)(1) or paragraph (b)(2) of this AD, in accordance with Airbus Service Bulletin A330–27–3056, Revision 01, dated May 5, 1998 (for Model A330 series airplanes), or Service Bulletin A340–27–4061, Revision 02, dated May 5, 1998 (for Model A340 series airplanes); as applicable.

(1) Replace three Flight Control Primary Computers (FCPC) (2CE1, 2CE2, and 2CE3), P/N LA2K01500190000, with new FCPCs, P/N LA2K01500210000; in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

(2) Replace the on-board replaceable module (OBRM) of the three FCPCs (2CE1, 2CE2, and 2CE3), P/N LA2K01500190000, with OBRMs that have been modified by converting FCPC P/N's to LA2K01500210000 in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane an FCPC, P/N LA2K01500190000.

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 Operations Inspector or Principal Avionics Inspector or Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

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

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.

Note 3: The subject of this AD is addressed in French airworthiness directives 98–124–069(B) (for Model A330 series airplanes) and 98–126–085(B) (for Model A340 series airplanes), both dated March 11, 1998.

Issued in Renton, Washington, on December 8, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–32370 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7306]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community

eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Colorado	Summit County (Unincorporated Areas).	Blue River Middle Branch	Just downstream of County Road 3	None	*9,341
			Approximately 1,160 feet upstream of County Road 3.	None	*9,351
		Cucumber Gulch	Approximately 60 feet upstream of Airport Road.	None	*9,469
			Approximately 2,030 feet upstream of Airport Road.	None	*9,548
		Illinois Gulch	Approximately 3,925 feet upstream of confluence with Blue River.	None	*9,743
			Approximately 475 feet upstream of Robbers Nest Road.	None	*9,893
Maps are available for inspection at Summit County GIS, Planning and Engineering Department, P.O. Box 5660, Frisco, Colorado.					
Send comments to The Honorable Tom Long, Chairperson, Summit County Board of Commissioners, P.O. Box 68, Breckenridge, Colorado, 80424.					
Iowa	Polk County (Unincorporated Areas).	Beaver Creek	At mouth (approximately 3,950 feet downstream from Northwest Beaver Drive).	*805	*805
			Approximately 950 feet, downstream from Northwest Beaver Drive.	*805	*805
			Approximately 5,650 feet, upstream of Northwest Beaver Drive.	None	*810
Maps are available for inspection at Planning Division, 5895 NE 14th Street, Des Moines, Iowa.					
Send comments to The Honorable Tom Baker, Chairperson, Polk County Board of Supervisors, 111 Court Avenue, Room 300 Des Moines, Iowa 50309.					
Kansas	Holton (City) (Jackson County).	Banner Creek	At Union Pacific Railroad	*1,020	*1,017
			At ''P'' Road	*1,041	*1,035
Maps are available for inspection at City Hall, 430 Pennsylvania Avenue, Holton, Kansas.					
Send comments to The Honorable Janet Zwonitzer, Mayor, City of Holton, 430 Pennsylvania Avenue, Holton, Kansas 66436.					
Kansas	Jackson County (Unincorporated Areas).	Banner Creek	At confluence with Elk Creek	*1,003	*1,002
			At ''M'' Road	*1,091	*1,092
Maps are available for inspection at the Planning and Zoning Office, 500 Illinois Avenue, Holton, Kansas.					
Send comments to The Honorable John Graw, Chairperson, Jackson County Board of Commissioners, 400 New York Avenue, Holton, Kansas 66436.					
Kansas	Reno County and Incorporated Areas.	Arkansas River	Just downstream of State Route 50	None	*1,517
			Just downstream of Union Pacific Railroad.	None	*1,523
		Unnamed Tributary to Sand Creek.	Just upstream of U.S. Highway 50	None	*1,519
			Just downstream of Main Street	None	*1,531

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Public Works Department, 206 W. 1st Avenue, Hutchinson, Kansas.					
Send comments to The Honorable Ed Williams, Chairperson, Reno County Board of Commissioners, 206 W. 1st Avenue, Hutchinson, Kansas 67501.					
Maps are available for inspection at City Hall, 2 South Main, South Hutchinson, Kansas.					
Send comments to The Honorable Ron Hirst, Mayor, City of South Hutchinson, 2 South Main, South Hutchinson, Kansas 67505.					
Maps are available for inspection at the Planning Department, 125 E. Avenue B, Hutchinson, Kansas.					
Send comments to The Honorable Jeffrey A. Roberts, Mayor, City of Hutchinson, P.O. Box 1567, Hutchinson, Kansas 67504.					
Oklahoma	Roger Mills County and Incorporated Areas.	White Shield Creek Tributary ''B''.	At confluence with White Shield Creek	None	*1,737
			Approximately 150 feet upstream of Steele Street.	None	*1,778
			At State Route 34	None	*1,702
			Approximately 50 feet upstream from Steele Street.	None	*1,754
			At confluence with Sergeant Major Creek	None	*1,938
			Approximately 884 feet upstream from U.S. Highway 283 (Main Street).	None	*1,977
			At confluence with Sergeant Major Creek	None	*1,941
			Approximately 8,400 feet upstream of confluence with Sergeant Major Creek.	None	*1,985
			At confluence with Washita River	None	*1,923
			Approximately 8,600 feet upstream from confluence with Dry Creek.	None	*1,974
			At State Route 34	None	*1,703
			Approximately 16,800 feet upstream from its confluence with Sergeant Major Creek.	None	*1,949
Maps are available for inspection at the County Courthouse, LLmales and Broadway Avenue, Cheyenne, OK.					
Send comments to The Honorable Jerry Dean, Chairman, Board of Commissioners, P.O. Box 708, Cheyenne, OK 73628.					
Maps are available for inspection at the City Hall, 714 Main Street, Hammon, OK.					
Send comments to The Honorable Rita Dodd, Mayor, City of Hammon, P.O. Box 218, Hammon, OK 73650.					
Maps are available for inspection at City Hall, 317 N. Broadway, Cheyenne, OK.					
Send comments to The Honorable Glenna Hall, Mayor, City of Cheyenne, P.O. Box 10, Cheyenne, OK 73628.					
Texas	Tarrant County and Incorporated Areas.	Stream SB–1	At confluence with Sulpher Branch	*518	*520
			At Parkwood Drive	*604	*603
		Sulpher Branch	At confluence with Walker Branch	*478	*480
			Approximately 1,500 feet upstream of Spring Lake Drive.	*605	*606
		Clear Fork Trinity River	At its confluence with the West Fork Trinity River.	*537	*536
			Just downstream from the Benbrook Lake Dam.	*None	*631
		West Fork Trinity River	Approximately 16,000 feet downstream from the Union Pacific Railroad.	None	*455
			Approximately 11,000 feet downstream from the Lake Worth Dam.	*571	*569
			At the Lake Worth Dam	*600	*600

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Engineering Department, 100 East Weatherford, Fort Worth, Texas.					
Send comments to The Honorable Tom Vandergriff, Tarrant County Judge, 100 East Weatherford, Fort Worth, Texas 76196.					
Maps are available for inspection at City Hall, 101 West Abram, Arlington, Texas.					
Send comments to The Honorable Elzie Odom, Mayor, City of Arlington, 1019 Bryon Lane, Arlington, Texas 76012.					
Maps are available for inspection at the Service Center, 1813 Reliance Parkway, Bedford, Texas.					
Send comments to The Honorable Susan Thorpe, City Manager, City of Bedford, P.O. Box 157, Bedford, Texas 76021.					
Maps are available for inspection at City Hall, 911 Winscott Road, Benbrook, Texas.					
Send comments to The Honorable Gary Conklin, City Manager, City of Benbrook, P.O. Box 26569, Benbrook, Texas 77401.					
Maps are available for inspection at the Engineering Department, City Hall, Building C, 201 North Ector Drive, Euless, Texas.					
Send comments to The Honorable Joe Hennig, City Manager, City of Euless, 201 North Ector Drive, Euless Texas 76039.					
Maps are available for inspection at the Engineering Department, 1000 Throckmorton, Fort Worth, Texas.					
Send comments to The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton, Fort Worth, Texas 76102.					
Maps are available for inspection at City Hall, 5024 Broadway Avenue, Halton City, Texas.					
Send comments to The Honorable Nancy Watkins, Mayor, City of Halton, P.O. Box 14246, Halton City, Texas 76117.					
Maps are available for inspection at the Hurst Municipal Complex, 1505 Precinct Line Road, Hurst, Texas.					
Send comments to The Honorable Allan Weegar, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, Texas 76054.					
Maps are available for inspection at City Hall, 4900 River Oaks Boulevard, Fort Worth, Texas.					
Send comments to The Honorable Jack Adkinson, Mayor, City of River Oaks, 4900 River Oaks Boulevard, Fort Worth, Texas 76114.					
Maps are available for inspection at City Hall, 311 Burton Hill Road, Fort Worth, Texas.					
Send comments to The Honorable Jim Parnell, Mayor, Westworth Village, 311 Burton Hill Road, Fort Worth, Texas 76114.					
Washington	King County and Incorporated Areas.	Middle Fork Snoqualmie River.	At confluence with the North Fork Snoqualmie River.	*430	*426
			Approximately 47.0 miles from confluence with the North Fork Snoqualmie River.	*473	*472
			At Southeast Mount S. Road	*482	*482
		North Fork Snoqualmie River.	At confluence with the Snoqualmie River	*427	*426
			Approximately .4 mile upstream of 428th Avenue SE.	*428	*426
			Approximately 2.5 miles upstream from confluence with the Snoqualmie River.	*482	*482
		Middle Fork Overflow 1	At confluence with Middle Fork Snoqualmie River.	None	*430
			At divergence from Middle Fork Snoqualmie River.	None	*449
		Middle Fork Overflow 2	At confluence with South Fork Snoqualmie River.	None	*431
			At divergence from Overflow 1	None	*442
		Middle Fork Overflow 3	At confluence with Overflow 4	None	*440
			At divergence from Middle Fork Snoqualmie River.	None	*456
		Middle Fork Overflow 4	At confluence with South Fork Snoqualmie River.	None	*436
			At divergence from Middle Fork Snoqualmie River.	None	*455
		South Fork Snoqualmie River.	At its confluence with the Snoqualmie River.	None	*426
			Approximately 6,500 feet upstream of confluence with the Snoqualmie River.	426/None/424 [1]	*426/426/426 [1]
			Approximately 2,375 feet upstream from the Snoqualmie Valley Trail.	None/None/None	*542/543/543 [1]
			Approximately 3,875 feet upstream from 468th Avenue SE.	None	*613
		Tolt River	At its confluence with the Snoqualmie River.	None	*72
			Approximately 300 feet downstream from the Snoqualmie River Trail.	None	*89/90/90 [1]
			Approximately 6,300 feet upstream of Snoqualmie River Trail.	*128	*124/124/124 [1]
			Approximately 26,100 feet (5 miles) upstream of the Snoqualmie River Trail.	*250	*258
			Approximately 211 feet downstream of Meadowbrook Avenue.	*423	*423

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,214 feet Upstream of the Burlington Northern Railroad.	*424	*425
			At confluence of North Fork Snoqualmie River and South Fork Snoqualmie River.	*427	*426

Maps are available for inspection at the Planning Department 8020 Railroad Avenue SE, Snoqualmie, Washington.

Send comments to The Honorable R. Fuzzy Fletcher, Mayor, City of Snoqualmie, 8020 Railroad Avenue SE, Snoqualmie, Washington 98065.

Maps are available for inspection at the Building Services Division, Department of Development and Environmental Sciences, 900 Oaksdale Avenue SW, Renton, Washington.

Send comments to The Honorable Ron Simms, King County Executive, 400 King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104.

Maps are available for inspection at the Planning Department, 4621 Tolt Avenue, Carnation, Washington.

Send comments to The Honorable Dave Hunter, Mayor, City of Carnation, 4621 Tolt Avenue, Carnation, Washington 98014.

Maps are available for inspection at the Community Development Department, 126 East 4th Street, North Bend, Washington.
Send comments to The Honorable Joan Simpson, Mayor, City of North Bend, 211 Main Avenue N., North Bend, Washington 98045.

[1] With levees/without right levee/without left levee.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 30, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–32360 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 64, No. 239
Tuesday, December 14, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of Advisory Committee on Actuarial Examinations; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The Committee Management Officer of the Joint Board for the Enrollment of Actuaries gives notice of a partially closed meeting of the Advisory Committee on Actuarial Examinations.

DATES: Thursday, January 6 and Friday, 7, 2000, from 8:30 to 5:00 each day.

ADDRESSES: Conference room, Suite 4600E, East Tower, Franklin Court Building, 1099 14th Street, N.W. (corner of 14th and L Streets), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Committee Management Officer, 202–694–1854.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B), and to review the November 1999 Joint Board examination in order to make recommendations relative thereto, including the minimum acceptable score. In addition, a number of issues will be discussed relative to the structure of future Joint Board examinations.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Public Law 92–463) has been made that the portions of the meeting dealing with discussions of questions that may appear on future Joint Board examinations and with review of the November 1999 Joint Board examination fall within the exception to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such portions of the meeting be closed to public participation.

The portion of the meeting dealing with the structure of future Joint Board examinations will be open to the public as space is available. This portion of the meeting will commence at 1:30 p.m. on January 6 and will continue for as long as necessary to complete the discussion, but not beyond 3:00 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should must notify the Committee Management Officer in writing prior to the meeting in order to aid in scheduling the time available and must submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All other persons planning to attend the public session must also notify the Committee Management Officer in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be faxed, no later than December 30, 1999, to 202–694–1876, Attn: Committee Management Officer.

Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to the Committee Management Officer: Joint Board for the Enrollment of Actuaries, c/o Internal Revenue Service, Attn: Committee Management Officer C:AP:P, 1111 Constitution Avenue, N.W., Washington, DC 20224.

Dated: December 9, 1999.

Patrick W. McDonough,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 99–32402 Filed 12–13–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF AGRICULTURE

Office of the Chief Economist

Notice of the Advisory Committee on Small Farms Meeting

AGENCY: Office of the Chief Economist, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the Office of the Chief Economist (OCE) announces a meeting of the Advisory Committee on Small Farms.

FOR FURTHER INFORMATION CONTACT: Alfonzo Drain, Acting Deputy Director of Small Farms, Office of the Chief Economist, U.S. Department of Agriculture, Room 112–A, Jamie L. Whitten Building, 1400 Independence Avenue SW., Washington, DC 20250–3810. Telephone: 202–720–3238, Fax: 202–720–0443, or e-mail: adrain@nass.usda.gov.

SUPPLEMENTARY INFORMATION: The USDA's Advisory Committee on Small Farms, consisting of 19 members, representing small farms, ranches, and woodlot owners and the diverse groups USDA programs serve, has scheduled a meeting for January 19–20, 2000. The Committee meeting will be held 8:30 a.m.–5 p.m. on Wednesday, January 19 and 8:30 a.m.–4 p.m. on Thursday, January 20, 2000. During this time the Advisory Committee will: (1) Meet with USDA officials; (2) review its charter and outline Committee objectives; (3) organize working sub-committees; and (4) elect vice-chairs for the Committee.

Dates and Locations:

January 19—8:30 a.m. to 5 p.m., Advisory Committee General Meeting, Jamie L. Whitten Federal Building, Room 104–A, 1400 Jefferson Drive, SW, Washington, DC.

January 20—8:30 a.m. to 4 p.m.., Advisory Committee General Meeting, Jamie L. Whitten Federal Building, Room 104–A, 1400 Jefferson Drive, SW, Washington, DC.

January 20—10 a.m. to 12 p.m., general public will have opportunity to provide oral and written comments to the Committee in Room 104–A, 1400 Jefferson Drive, SW, Washington, D.C. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Type of Meeting: Open to the public.

Comments: The public may file written comments to the USDA Advisory Committee contact person before or within a reasonable time after the meeting. All statements will become a part of the official records of the

USDA Advisory Committee on Small Farms and will be kept on file for public review in the office of the Acting Deputy Director of Small Farms, Room 1410 South Building, U.S. Department of Agriculture, Washington, DC 20250.

Dated: December 8, 1999.

Keith Collins,

Chief Economist, Office of the Chief Economist.

[FR Doc. 99–32364 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License; Correction Notice

AGENCY: Agricultural Research Service, USDA.

ACTION: Correction to notice of availability and intent to grant exclusive license.

SUMMARY: In notice document published in the issue of Friday, October 29, 1999, (64 FR 58375) the city is erroneous. This notice corrects the exclusive grant license to U.S. patent no. 5,919,446 (S.N. 08/958,475) as follows:

On page 58375, in the second column, first paragraph, last sentence of the USDA notice, the city was erroneous. The correction is Northwest Agricultural Products of Pasco, Washington.

Dated: November 29, 1999.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 99–31368 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–089–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the regulations restricting the importation of poultry products into the United States.

DATES: Comments on this notice must be received by February 14, 2000, to be assured of consideration.

ADDRESSES: We invite you to comment regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information. Please send your comment and three copies to: Docket No. 99–089–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–089–1.

You may read any comments that we receive on this docket in our comment reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register,** and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on the regulations governing the importation of poultry products into the United States, contact Dr. Michael David, Senior Staff Veterinarian, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1234; (301) 734–7837. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, APHIS' Information Collection Coordinator, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: Poultry Imports and Exports.

OMB Number: 0579–0141.

Expiration Date of Approval: January 31, 2000.

Type of Request: Extension of approval of an information collection.

Abstract: The regulations contained in 9 CFR, chapter 1, subchapter D, parts 91 through 99 (the regulations), govern the importation of animals, birds and poultry, certain animal products, and animal germ plasm into the United States.

The regulations restrict the importation of poultry meat and other poultry products from regions of the world where exotic Newcastle disease (END) is known to exist.

Among other things, the regulations provide for the importation of poultry carcasses, and parts and products of poultry carcasses, that originate in a region free of END but are processed in a region where END exists. These carcasses, and parts and products of carcasses, are not required to meet the more stringent requirements imposed on products that originate in regions where END exists, provided they are processed and shipped under specified conditions.

These conditions include four information collection activities: a certificate of origin that must be issued, serial numbers that must be recorded, records that must be maintained, and cooperative service agreements that must be signed. These information collection activities support our efforts to ensure that imported poultry carcasses pose a negligible risk of introducing END into the United States.

We are asking the Office of Management and Budget (OMB) to approve the continued use of these information collection activities.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning these information collection activities. These comments will help us:

(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 our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average .1470 hours per response.

Respondents: Full-time, salaried veterinarians employed by the governments of various regions that are affected with END.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 51.

Estimated annual number of responses: 204.

Estimated total annual burden on respondents: 30. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 8th day of December 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–32365 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

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

ACTION: Proposed collection; comment requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Agencies to request an extension for a currently approved information collection in support of compliance with the National Environmental Policy Act and other applicable environmental requirements.

DATES: Comments on this notice must be received by February 14, 2000 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Richard A. Davis, Director, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, Stop 0761, 1400 Independence Ave., S.W., Washington, DC 20250–0761, Telephone (202) 720–9619.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1940 Subpart G, ''Environmental Program.''

OMB Number: 0575–0094.

Expiration Date of Approval: June 30, 2000.

Type of Request: Extension of a currently approved information collection.

Abstract: The information collection under OMB Number 0575–0094 enables the Agencies to effectively administer the policies, methods, and responsibilities for compliance with the National Environmental Policy Act and other applicable environmental laws, executive orders, and regulations.

The National Environmental Policy Act (NEPA) requires Federal agencies to consider the potential environmental impacts of proposed major federal actions in Agency planning and decision-making processes. For the Agencies to comply, it is necessary that they have information on the types of environmental resources on site or in the vicinity that might be impacted by the proposed action, as well as information on the nature of the project selected by the applicant (the activities to be carried out at the site; any air, liquid and solid wastes produced by these activities, etc.). The applicant is the only logical source for providing this information. In fact, the vast majority of Federal Agencies that assist non-Federal applicants in sponsoring projects require these applicants to submit such environmental data.

The Agencies provide forms and/or other guidance to assist in the collection and submission of information. The information is usually submitted via hand delivery or U.S. Postal Service to the appropriate Agency office.

The information is used by the Agency officer who is processing the application for financial assistance or request for approval. Having environmental information on the proposed project site and the activities to be conducted there enables the Agency official to determine the magnitude of the potential environmental impacts and to take such impacts into consideration in Agency planning and decision-making as required by NEPA. The analysis of the potential environmental impacts of a proposed action is considered to be a full disclosure process, and therefore, can involve public information meetings and public notification.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.94 hours per response.

Respondents: Individuals or households, local governments, farms, business or other for-profit, non-profit institutions, and small businesses and organizations.

Estimated Number of Respondents: 3,050.

Estimated Number of Responses per Respondent: 1.71.

Estimated Total Annual Burden on Respondents: 15,320 hours.

Copies of this information collection can be obtained from Renita Bolden, Regulations and Paperwork Management Branch, at (202) 692–0035.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility; (b) the accuracy of Agencies estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, (b) the accuracy of Agencies estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Renita Bolden, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: November 19, 1999.

Eileen M. Fitzgerald,

Acting Administrator, Rural Housing Service.

Dated: November 16, 1999.

William F. Hagy, III,

Acting Administrator, Rural Business-Cooperative Service.

Dated: November 22, 1999.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

Dated: November 24, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–32288 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–XV–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Food and Nutrition Service (FNS) Nutrition Education and Promotion Campaign

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's intention to request Office of Management and Budget approval of an information collection for the Food and Nutrition Service Nutrition Education and Promotion Campaign.

DATES: Written comments on this notice must be received by February 14, 2000.

ADDRESSES: Comments may be sent to: Judy F. Wilson, Director, Nutrition Services Staff, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 502, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology.

All comments to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection forms should be directed to Gerry Howell, (703) 305–2568.

SUPPLEMENTARY INFORMATION:

Title: Food and Nutrition Service Nutrition Education and Promotion Campaign.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: Diet has a significant impact on the health of citizens and is linked to four leading causes of disease and premature death. Diet also plays a role in the development of other health conditions, which can reduce the quality of life and contribute to premature death. The Food and Nutrition Service plans to develop and launch a progressive, five-year nutrition education and promotion campaign that will convey science-based, behavior-focused nutrition messages about healthy eating and physical activity. These messages shall be formulated based on the most recent edition of the Dietary Guidelines for Americans and the Food Guide Pyramid. The primary target audience for this campaign is preschool and school-aged (age 2 to 18 years) children including those from culturally and ethnically diverse backgrounds, participating or eligible to participate in FNS nutrition assistance programs and their caregivers. Caregivers refers to parents or guardians, child care providers, after school providers, and teachers. Educational materials, public service announcements, an FNS mascot, central themes, a slogan, key messages and strategies that promote healthy eating and physical activity will be tested using focus groups and semi-structured short interviews. The focus groups will provide information about the acceptability of materials and products during the developmental process and on final products. Semi-structured short interviews will be conducted with FNS program recipients, staff, stakeholders and consumer volunteers at the State and local level to determine acceptability and efficacy of materials and products developed. Interviews will be integrated into other program activities as appropriate.

Affected Public: Recipients of FNS nutrition education activities, State and local staff administering FNS programs, FNS stakeholders and consumers.

Estimated number of respondents: For the focus groups, approximately 100 respondents. Approximately 100 respondents will be asked to participate in the short semi-structured interviews.

Estimated Time Per Response: Focus groups of staff, stakeholders and consumers will average no longer than 3 hours. Semi-structured interviews of these same groups will average no longer than 15 minutes duration.

Estimated Total Annual Burden on Respondents: 325 hours.

Dated: November 26, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–31369 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs

AGENCY: Food and Nutrition Service, (USDA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collection of administrative cost information under the Emergency Food Assistance Program (TEFAP) for the October, 1999 Current Population Survey.

DATES: Written comments must be submitted on or before February 14, 2000.

ADDRESSES: 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 utilities; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; ways to enhance the quality, or utility, of collected data; (c) ways to minimize the burden of the collection of information through the use of appropriate automated, electronic, mechanical, or other techniques or other forms of information technology. Comments and requests for copies of information collected may be sent to Lou Pastura, Division Director, Grants Management Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION Contact: Mr. Lou Pastura (703) 305–2048.

SUPPLEMENTARY INFORMATION:

Title: Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs.

OMB Number: 0584–0385.

Form Number: FNS–667.

Expiration Date: February 29, 2000.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: The FNS–667, Report of the Emergency Food Assistance Costs, is completed quarterly, with a close-out

report, by the State agencies administering TEFAP. States use the form to report how Federal administrative funds are utilized, in three separate categories. States may use funds to pay costs incurred by the State agency itself, or to pay costs incurred by local recipients agencies—emergency feeding organizations (EFOs) that distribute USDA commodities to eligible households states also ''pass down'' to EFOs a certain percentage of Federal administrative funds received, as required by legislation and Federal regulations. The information reported on the form is used by the Food and Nutrition Service to ensure that States meet this requirement, as well as the requirement that States match all Federal administrative funds that are not passed down to the local agencies, or used to pay costs on their behalf.

Affected Public: State Agencies.

Estimated Number of Respondents: 55 (States, Territories, and The District of Columbia).

Estimated Time Per Response: .5 to 8 hours per response/average 3.5

Estimated Total Annual Burden: 962.5 hours annually (55 State agencies * 5 responses = 275 responses; 275 responses @ 3.5 hours. A total of five reports, four quarterly, and a final close-out report, are submitted).

Dated: December 1, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–32363 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–061N]

Codex Alimentarius: Eighth Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS)

AGENCY: Food Safety and Inspection Service.

ACTION: Notice of public meetings and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, and the Food Safety and Inspection Service, United States Department of Agriculture; and the Food and Drug Administration, United States Department of Health and Human Services, are sponsoring two public meetings to provide information and receive public comments on issues that will be discussed at the CCFICS, which will be held in Adelaide, Australia, February 21–25, 2000. The Departments recognize the importance of providing interested parties the opportunity to obtain background information on the Eighth Session of the CCFICS and to address items on the Agenda.

DATES: The first public meeting is scheduled for Thursday, January 13, 2000, from 1:00 p.m. to 4:00 p.m. to review the technical content of the various documents coming before the Session. The second public meeting is scheduled for Thursday, February 10, 2000, from 1:00 p.m. to 4:00 p.m. to review the U.S. Government positions on the agenda items.

ADDRESSES: Both public meetings will be held in Room 1409, Federal Office Building 8, 200 C Street SW, Washington, DC (Metro Rail Stop is Federal Center SW)

Send an original and two copies of comments to: FSIS Docket Clerk, Docket #99–061N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street SW, Washington, DC 20250–3700. Comments should be submitted by February 4, 2000. All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, Food Safety and Inspection Service, Room 4861, South Building, 1400 Independence Avenue SW, Washington, DC 20250–3700, Phone: (202) 205–7760, Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Clerkin at the above numbers.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Food Import and Export Inspection and Certification Systems was established to develop principles and guidelines for food import and export inspection and certification systems to facilitate trade through harmonization and to supply safe, high quality foods to consumers. Recognition of quality assurance systems through the development of guidelines will help ensure that foods conform to the essential requirements.

Issues to be Discussed at both Public Meetings

- Proposed Draft Guidelines/Recommendations for Food Import Control Systems
- Proposed Draft Guidelines and Criteria for Official Certificate Formats and Rules Relating to the Production and Issuance of Certificates
- Proposed Draft Guidelines for the Utilization and Promotion of Quality Assurance Systems
- Discussion Paper on the Judgement of Equivalence on Sanitary Measures Associated with Food Inspection and Certification Systems
- Discussion Paper on the Judgement on Equivalence of Technical Regulations Associated with Food Inspection and Certification Systems

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of these public meetings, FSIS will announce them and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at http://www.fsis.usda.gov. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done at Washington, DC, on; December 6, 1999.

F. Edward Scarbrough,

U.S. Manager for Codex.

[FR Doc. 99–32286 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resource Management Plan for the National Forests in Mississippi

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Regional Forester for the Southern Region gives notice of the agency's intent to prepare an Environmental Impact Statement (EIS) for revision of the Forest Land and Resource Management Plan (Forest Plan) for the National Forests in Mississippi. According to 36 CFR 219.10(g), Forest Plans are ordinarily revised on a 10–15 year cycle. The existing Forest Plan for Mississippi was approved on September 16, 1985.

The agency invites written comments within the scope of the analysis described below. In addition, the agency gives notice that an open and full environmental analysis and decision making process (collaborative planning effort) will occur so that interested and affected citizens may participate and assist in identifying and developing recommendations on the management of the National Forests in Mississippi.

This Notice of Intent covers the following Mississippi counties which contain National Forest System lands: Adams, Amite, Benton, Chickasaw, Choctaw, Copiah, Forrest, Franklin, George, Greene, Harrison, Jackson, Jasper, Jefferson, Jones, Lafayette, Lincoln, Marshall, Newton, Oktibbeha, Pearl River, Perry, Pontotoc, Scott, Sharkey, Smith, Stone, Tippah, Union, Wayne, Wilkinson, Winston, and Yalobusha.

DATES: Comments concerning the scope of the analysis should be received on or before February 14, 2000. The agency expects to file the Draft Environmental Impact Statement (DEIS) with the Environmental Protection Agency and make it available for public comment in September, 2001. The agency expects to file the final EIS in September, 2002. See Supplementary Information (Section VI. Involving the Public) for meeting dates.

ADDRESSES: Submit written comments to Forest Supervisor, National Forests in Mississippi, 100 W. Capitol St., Suite 1141, Jackson, MS 39269.

FOR FURTHER INFORMATION CONTACT: Jeff Long, Land Management Planning Revision Team Leader, (601) 965–4391.

RESPONSIBLE OFFICIAL: The Regional Forester for the Southern Region located at 1720 Peachtree Road, NW, Atlanta, Georgia 30367.

SUPPLEMENTARY INFORMATION:

I. Background

The National Forests in Mississippi Forest Plan covers the six proclaimed National Forests in Mississippi: Bienville, DeSoto, Delta, Holly Springs, Homochitto and Tombigbee. Pursuant to 36 CFR 219.10(g), the Forest Supervisor is required to review the conditions on the land covered by the Forest Plan at least every five years to determine whether conditions and/or demands of the public have changed significantly. This regulation further states that the Forest Plan may be revised whenever the Forest Supervisor determines that significant changes have occurred. In 1991, staff of the National Forests in Mississippi conducted a five-year review of the Forest Plan. The Forest Service completed a ten-year review in 1996 and annual reviews for fiscal years 1997 and 1998.

Concurrent with the ten-year review, the Forest's interdisciplinary Land Management Planing Team updated resource inventories, estimated supply capabilities and resource demands, and determined initial needs to change management direction. Together with the reviews and public comments solicited on its findings, this work forms the basis for the preliminary issues identified in this Notice of Intent. These preliminary issues along with any additional issues raised during public scoping activities, to begin in January 2000, will be examined during the plan revision process.

In the past, a ''Notice of Intent to Prepare an Environmental Impact Statement'' marked the very beginning of the planning process. For this plan revision, however, an effort was made to define the current situation and to present detailed proposed actions as part of this notice. We trust this will lead to improved ''scoping'' and provide more concise and specific public comments. These, in turn, will make it possible to develop more responsive alternatives for analysis in the Environmental Impact Statement. Our desired results are improve public participation opportunities facilitated by open decision making process throughout the Forest Plan revision process.

Two Stage Decision Making Process

National Forest System resource allocation and management decisions are made in two decision stages or steps. Programmatic (strategic) management decisions occur in the first stage and are documented in the Forest Plan. Programmatic decisions in the Forest Plan are implemented by authorization of site-specific activities. This project level decision-making is the second stage.

The first decision stage establishes programmatic management direction spanning a ten to fifteen year time span. A Forest Plan is analogous to a county or city zoning plan. Decisions made in the Forest Plan identify actions that may take place but do not represent a commitment by the agency to implement site-specific projects. Forest Plans do not compel the agency to undertake particular site-specific projects; rather, they establish overall goals and objectives (or desired resource conditions) that an individual National Forest will strive to achieve in order to maintain or assure ecological sustainability and to contribute to economic and social sustainability of local communities affected by national forest management activities. Forest Plan decisions do not normally make any irreversible or irretrievable commitment of resources. Forest Plans also establish limitations on what actions may be authorized, and what conditions must be met during project decision-making.

The following decisions are made in a Forest Plan:

(1) Establishment of the forest-wide multiple-use goals and objectives (36 CFR 21911(b)).

(2) Establishment of forest-wide management requirements (36 CFR 219.13 to 219.27).

(3) Establishment of multiple-use prescriptions and associated standards and guidelines for each management area (36 CFR 219.11(c)).

(4) Determination of land that is suitable for the production of timber (16 U.S.C. 1604(k) and 36 CFR 219.14).

(5) Establishment of allowable sale quantity for timber within a time frame specified in the plan (36 CFR 219.16).

(6) Establishment of monitoring and evaluation requirements (36 CFR 219.11(d)).

(7) Recommendation of roadless areas as potential wilderness areas (36 CFR 219.17).

(8) Where applicable, designation of those lands administratively available for oil and gas leasing; and when appropriate, authorizing the Bureau of Land Management to offer specific lands for leasing (36 CFR 228.102 (d) and (e)).

This Notice of Intent to prepare an environmental impact statement for revision of the National Forests in Mississippi Land and Resource Management Plan focuses on the strategic management decisions occurring in the first decision stage described above.

II. Purpose and Need for Action

The purpose for this revision rests primarily in the requirements of the National Forest Management Act. The law's implementing regulations at 36 CFR 219.10(g) require that Forest Plans be revised at least every 15 years. The current resource management plan for the National Forests in Mississippi was initiated in September 1985.

A need to revise the plan exists due to: changes in policy or law and changed physical, biological, and social conditions occurring on the forest.

Changes in Policy or Law

A substantial body of case law has developed, since the original Forest Plan was written. This case law more clearly defines the roles and requirements of a Forest Plan. One resulting example is the concise listing of eight forest-plan decisions listed in the previous section.

Similarly, the science and policy of national forest management have continued to evolve. Key examples include: service-wide adoption of Ecosystem Management in 1992, the ''Course to the Future'' strategy in 1994, the Southern Region's revised strategy for management of the Red-cockaded Woodpecker in 1995, and Forest Service Natural Resource Agenda in 1998. These policy statements represent a fundamental change in management philosophy and, as such, are built from an extensive set of concepts and principles. These concepts include a focus on desired conditions, thinking and acting at multiple scales, working within the ecological potential of sites and landscapes, and an increasing emphasis on ecological sustainability.

Changed Physical, Biological, and Social Conditions

Hurricanes, tornadoes, ice storms, and Southern Pine Beetle outbreaks have made changes to the forest beyond those contemplated in the current plan. Beaver impoundments and the success of exotics such as kudzu and Cogongrass have made, or threaten, additional changes. In many areas, our neighbors and customers have changed significantly. Near the Mississippi Gulf Coast, private lands in and around the National Forests have become more densely populated. Adjacent landowner expectations and values have shifted from a rural to a more urban perspective introducing a new set of issues and concerns to be addressed during Forest Plan revision. This urban interface phenomenon is occurring in varying degrees on all National Forests within the state.

III. Preliminary Issues

The following preliminary issues offered here were developed from: (1) The 10-year review of the current plan; (2) subsequent annual monitoring reports; (3) public and internal response to their findings; (4) from public comments received on project level proposals. Public comments in response to this notice will help us to determine additional issues and scope of the analysis to be considered.

Forest Health/Sustainability

Sustainable Forest Ecosystem Management is a key component of the Forest Service Natural Resource Agenda. Watersheds are vital to ecosystem health. Healthy watersheds promote healthy forests and sustainable forest ecosystems. The revised Forest Plan will incorporate Forest Service policy to restore and maintain healthy watersheds for use by current and future generations.

Forest Health and Sustainability issues include:

- Forest biological diversity.
- Native forest ecosystem restoration.
- Old growth.
- Forest health, especially protection from insects and diseases.
- Protection of riparian wetland areas.
- Streamside zone management.
- Control or eradication of noxious weeds occurring on National Forest lands.
- Management of special interest areas.

Vegetation Management

The harvest and regeneration of timber producing trees has always been a central issue in National Forest planning in Mississippi. Over the life of the current Forest Plan, timber has generally ranked as the second most valuable agricultural crop in the state of Mississippi. This issue assumes additional significance because of the effects of timber harvest on other resources such as recreation and wildlife. Not surprisingly, forest regeneration and timber harvest were the subject of more review comments than any others. Public comments received on the 10-year Review of the Land and Resource Management Plan expressed support for timber harvests to continue at current or higher levels. Opposing views also have been expressed resulting in polarization of the issue. Individuals and organizations involved in the timber industry or local government have expressed concern about the decline of National Forest timber harvests on local economies, particularly on employment and the 25% returns to counties for roads and schools. The average actual timber volume sold on the National Forests in Mississippi were just over 80% of the amount planned for fiscal years 1985 through 1995. Declines in harvest levels have occurred over the last several years generating concern about declining revenues.

Vegetation Management issues include and will focus on:

- Allowable sale quantity (ASQ).
- Lands suitable for timber production.
- Relationship of timber harvest levels to local economies and jobs.
- Silvicultural systems and how they affect sustainability and forrest health.
- Uneven-aged silvicultural systems effect on timber and non-timber resources.
- Hardwood management within pine stands.
- Mixed pine management.
- Alternative forest products, such as pine straw raking and removal.
- Role of herbicide use in forest management.

Threatened, Endangered, Proposed and Sensitive Species Management

Red-cockaded Woodpecker Decisions. The *Final Environmental Impact Statement for the Management of the Red-cockaded Woodpecker and its Habitat on National Forests in the Southern Region* (RCW/EIS) was issued in June of 1995. The RCW/EIS contains direction to revise previous management practices, standards, and guidelines, and its Record of Decision (ROD) instructs affected Forests to incorporate the new direction into their Forest Plans, through revision or amendment.

The revised Forest Plan must establish final HMA boundaries and population objectives. The RCW/EIS Record of Decision established tentative HMA's on 367,169 acres on the Bienville, De Soto, Chickasawhay, and Homochitto Ranger Districts. The accompanying tentative population goal is 1,595 active clusters. As of 1996, the Forest's total number of active clusters was 134. Additionally, Forest Plan revision must incorporate the management practices, standards, and guidelines in the RCW Record of Decision. The HMA's and population

objectives are subject to some modification. Any changes will require analysis beyond the RCW/EIS as well as a favorable opinion from the U.S. Fish and Wildlife Service during formal consultation.

Other Threatened and Endangered Species. Management for other threatened, endangered, proposed, and sensitive species will also require consideration during plan revision. These species include: the gopher tortoise, and *Louisiana quillwort* occurring on the De Soto National Forest and the Pondberry on the Delta National Forest. Recovery plans for the affected species have been developed and their prescribed conservation and protection measures are incorporated in forest management activities. Forest Service will continue efforts to conserve and recover threatened, endangered, and sensitive species and their habitats.

Threatened, endangered, proposed, and sensitive species management issues to be addressed during plan revision include:

Develop management practices that promote viable populations of threatened, endangered, and sensitive species and their habitats occurring on National forest lands. Determine how much of the National Forests in Mississippi's land base will be allocated to red-cockaded woodpecker management (Habitat Management Areas) and what affect such allocation will have on other resource management opportunities.

Transportation and Access

Management of our forest transportation system attracts public scrutiny. Almost all users of the national forests use forest roads. Forest Service Natural Resource Agenda identifies forest roads as one of its key agenda items. Development of a national roads policy is underway. Once finalized revised Forest Plan will incorporate the national roads policy, as appropriate.

An extensive system of roads and trails allows access to nearly every part of the Forest. In addition, and by the direction of the current Forest Plan, the National Forests in Mississippi are ''generally open to ORV's'' (off-road vehicles), now more often referred to as OHV's (off-highway vehicles). Exceptions are individually identified areas of potential resource damage or conflict with other uses.

Motorized use can reduce the habitat quality for some wildlife species and cause damage to soils on sensitive sites. Use of motorized vehicles can also conflict with users who are seeking more solitude or can create safety concerns for non-motorized users such as hikers or horseback riders. Motorized vehicle use, particularly that of all-terrain vehicles (ATV's), has increased dramatically over the last ten years. Furthermore, the current plan's assumption that cross-country travel by OHV's would be ''limited by heavy undergrowth'' has proven inaccurate. As a result, instances of resource damage and user conflicts have become increasingly common.

Transportation and access issues to be addressed during plan revision include:

Transportation management and access needs. The Forest's road system will be managed to meet resource needs and provide adequate public access.

Density of local roads required to provide permanent, effective access to National Forest lands for all resource management needs.

Off road vehicles (ORV's) management to provide recreational opportunities and protect other resources.

Recreation

National Forests in Mississippi offer a host of outdoor recreation opportunities. Recreation demand, both dispersed and developed, is expected to continue to increase over the next plan cycle. Increases in recreation use often create resource management conflicts. Different user groups compete for use of the same area, each having different expectations.

Prescribed Fire

Prescribed fire is an important management tool on the National Forests in Mississippi. Historically, fire played a significant role in shaping the native plant and animal communities in Mississippi. The Forest consistently ranks first or second in the nation in the amount of acreage on which it is applied. Beginning in the 1960's, prescribed burning has normally been conducted on upland pine sites, with site preparation burns occurring in late summer and understory burns during the dormant season. Prior to European settlement, fires occurred throughout the year on a variety of sites, whenever conditions allowed anatual or aboriginal ignitions to spread. Studies indicate that fire can have an influence on the successful regeneration of oaks. One of the concepts underlying ecosystem management is that natural processes should be simulated to the greatest extend possible. This builds on the idea that the structure and function of native ecosystems is best maintained by the conditions under which they evolved. To the extent that these conditions can be recreated on the Forest, it will require changes to our traditional application of prescribed fire.

Prescribed fire issues to be addressed during plan revision include:

Determine role of prescribed fire in achieving forest ecosystem management goals and objectives.

Identify and evaluate the extent, time of year (including summer growing season), and frequencies for prescribed fire use as an ecosystem management tool.

Evaluate impacts associated with use of plow lines and establish appropriate standards and guidelines.

Consider use of permanent fire lines, especially within wildland/urban interface zones.

Roadless Areas

The Final Environmental Impact Statement (FEIS) for Roadless Area Review and Evaluation II (RARE II) of 1979 inventoried three roadless areas on National Forest lands in Mississippi. Two areas, Black Creek and Leaf, were recommended for wilderness designation. The third, Sandy Creek, was listed for further study. In 1984, the Mississippi National Forest Wilderness Act created the Black Creek Wilderness and the Leaf Wilderness. Included in the act was ''release'' language which directed that inventoried areas not designated as wilderness be managed for multiple use; however, the act also directed that the ''wilderness option'' be reviewed for such areas when the Forest Plan was revised. For the National Forests in Mississippi, the Sandy Creek area on the Homochitto National Forest is the only area in this category.

On October 13, President Clinton directed the USDA Forest Service to develop a proposal potentially affecting over 40 million acres on inventoried roadless areas on national forests and grasslands. The 2,375 acre Sandy Creek RARE II Further Study Area is the only area in Mississippi meeting the President's initial criteria for review consideration. On October 25, 1999, forest Service Chief Dombeck issued a notice of intent to prepare an environmental impact statement as the first step towards implementing President Clinton's direction to further protect remaining roadless areas within National Forest System lands. The Sandy Creek Further Study Area will be evaluated as part of the national roadless area review. A draft environmental impact statement on the roadless area is expected to be available for public review in the spring 2000. Recommendations specific to the Sandy Creek Further Study Area that may follow from the national review will be incorporated during plan revision.

IV. Proposed Action

The Southern Regional Forester proposes to prepare an Environmental Impact Statement (EIS) for revising the Forest Land and Resource Management Plan (Forest Plan) for the National Forests in Mississippi. The Forest Plan will prescribe resource management direction pursuant to the requirements of the National Forest Management Act for the six proclaimed National Forests in Mississippi; Bienville, Delta, DeSoto, Homochitto, Holly Springs and Tombigbee National Forests. The agency invites the public, state and local government officials and their representatives, other federal agencies, and any affected Indian tribes to participate in the forest plan revision process which will proceed over the next 24 to 26 months before a final revised Forest Plan is issued.

The current Forest Plan for the National Forests in Mississippi requires revision to incorporate agency established ecosystem management principles. The Forest Service will identify ecological units through the LandType Association (LTA) level, according to the Forest Service National Hierarchical Framework of Ecological Units. Management direction in the revised Forest Plan would work toward maintaining the long-term ecological structure and function of affected ecosystems.

The current Forest Plan contains limited descriptions of desired future conditions (FDCs). The current plan's DFCs need updating to accurately reflect evolving agency and public expectations regarding resource uses, products, values or services occurring on or generated from national forest administered lands. One of the more critical tasks to be accomplished during the forest plan revision process will be development of updated DFCs. An open, public, collaborative planning process will be followed during development of DFCs.

Desired Future Conditions (DFCs) are descriptive statements expressing the collective vision of future landscape conditions and the uses, products, values, and services that will be provided. Desired future conditions and the outcomes associated with it will serve as the central reference point for planning and management of National Forest lands. DFC's will be developed in response to key issues identified during plan revision. Extensive public involvement (participation) will be sought as the forest identifies and develops DFC's during the plan revision process. Each DFC will utilize established ecological units as a criteria for defining their location and capabilities. Each DFC will emphasize the resource or condition which the issue addresses. Plan revision alternatives will be developed by allocating land areas to individual DFC's in varying amounts. Notwithstanding the issue to which it responds, each DFC will consider all resource elements (incorporate multiple-use resource management principals). The allocation of the DFC's in each alternative will be distinctly mappable.

The following proposals specifically address the preliminary issues listed previously. Based on current information, they represent the Forest Service's initial choice of action for addressing these preliminary issues. The following proposed actions are identified at this time in an effort to provide focus for public review and comment and do not represent a final decision regarding the preliminary issues identified. All actions are subject to change as a result of scoping, developing alternatives, and conducting a more detailed analysis of effects.

Forest Health/Sustainability

Sustainable Forest Ecosystem Management is a key component of the Forest Service Natural Resource Agenda. Throughout the plan revision process the Forest Service will encourage all parties interested in resource management to collaborate in describing and defining sustainable forest management. During plan revision, focus will be placed on forest ecosystem health, agency accountability, and community partnerships to achieve Forest Service Natural Resource Agenda goals for sustainable forest ecosystem management. Management for health watersheds will be included as a key component in the development of Desired Future Condition statements. The revised plan will incorporate the Natural Resource Agenda goals and objectives for watershed protection and restoration. Management emphasis will be placed on watershed restoration and maintenance. During plan revision the Forest Service will: (1) Study the relationship between land uses, watersheds, and ecosystem health; (2) complete an ecosystem analyses at the watershed level to determine existing conditions and potential landscape capability; (3) use results from sound scientific analyses to make land use allocations and guide project-level decisions and set priorities for watershed restoration; (4) ensure that land management decisions meet watershed and ecosystem management objectives; (5) collaborate with all interested parties and stakeholders to achieve health watersheds and ecosystems for current and future generations.

Vegetation Management

Vegetation management objectives will be developed as one of the DFC's for allocation. The Forest will employ both even-aged forest management, including clearcutting, and uneven-aged management as tools for achieving desired future conditions in appropriate ecological units and communities. Area regulation will be utilized for all even-aged management. Uneven-aged management will be regulated by diameter distribution with intermediate practices for developing uneven-aged structure in currently even-aged stands.

Old Growth. Management for old growth attributes will be included as one of the DFC's for allocation. The revised plan will consider old growth representation across the range of native forest communities.

Natural Disturbances. As much as practical, historical levels of disturbance will be incorporated into the revised plan's output predictions. General control and/or recovery guidelines will also be developed, both Forest-wide and for each management area.

Exotic Species. Mitigation measures and management practices designed to limit the spread of Cogongrass as well as kudzu control will be developed during plan revision. The revised plan will reflect the natural Resource Agenda emphases placed on control of exotic species to restore and enhance ecosystems.

Threatened, Endangered, and Sensitive Species Management

Management emphasis will be placed on the conservation and recovery of threatened, endangered, and (federally listed) sensitive species and their habitats that occur on National Forest administered lands.

Red-Cockaded Woodpecker Decisions. The tentative Habitat Management Area (HMA) delineations from the Final RCW/EIS will be adopted, with only minor changes, on the Bienville, Chickasawhay, and Homochitto Ranger Districts. On the De Soto Ranger District, the boundaries for the Biloxi HMA will be adopted from the Final, but the two areas of the Black Creek HMA will be combined and moved to the Leaf River Wildlife Management Area. Revised population objectives will be developed for each of the above HMA's consistent with the proposed direction in Appendix ''A'' of the RCW/EIS Record of Decision (ROD). The

resulting forest-wide population objective is expected to total approximately 1,480 clusters. The revised Forest Plan will incorporate the standards and guidelines from the ROD, except that both the Chicasawhay and Bienville HMA's will be managed under the sub-HMA strategy. This is consistent with RCW/EIS direction for the Chickasawhay but represents a departure for the Bienville. Proposed changes in the sub-HMA strategy will require analysis beyond the RCW/EIS as well as a favorable opinion from the U.S. Fish and Wildlife Service reached through formal consultation. The Forest Plan will adopt the southern pine beetle high hazard rotation lengths where applicable.

Transportation and Access

Local road and OHV management will be included as an element of DFC's. For each desired future condition, OHV travel may be allowed area-wide, confined to designated areas, trails, or seasons, or prohibited entirely. Forest-wide, all areas will be closed to OHVs except those identified for their use.

A National Roads Policy is currently under development. When the roads policy is issued, agency direction will be incorporated during plan revision as appropriate.

Recreation

Recreation management is a priority item of the Forest Service natural Resource Agenda. Forest Service will seek to provide a diverse spectrum of recreation opportunities in response to changing demands.

The revised plan will incorporate the new recreation agenda of the Forest Service Natural Resource Agenda. The new recreation agenda concentrates on five key areas: (1) Improving the settings for outdoor recreation and enhancing visitor experiences, (2) guaranteeing visitor satisfaction with our services and facilities, (3) reaching out to rural and urban communities to capitalize on the social and economic opportunities associated with recreation on national forests, (4) strengthening our relationships with those who cooperate with us to improve outdoor recreation for all Americans, and (5) ensuring that recreation use does not impair the land's health.

Prescribed Fire

Fire return interval will be included as an element of Desired Future Conditions, and both dormant and growing season fire will be utilized. The use of prescribed fire for silvicultural objectives will be employed on hardwood sites where appropriate and consistent with the Southern Region's Vegetation Management EIS, including the Delta National Forest.

Roadless Areas

The Sandy Creek Further Study Area will be evaluated as part of the national roadless area review. A draft environmental impact statement on the roadless area is expected to be available for public review in the spring 2000. Recommendations specific to the Sandy Creek Further study Area that may follow from the national review will be incorporated during plan revision. No other recommendations to the roadless area inventory are currently proposed. The revised plan will continue the management direction and practices adopted in the 1993 ''Limits of Acceptable Change'' process for the Black Creek and Leaf Wildernesses and the Black Creek scenic corridor.

V. Development of Alternatives

The alternatives presented in the Forest's DEIS will portray a full range of responses to key issues. The range of alternatives will include one that continues current management direction, as well as others that address the range of issues developed during the scoping process. The DEIS will examine the effects of implementing strategies to achieve different overall desired future conditions for the Forest, including possible management practices and objectives that move the Forest toward desired conditions. A preferred alternative will be identified in the DEIS.

VI. Involving the Public

The objective for public involvement in this process is to create an atmosphere of openness where all members of the public feel free to share information with the Forest Service and its employees on a regular basis. We seek to establish two-way communication with the public to gather ideas and concerns and to determine public attitudes. We seek to encourage public involvement in a planning process that fully integrates the needs and values of all segments of the public, including low-income, minority, and historically underserved communities.

The Forest Service is seeking information, comments,and assistance from Federal, State, and local agencies, Indian tribes, and other individuals or organizations who may be interested in or affected by the land management decisions under consideration during the plan revision process. This input will be used in the preparation of the DEIS. The range of alternatives to be considered in the DEIS will be based on the identification of key public issues, management concerns, resource management opportunities, and plan decisions specific to the National Forests in Mississippi. Public participation will be solicited by notifying in person and/or by mail, interested publics. News releases will be used to give the public general notice, and public scoping meetings will be conducted on each Ranger District.

Public participation, facilitated by open decision making process, will be sought throughout the plan revision process and will be especially important at several points along the way. The first opportunity to comment will be during the scoping process (40 CFR 1501.7). Scoping includes: (1) Identifying additional potential issues (other than those previously described), (2) from these, identifying key issues or those which have been covered by prior environmental review, (3) exploring additional alternatives, and (4) identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects).

As part of the first step in scoping, a series of public meetings are scheduled to explain the public's role in the planning process and provide an opportunity for public input. These meetings are planned as follows:

Bienville National Forest

January 18, 2000 from 3 pm to 8 pm at the Forest Center in Forest, MS

January 20, 2000 from 3 pm to 8 pm at the Raleigh Multi-Purpose Building In Raleigh, MS

January 22, 2000 from 10 am to 8 pm at the Benita Lakes Mall in Meridian, MS (Co-hosted with the Chickasawhay Ranger District)

January 25, 2000 from 3 pm to 8 pm at the Morton City Auditorium in Morton, MS

Chickasawhay Ranger District

January 20, 2000 from 3 pm to 8 pm at the Library of Hattiesburg, 329 Hardy Street, in Hattiesburg, MS (Co-hosted with the DeSoto Ranger District)

January 22, 2000 from 10 am to 3 pm at the Benita Lakes Mall in Meridian, MS (Co-hosted with the Bienville Ranger District)

January 24, 2000 from 3 pm to 8 pm at the Chickasawhay Ranger District Office, 968 Highway 15 South, in Laurel, MS

January 27, 2000 from 3 pm to 8 pm at the Waynesboro City Auditorium in Waynesboro, MS

Delta National Forest

January 18, 2000 from 3 pm to 8 pm at the Community Center in Rolling Fork, MS
January 25, 2000 from 3 pm to 8 pm at the Greenville Library in Greenville, MS
January 31, 2000 from 3 pm to 8 pm at the Vicksburg Library in Vicksburg, MS

DeSoto Ranger District

January 20, 2000 from 3 pm to 8 pm at the Library of Hattiesburg, 329 Hardy Street, in Hattiesburg, MS (Co-Hosted by the Chickasawhay Ranger District)
January 21, 2000 from 3 pm to 8 pm at the Orange Grove Community Center on Highway 49, North in Gulfport, MS
January 25, 2000 from 3 pm to 8 pm at the DeSoto Ranger District Office, 654 W. Frontage Road, in Wiggins, MS

Holly Springs National Forest

January 10, 2000 from 3 pm to 8 pm at the Holly Springs District Office, 1000 Front Street, Oxford, MS
January 18, 2000 from 3 pm to 8 pm at the Marshall County Industrial Development Authority, 520 Access Road, Holly Springs, MS
January 24, 2000 from 3 pm to 8 pm at the Corps of Engineers Building, Scenic Route 333, Grenada Dam Road, Grenda, MS

Homochitto National Forest

January 20, 2000 from 3 pm to 8 pm at the Agriculture Building, at Alcorn State University, in Lorman, MS
January 25, 2000 from 3 pm to 8 pm at the Homochitto District Office in Gloster, MS
January 27, 2000 from 3 pm to 8 pm at the Meadville Public Library in Meadville, MS

Tombigbee National Forest

January 11, 2000 from 3 pm to 8 pm Tombigbee District Office in Ackerman, MS
January 12, 2000 from 3 pm to 8 pm at the Thompson Hall on the campus of Mississippi State University, Mississippi State, MS
January 18, 2000 from 3 pm to 8 pm at the Fire Department in Houston, MS
January 25, 2000 from 3 pm to 8 pm at the Lake Tiak O'Kata in Louisville, MS

National Forests in Mississippi (Forest-wide emphasis)

January 11, 2000 from 10 am to 8 pm at the McCoy Federal Building, 100 West Capitol Street, Jackson, MS

Additional public meetings will be scheduled throughout the plan revision process. Their location and frequency of occurrence will vary depending upon specific objectives. The primary objective for the initial meetings listed above are for information sharing and initial identification of additional public issues and concerns. Subsequent public meetings may focus on specific key issues to seek clarification and understanding prior to development of alternatives and evaluation of effects. Public notice will be provided through publication in the newspaper, the Clariton-Ledger, published daily in Jackson, Mississippi. Notice will also be served through direct mailings to interested and affected parties identified during the plan revision process. The Forest Service will seek to identify other methods to effectively accomplish outreach and invite and encourage broad public involvement throughout the Forest Plan revision process.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September, 2001. At that time, EPA will publish a notice of availability of the draft supplement in the **Federal Register**. The comment period for the DEIS will be 3 months from the date the EPA's notice of availability appears in the **Federal Register**.

After the comment period ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the FEIS. The Forest Service will continue to open decision making (collaborative efforts) during the evaluation of comments received on the DEIS. The FEIS is scheduled to be completed by September, 2001. The responsible official will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. The decision will be subject to appeal in accordance with 36 CFR part 217.

The responsible official is Elizabeth Estill, Regional Forester, Southern Region, 1720 Peachtree Road, NW, Atlanta, Georgia 30367.

Dated: December 8, 1999.

David G. Holland,

Deputy Regional Forester for Natural Resources.

[FR Doc. 99–32296 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Mill Creek Timber Sales and Related Activities, Rogue River National Forest Jackson County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service (USFS), will prepare an environmental impact statement (EIS). The purpose of the EIS is to analyze and disclose the environmental impacts of a site specific proposal to commercially harvest and regenerate trees, construct, reconstruct, and decommission roads, implement vegetation density management activities, implement wildlife projects, and conduct prescribed burns. The activities are proposed in the Upper Rogue River watershed located on lands administered by the Rogue River National Forest, on the Prospect Ranger District, within Jackson County, Oregon. The Proposed Action will tier to and be designed under the Rogue River National Forest Land and Resource Management Plan (1990), as amended by the Record of Decision for the Northwest Forest Plan (1994), which provides guidance for land management activities. This proposal is scheduled for implementation during fiscal Years 2000–2003. The Prospect Ranger District invites written comments concerning the scope of the analysis in addition to those comments that will be solicited as a result of local public participation activities. The Forest Service will also give notice of the full environmental analysis and decision making process so that interested and affected people are made aware as to how they may participate and contribute to the final decision.

DATES: Issues and comments concerning the scope, implementation, and analysis of the Proposed Action must be received by January 5, 2000.

ADDRESSES: Submit written comments regarding the Proposed Action to Joel King, District Ranger, Prospect Ranger District, 47201 Highway 62, Prospect, Oregon, 97536.

FOR FURTHER INFORMATION CONTACT: Direct questions about the Proposed Action and EIS to Don Boucher, Interdisciplinary Team Leader, Propect Ranger District, 47201 Highway 62, Prospect, Oregon, 97536, phone: 541–560–3400, FAX: 541–560–3444, e-mail:dboucher/r6pnw__rogueriver@fs.ded.us.

SUPPLEMENTARY INFORMATION: The Mill Creek Timber Sales and Related

Activities Project will take place within the following sub-watersheds within the Upper Rogue River watershed: Barr Creek, Ginkgo Creek, Union Creek, Upper and Lower Mill Creek, and Castle Creek. Only Forest Service managed lands would be treated. The project area is approximately 45 air miles north of Medford, Oregon. It is bounded on the north by Castle Creek, on the west by State Highway 62, on the south by Red Blanket Creek, and on the east by Crater Lake National Park.

The Forest Service is proposing to implement activities which include, in part, one or more timber sales involving approximately 7,500 acres of harvest units. Silvicultural prescriptions include: density management of overstocked stands of trees (approximately 3,800 acres); treating mature stands with small group selections or even-aged management (approximately 2,000 acres); and, density management of small, younger stands for forest health and stand development (approximately 1,700 acres). Other projects include road decommissioning (approximately 22 miles), prescribed fire for wildlife habitat improvement and fuels reduction (approximately 500 acres), density management of stands of young trees less than six inches in diameter (approximately 2,000 acres), and other wildlife improvement projects. Minor amounts of new road construction or reconstruction may be necessary to access harvest units. these activities are proposed on Matrix lands in the Northwest Forest Plan. Incidental treatments, not including timber harvest, are proposed within Riparian Reserves.

The Purpose and Need for the Proposed Action is to plan timber sales and associated road and vegetation management activities to implement management direction from the Rogue River National Forest Land and Resource Management Plan and the Northwest Forest Plan and to manage for ecosystem needs.

The Forest Service will consider issues with the Proposed Action, and develop additional alternatives to the Proposed Action that respond to the significant issues. The no-action alternative will also be considered.

Public participation will be important during the analysis. Reviewers may refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the national Environmental Policy Act at 40 CFR 1501.7. The Forest Service will seek written concerns and comments regarding the Proposed Action from Federal, State, and local agencies, any affected Indian tribes, and other individuals who may be interested in or affected by the Proposed Action. This input will be used to develop additional alternatives.

The Draft EIS is expected to be filled with the Environmental Protection Agency (EPA) and be available for review by April 2000. The comment period for the Draft EIS will be 45 days from the date that the EPA publishes the Notice of Availability in the **Federal Register.**

Comments received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered, however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27 (d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentially may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments maybe resubmitted with or without name and address within a specified number of days.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, a reviewer of a Draft EIS must structure their participation in the environmental review process of the proposal so that it is specific, meaningful, and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). also, environmental objections that could be raised at the Draft EIS stage, but that are not raised until after the completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 409 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings it is very important that those interested in this Proposed Action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the Proposed Action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may also address the inadequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the 45 day comment period ends on the Draft EIS, comments will be considered and analyzed by the Agency in preparing the Final EIS. The Final EIS is scheduled for release by August 2000. In the Final EIS, the Forest Service is required to respond to the comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the proposal.

The Forest Service is the lead agency. The Responsible Official is Joel King, Prospect District Ranger. The Responsible Official will consider the comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies in making a decision regarding the Mill Creek Timber Sales and Related Activities. The Responsible Official will document the decision and rationale in the Record of Decision. The decision will be subject to appeal by the general public under Forest Service appeal regulations (36 CFR part 215).

Dated: November 22, 1999.

Joel T. King,

Prospect District Ranger.

[FR Doc. 99–31346 Filed 12–13–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of December 1999, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in December for the following periods:

		Period
	Antidumping duty proceedings:	
BRAZIL: A–351–602	Certain Carbon Steel Butt-Weld Pipe Fittings	12/1/98—11/30/99
BRAZIL: A–351–824	Silicomanganese	12/1/98—11/30/99
CANADA: A–122–047	Elemental Sulphur	12/1/98—11/30/99
GERMANY: A–428–062.	Animal Glue and Inedible Gelatin	12/1/98—11/30/99
INDIA: A–533–808	Stainless Steel Wire Rod	12/1/98—11/30/99
JAPAN: A–588–809	Business Telephone Systems & Subassemblies Thereof	12/1/98—11/30/99
JAPAN: A–588–405	Cellular Mobile Telephones and Subassemblies	12/1/98—11/30/99
JAPAN: A–588–811	Drafting Machines and Parts Thereof	12/1/98—11/30/99
JAPAN: A–588–046	Polychloroprene Rubber	12/1/98—11/30/99
JAPAN: A–588–068	P.C. Steel Wire Strand	12/1/98—11/30/99
MEXICO: A–201–504	Porcelain-on-Steel Cooking Ware	12/1/98—11/30/99
NEW ZEALAND: A–614–502.	Low-Fuming Brazing Copper Wire & Rod	12/1/98—11/30/99
SOUTH KOREA: A–580–810.	Welded ASTM A–312 Stainless Steel Pipe	12/1/98—11/30/99
SWEDEN: A–401–603	Welded Hollow Products	12/1/98—11/30/99
TAIWAN: A–583–806	Business Telephone Systems & Subassemblies Thereof	12/1/98—11/30/99
TAIWAN: A–583–605	Carbon Steel Butt-Weld Pipe Fittings	12/1/98—11/30/99
TAIWAN: A–583–508	Porcelain-On-Steel Cooking Ware	12/1/98—11/30/99
TAIWAN: A–583–815	Welded ASTM A–312 Stainless Steel Pipe	12/1/98—11/30/99
THE PEOPLE'S REPUBLIC OF CHINA: A–570–827.	Cased Pencils	12/1/98—11/30/99
THE PEOPLE'S REPUBLIC OF CHINA: A–570–506.	Porcelain-on-Steel Cooking Ware	12/1/98—11/30/99
THE PEOPLE'S REPUBLIC OF CHINA: A–570–828.	Silicomanganese	12/1/98—11/30/99
	Countervailing Duty Proceedings	
MEXICO: C–201–505	Porcelain-on-Steel Cooking Ware	1/1/98—12/31/98
	Suspension Agreements	
None		

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International

Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of December 1999. If the Department does not receive, by the last day of December 1999, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 6, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Group II, AD/CVD Enforcement.

[FR Doc. 99–32397 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–812]

Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review and determination not to revoke the order in part.

SUMMARY: On June 8, 1998, the Department of Commerce (''the Department'') published the preliminary results of its administrative review of the antidumping duty order on dynamic random access memory semiconductors of one megabit or above (''DRAMs'') from the Republic of Korea (''Korea''). The review covers two manufacturers/exporters of the subject merchandise to the United States and one reseller for the period May 1, 1997, through April 30, 1998. The two manufacturers/exporters are Hyundai Electronics Industries, Co. (''Hyundai''), and LG Semicon Co., Ltd. (''LG''). The reseller is the G5 Corporation (''G5'').

As a result of our analysis of the comments received, we have changed the results from those presented in our preliminary results of review.

EFFECTIVE DATE: December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Futtner, Alexander Amdur (''Hyundai''), or John Conniff (''LG''), AD/CVD Enforcement, Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3814, (202) 482–5346, and (202) 482–1009, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR 351 (1998).

Background

On June 8, 1999, the Department published in the **Federal Register** (64 FR 30481) the preliminary results of its administrative review of the antidumping duty order on DRAMs from Korea. On September 13, 1999, we released information to interest parties pertaining to possible unreported sales by LG. On October 7, 1999, LG and an interested party submitted factual information relevant to this issue. We also gave interested parties an opportunity to comment on this information and our preliminary review results.

The petitioner, Micron Technology, Inc. (''Micron''), Hyundai, and LG submitted case briefs on October 21, 1999, and rebuttal briefs on October 28, 1999. We held both public and closed hearings on November 4, 1999. We have now completed this administrative review in accordance with section 751(a) of the Act.

Scope of Review

Imports covered by the review are shipments of DRAMs from Korea. Included in the scope are assembled and unassembled DRAMs. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut die, and cut die. Processed wafers produced in Korea, but packaged or assembled into memory modules in a third country, are included in the scope; wafers produced in a third country and assembled or packaged in Korea are not included in the scope.

The scope of this review includes memory modules. A memory module is a collection of DRAMs, the sole function of which is memory. Modules include single in-line processing modules (''SIPs''), single in-line memory modules (''SIMMs''), or other collections of DRAMs, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules which contain additional items which alter the function of the module to something other than memory, such as video graphics adapter (''VGA'') boards and cards, are not included in the scope. The scope of this review also includes video random access memory semiconductors (''VRAMS''), as well as any future packaging and assembling of DRAMs; and, removable memory modules placed on motherboards, with or without a central processing unit (''CPU''), unless the importer of motherboards certifies with the Customs Service that neither it nor a party related to it or under contract to it will remove the modules from the motherboards after importation. The scope of this review does not include DRAMs or memory modules that are reimported for repair or replacement.

The DRAMS and modules subject to this review are currently classifiable under subheadings 8471.50.0085, 8471.91.8085, 8542.11.0024, 8542.11.8026, 8542.13.8034, 8471.50.4000, 8473.30.1000, 8542.11.0026, 8542.11.8034, 8471.50.8095, 8473.30.4000, 8542.11.0034, 8542.13.8005, 8471.91.0090, 8473.30.8000, 8542.11.8001, 8542.13.8024, 8471.91.4000, 8542.11.0001, 8542.11.8024 and 8542.13.8026 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the

Department's written description of the scope of this review remains dispositive.

Determination Not To Revoke

LG submitted a request for revocation from the order covering DRAMs from Korea pursuant to 19 CFR 351.222(b)(2). Under the Department's regulations, the Department may revoke an order, in part, if the Secretary concludes that: (1) [o]ne or more producers or resellers covered by the order have sold the merchandise at not less than [normal] value for a period of at least three consecutive years; (2) [i]t is not likely that those persons will in the future sell the merchandise at less than normal value (''NV''); and (3) the producers or resellers agree in writing to the immediate reinstatement of the order, as long as any producer or reseller is subject to the order, if the Secretary concludes that the producer or reseller, subsequent to the revocation, sold the merchandise at less than NV. *See* 19 CFR 351.222(b)(2). In this case, LG does not meet the first criterion for revocation. The Department found that LG sold the subject merchandise at less than NV during the previous review period. *See DRAMs from the Republic of Korea: Final Results of Antidumping Duty Administrative Review,* 63 FR 50867 (September 23, 1998) (''*Final Results 1998*''). Since LG has not met the first criterion for revocation, *i.e.,* zero or *de-minimis* margins for three consecutive reviews, the Department need not reach a conclusion with respect to the other criteria. Therefore, on this basis, we have determined not to revoke the Korean DRAM antidumping duty order with respect to LG. In light of this decision, interested party comments on revocation are moot and will not be addressed further in these final results.

Facts Available (''FA'')

In accordance with section 776(a) of the Act, we have determined that the use of adverse FA is warranted for LG and G5 for these final results of review.

1. Application of FA

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e), facts otherwise available in reaching the applicable determination. In this review, as described in detail below, the above-referenced companies failed to provide the necessary information in the form and manner requested, and, in some instances, the submitted information could not be verified. Thus, pursuant to section 776(a) of the Act, the Department is required to apply, subject to section 782(d), facts otherwise available.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Pursuant to section 782(e) of the Act, notwithstanding the Department's determination that the submitted information is ''deficient'' under section 782(d) of the Act, the Department shall not decline to consider such information if all of the following requirements are satisfied: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

2. Selection of FA

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (Oct. 16, 1997) (*Pipe and Tubes From Thailand*). In this segment of the proceeding, the Department has determined that it is appropriate to apply in these final review results total adverse facts available to both LG and G5.

G5

For purposes of the preliminary results, the Department concluded that, because G5 failed to respond to the Department's questionnaire, a determination based on total adverse FA was warranted for this company. We, accordingly, assigned an adverse FA rate and articulated detailed reasons for our decision in *Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part,* 64 FR 30481 (June 8, 1999) (''*Preliminary Results*'').

For the final results, no interested party comments were submitted regarding this issue and we continue to find that G5's failure to respond to the Department's questionnaire in this review demonstrates that it failed to cooperate by not acting to the best of its ability. Thus, consistent with the Department's practice in cases where a respondent fails to respond to the Department's questionnaire, in selecting FA for G5 in this review, an adverse inference is warranted. Therefore, we are assigning G5 an adverse FA rate of 10.44 percent, the rate calculated for Hyundai in this review and the highest margin from any segment of the proceeding related to DRAMS from Korea.

LG

Based on information obtained from Customs, the Department preliminarily determined, as it had in the prior review, that numerous sales which LG had reported as third-country sales, were in fact sales to the United States. *See Preliminary Results.* For the final results, we have considered interested party comments (see the Department Position to LG Comment 1) and continue to find that sales which LG had reported as third-country sales, were in fact sales to the United States. *See* Memorandum for Holly A. Kuga, from John Conniff regarding Dynamic Random Access Memory Semiconductors of One Megabit and Above (DRAMs) from the Republic of Korea—LG Sales through Mexico, December 3, 1999.

Similarly, on January 4, 1999, the Department received an e-mail from a former LG employee stating that LG was shipping subject merchandise from Korea to the United States through a customer in Europe and these shipments were being made with the knowledge and support of LG's senior management.

At verification, LG submitted information related to these sales which had been made by its German subsidiary, LG Germany (''LGSG''). Subsequently, the Department queried Customs to determine if any of the sales by LGSG to the European customer in question had entered the United States. Customs data revealed entries covering Korean DRAMs imports into the United States by the European customer's affiliate in the United States. The quantities and values of DRAMs shown in the entries were substantially identical to the quantities and values of DRAMs reflected on the invoices between LGSG and the European customer in question. Documentation from randomly selected sample entries covering transactions between the European customer and its U.S. operation confirm that the DRAMs in question were manufactured in Korea by LG.

In August 1999, information was provided to the Department by a former LG employee familiar with and responsible for worldwide sales to the customer in question during the period of review (''POR''). He stated that at the time that he sold DRAMs to the customer in question in Europe, he had knowledge the DRAMS were ultimately destined for the customer's operation in the United States. *See* Memorandum for Holly A. Kuga, from John Conniff regarding Dynamic Random Access Memory Semiconductors of One Megabit and Above (DRAMs) from the Republic of Korea—LG Sales Through Germany, December 6, 1999 (''LG Sales Through Germany Memo'').

On September 13, 1999, LG was provided with information collected by the Department related to this matter and on September 22, 1999, LG was provided an opportunity to submit factual information and comments concerning this issue. *See* Letter from the Department to Michael House, Esq. regarding Dynamic Random Access Memory Semiconductors of One Megabit (DRAMs) from the Republic of Korea, September 22, 1999 (''September 22, 1999, letter''). On October 7, 1999, LG submitted factual information and on October 21, 1999, and October 28, 1999, LG also presented comments and arguments on this matter in its case briefs and rebuttal briefs.

Based on the record evidence the Department concluded that LG knew at the time it sold the subject DRAMS, that the merchandise was destined for consumption in the United States. *See* LG Sales Through Germany Memo. As LG did not report these sales, in accordance with section 782(d) of the Act, the Department provided LG with the opportunity to explain its deficiencies with respect to unreported U.S. sales. *See* September 22, 1999, letter. However, LG failed to correct these deficiencies. Thus, the Department is required, under section 782(d) to apply, subject to section 782(d) of the Act, FA.

We further determine that LG failed to satisfy several of the requirements enunciated by 782(e) of the Act. First, LG failed to report a significant portion of the company's U.S. sales data. Second, because the unreported sales are significant, LG's U.S. sales data is so incomplete that it cannot serve as a reliable basis for reaching the applicable determination pursuant to subsection (e)(3). Third, LG did not demonstrate that it acted to the best of its ability in providing the necessary information under subsection (e)(4). Fourth, given the incompleteness of LG's responses, the information could not be used without undue difficulties, as required by subsection (e)(5). We thus find that LG did not act to the best of its ability to comply with the request for information under section 776(b) and that, under section 776(b), an adverse inference is warranted. Therefore, we are assigning LG an adverse FA rate of 10.44 percent, the rate calculated for Hyundai in this review, which is the highest margin from any of the proceedings related to DRAMS from Korea.

Duty Absorption

On July 27, 1998, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, both Hyundai and LG sold to the United States through importers that are affiliated within the meaning of sections 751(a)(4) and 771(33) of the Act.

Section 351.213(j)(2) of the Department's regulations provides that for transition orders (i.e., orders in effect on January 1, 1995), the Department will conduct duty absorption reviews, if requested, for administrative reviews initiated in 1996 or 1998. Because the order underlying this review was issued prior to January 1, 1995, and this review was initiated in 1998, we will make a duty absorption determination in this segment of the proceeding.

On January 26, 1999, the Department requested evidence that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review period. Neither Hyundai nor LG provided any evidence in response to the Department's request. Accordingly, based on the record, we cannot conclude that the unaffiliated purchaser in the United States will ultimately pay the assessed duty. Therefore, we find that antidumping duties have been absorbed by the producer or exporter during the POR. For further discussion, *see* DOC position to general comment 5.

Fair Value Comparisons

Unless otherwise noted, to determine whether sales of subject merchandise from Korea to the United States were made at less than fair value, we compared the Constructed Export Price (''CEP'') to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of the preliminary results of review notice. *See Dynamic Random Access Memory Semiconductors (''DRAMs'') of One Megabit or Above from the Republic of Korea,* 64 FR 40481, (June 8, 1999) (''Preliminary Results'').

Interested Party Comments

General Comments

Comment 1: Deferral of Research and Development (''R&D'') Expenses. Hyundai and LG argue that the Department erred in rejecting their accounting methodology for the amortization and deferral of R&D expenses. Hyundai and LG, citing to *Micron Technology* v. *United States,* 893 F. Supp. 21, 28 (U.S. Court of International Trade (''CIT'') 1995) (''*Micron I*''), *The Thai Pineapple Public Co., Ltd.* v. *United States,* 187 F.3d 1362, 1366 (Fed. Cir. 1999), *NTN Bearing Corp.* v. *United States,* 17 CIT 713, 826 F. Supp. 1435, 1441 (1993), *Ipsco, Inc.* v. *United States,* 12 CIT 384, 687 F. Supp. 633, 636 & n.3 (1988), *Color Television Receivers from Korea,* 53 FR 24975, 24982 (July 1, 1988) (''*CTVs from Korea''),* and Gilbert B. Kaplan, Marie Parker, *et. al., Cost Analysis Under the Antidumping Law,* 21 George Wash. J. Int'l L. & Econ. 357, 373–74 (1988), contend that the accounting methodology at issue is in conformity with Article 70.5 of Korean generally accepted accounting principles (''GAAP''), and under section 773(f)(1)(A) of the Act, the Department must accept this methodology unless it finds that the reported costs are distortive. Hyundai contends that the Act's preference for the exporting

country GAAP reflects Article 2.2.1.1 of the WTO Antidumping Agreement, and that the Department has followed such a preference in numerous cases, including *Steel Wire Rod from Canada,* 63 FR 9182 (February 28, 1998), *Collated Roofing Nails from Korea,* 62 FR 51420, 51423 (October 1, 1997); *Ferrosilicon from Brazil,* 62 FR 43504, 43511 (August 14, 1997); *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea,* 61 FR 35177, 35179 (July 5, 1996); *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea,* 61 FR 18547, 18568 (April 26, 1996); and *Industrial Nitrocellulose from France,* 48 FR 21615, 21617 (May 13, 1983).

Hyundai and LG further contend that there is no basis for finding that Hyundai's reported R&D costs are distortive. Hyundai and LG state that in *Micron I,* 893 F. Supp. at 29, the CIT specifically held that, for the DRAM industry, the amortization of R&D expenses, as allowed by Korean GAAP, is not distortive, and that the three to five-year amortization period allowed by Korean GAAP was more reasonable than the Department's expensing methodology. LG states that the Court's logic in Micron I applies to LG's deferral of certain R&D expenses until the related projects achieve commercial realization, as this methodology allows R&D costs to be allocated over the commercial life of the product. Hyundai also states that, in *DRAMs from Korea,* 61 FR 20216, 20219 (May 6, 1996) (''*Final Results 1996*''), the first administrative review of this proceeding, the Department complied with this ruling in its treatment of LG's R&D expenses.

Hyundai points out that, in *CTVs from Korea,* 53 FR at 24982, *Certain Welded Stainless Steel Pipe from the Republic of Korea,* 57 FR 53693 (November 12, 1992) (''*Pipe from Korea*''), and *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea,* 56 FR 16305 (April 22, 1991) (''*PET Film from Korea*''), the Department explicitly allowed the amortization of R&D expenses pursuant to Korean GAAP. Hyundai maintains that amortizing R&D expenses is just as appropriate in the present case as it was in those cases.

Hyundai also maintains that the Department, in *Steel Wire Rod from Canada,* 63 FR 9182, 9187 (February 24, 1998), recognized that it is not distortive for a company to defer expenses that will benefit future operations. Hyundai states that, in much the same manner, it is reasonable for Hyundai to spread R&D costs over future periods because Hyundai's R&D expenses for the development of new generations of products will benefit future periods by providing sales revenues for improved products.

Hyundai further argues that the amortization and deferral of R&D expenses under Korean GAAP conforms to the principles of International Accounting Standard (''IAS'') No. 9, which is intended to match costs with products that benefit from those expenditures, and not, as the Department suggests, to ''alleviate losses listed on a company's financial statement.'' Hyundai states that the Department explicitly endorsed IAS No. 9 as the basis for amortizing R&D expenses for products, including semiconductors, in *Erasable Programmable Read Only Memories (EPROMs) from Japan,* 51 FR 39680, 39682 (October 30, 1986), and *Cellular Mobile Telephones and Subassemblies from Japan,* 50 FR 45447, 45453 (October 31, 1985) (''*Cell Phones from Japan''),* and did not rely upon U.S. GAAP to reject amortization of R&D until it issued its decision (which was subsequently overturned by the CIT) in *Dynamic Random Access Memory Semiconductors of One Megabit and Above from Korea,* 58 FR 15467, 15472 (March 23, 1993) (''*Final Determination*''). Hyundai also notes that the principles of IAS No. 9 are recognized in Canadian and British accounting standards.

Hyundai contends that, in view of its ''virtual isolation,'' the treatment of R&D under U.S. GAAP should not be automatically accepted as the standard for determining whether costs are distorted under section 773(f)(1)(A) of the Act. Hyundai notes that U.S. GAAP requires the expensing of R&D expenditures because of the ''presumed'' absence of a relationship between R&D expenditures and subsequent benefits, whereas Hyundai's own experience demonstrates the direct link between R&D expenditures and the revenues derived from the sale of later generations of DRAMs. Hyundai also notes that the U.S. practice of expensing R&D in Financial Accounting Standards Board (''FASB'') Standard No. 2 has been criticized by accounting experts, such as Baruch Lev and Theodore Sougiannis in ''The Capitalization, Amortization, and Value-Relevance of R&D,'' 21 Journal of Accounting & Economics, 107, 134 (1996), and is under review by the FASB. Hyundai states that the FASB has proposed to abandon the U.S. GAAP requirement for expensing in-process R&D acquired in a corporate acquisition in the year of acquisition, and require the amortization of such R&D. Hyundai maintains that although the FASB subsequently tabled this proposal, the FASB has plans to eventually consider the treatment of all R&D, and the Department cannot use a standard with such an uncertain future to judge the validity of Korean GAAP.

Hyundai also argues that its method of recognizing R&D is consistent with both accounting theory and the SAA. Hyundai notes that Eiden Hendricksen, in *Accounting Theory,* (Irwin 1992), at 650, endorses the matching of R&D expenses with ''the period benefitted,'' and the SAA, at 835, specifically condones allocating R&D costs over current and future production in order to match the expenditures with the production that benefits from the expenditures. Hyundai contends that its R&D methodology is particularly appropriate for the semiconductor industry in general, and Hyundai in particular. Hyundai states that the nature of its R&D activities, its emphasis on development of specific products, and the steady flow of next generation products, contrary to the rationale of FASB No. 2, produce ''direct and immediate'' benefits. Hyundai argues that a large part of its 1997 R&D expenditures were for products that were to be sold in 1998 and 1999, while the other part of its R&D expenditures involves products that are expected by the Semiconductor Industry Association to be available within the next five years. Hyundai concludes that its treatment of R&D reasonably reflects the cost of producing the subject merchandise.

Hyundai additionally contends that the Department improperly rejected Hyundai's accounting treatment of R&D expenses on the grounds that Hyundai, under the SAA at 834, had not demonstrated that it had historically utilized such a methodology. Hyundai states that behind this statement in the SAA is the need to justify the appropriate period for amortizing expenses that benefit future production. Hyundai, citing to the *Micron* I decision, contends that there is a history in the Korean semiconductor industry of amortizing R&D expenses over five years. Hyundai also adds that the SAA at 834 is directed at changes in depreciation, and not R&D, methodology.

Hyundai further maintains that, in accordance with other standards stated by the Department, its new R&D methodology better reflects the actual costs incurred in producing the subject merchandise than the prior methodology because it matches the cost of R&D with the products that benefit from the R&D. Hyundai also

states that there is no risk that its R&D costs will never be reflected in the dumping calculations. Hyundai notes that Korean GAAP provides for the unamortized, deferred balance of R&D costs to be expensed immediately if the possibility of realizing revenue from an R&D project is remote. Hyundai asserts that the Department's statement that, under this provision, Hyundai ''could potentially . . . never recognize any of the R&D expenses'' deferred implies that Hyundai's auditors would allow the company to violate GAAP by deferring R&D expenses indefinitely, and ignores the fact that Hyundai stated in its questionnaire response that it is following this requirement. Hyundai adds that all R&D costs that were incurred in prior years have already been captured by the Department in the cost calculations of this review and prior reviews, and all current R&D expenditures will be captured in this review and subsequent reviews.

LG contends that the Department's decision at issue is also inconsistent with the CIT's decision after remand in *Micron Technology* v. *United States,* Slip Op. 99–51 (June 16, 1996) (''*Micron II*''). LG, citing to *Micron II*, Slip Op. 99–51 at 5, states that Court found that the Department's concern over costs that would never be included in any review was a ''red herring,'' and that such concerns in the present case are similarly misplaced, as the R&D costs that are deferred and amortized in this review period will be captured in subsequent periods. LG also states that the Court, in the same decision, found that the Department's concern that LG would change its accounting procedures to achieve favorable antidumping treatment made ''little, if any, business sense'' (*see Id.* at 6), and in this review, the Department has even acknowledged that LG did not change its R&D accounting method for antidumping purposes.

LG also states that, since it changed its accounting methodology for R&D expenses in the normal course of business, it must show only, as in *PET Film from Korea*, 56 FR at 16312–13, that its methodology is not distortive, and does not have to justify its change in methodology. In this regard, LG points out that the CIT ruled in *Micron I* that amortization of DRAM R&D costs is not distortive, and is more reasonable than expensing R&D costs in the year incurred.

LG further states that its R&D expense is lower in 1997, as noted by the Department, purely as a result of the transition in methodologies from expensing to amortizing, since in the transition year there are no prior years' R&D expenses subject to amortization. LG notes that all prior years' R&D expenses have already been included by the Department in prior review periods, and argues that the CIT, in the *Micron II* decision, ruled that the Department may not penalize LG for changing accounting methodologies in the normal course of business. LG states that, under the Department's reasoning, a company would never be able to change from expensing any cost to amortizing that cost, because the cost in a transition year would always be reduced from prior years as a result of the transition.

LG also points out that the Department's concerns about its complete deferral of certain R&D expenses are misplaced. LG states that all of the deferred R&D projects are those of which there was no current production, and no related revenue. LG also asserts that the Department's position that R&D related to these future generation projects' benefits current production is not supported by the record.

Micron contends that the Department correctly rejected Hyundai and LG's accounting method for R&D expenses as distortive of costs, and issued a legally sound determination on this issue. Micron, citing to the SAA at 834, *Certain Small Business Telephone Systems and Subassemblies Thereof From Korea,* 54 FR 53141, 53149 (December 27, 1989), *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea,* 64 FR 12927, 12944 (March 16, 1999), and *Foam Extruded PVC and Polystyrene Framing Stock From the United Kingdom,* 61 FR 51411, 51418 (October 2, 1996), states that the issue is not whether the Department has allowed R&D to be expensed or amortized in other cases, but whether a company's own records, even when kept in accordance with local GAAP, distort costs. Micron, citing to the SAA at 834, *Mechanical Transfer Presses From Japan,* 55 FR 335 (January 4, 1990), and *Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8921–22 (February 23, 1998) (''*SRAMs from Taiwan*''), further states that the Department determines whether costs are distortive by looking to U.S. GAAP for the industry in question, and the Department, in the instant case, fully explained how the respondents' accounting for R&D was distortive under U.S. GAAP.

Micron maintains that the Court, in *Micron I,* 893 F. Supp. at 29, did not rule as a matter of law either that the Department must amortize R&D costs, or that Korean GAAP reasonably reflects R&D costs; rather, Micron points out that the Court ruled that Department had failed to articulate a reasoned analysis in support of its decision to expense R&D. Micron also states that the respondents' claim that they amortize R&D over the period of the DRAM ''life cycle'' noted by the Court in *Micron I* in order to correspond to the life cycle of their products is a ''post-hoc rationalization'' that is not supported by documents prepared by the respondents in the normal course of business. Micron adds that Korean GAAP does not specifically relate the amortization period to the life cycle of the product, and notes that a company could be conducting R&D on a product with a much shorter life cycle than DRAMs, amortize the costs over five years, and still be within Korean GAAP. Micron also notes, that, in any case, FASB No. 2 clearly states there is no direct relationship between R&D expenditures and future benefits.

Micron further distinguishes the present case from *Micron I.* First, Micron maintains that, unlike the situation in *Micron I*, the respondents, in addition to amortization, adopted a new, ''inherently uncertain'' accounting approach to R&D by completely deferring R&D costs until they ''arbitrarily foresee any possibility of realizing revenue.'' Micron also notes that the Department fully explained how this approach affected the respondent's reported costs. Second, Micron argues that, unlike the situation in *Micron I*, the respondents have repeatedly changed their accounting methodologies for R&D throughout the course of this proceeding, and distorted costs, in order to affect their apparent profitability. In specific regards to Hyundai, Micron states that Hyundai offered no substantive reason for this accounting change, and simply changed its methodology without any change in the nature of its R&D. Third, in *Micron I*, because the history of the respondent's accounting changes was not before the Court, the Court had no basis to consider, as it would now, the respondent's inability to show that they have ''historically utilized'' such allocations, as required by the SAA at 834.

Micron disagrees with LG that the Department's treatment of LG's R&D expenses conflicts with the *Micron II* decision. Micron states that this decision is irrelevant to LG's situation because it only concerned R&D that was previously incurred but not expensed, and prior to this review period, LG had no such R&D expenses.

Micron further argues, notwithstanding the issue of whether the Department, under the Act, should

defer to international accounting standards over U.S. GAAP when the two standards differ, that the international standards Hyundai discusses are not inconsistent with the Department's analysis. Micron states that both U.S. GAAP, under FASB No. 2, and international standards, under IAS 9, both recognize that R&D expenses, in at least some instances, cannot be matched to revenues because the benefits of R&D cannot be discerned at the time the costs are incurred. In relating this guideline to Hyundai and LG, Micron states that neither respondent demonstrated during 1996 and 1997 that they could have associated future revenues and current revenue with any reasonable certainty, especially in light of the downturn in the DRAM market and the economic crisis in South Korea at that time. Micron further generally states that R&D may benefit future generations, but at the time that R&D is incurred, one cannot tell when or whether R&D will produce a commercially successful result; and amortizing R&D expense over a number of years is a ''self-serving guess.''

DOC Position: Section 773(f)(1)(A) of the Act, directs to the Department to rely ''on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the GAAP of the exporting country (or the producing country where appropriate) and reasonably reflect the costs associated with production and sale of the merchandise.'' Section 773(f)(1)(A) of the Act also states that the Department will consider whether ''such allocations have been historically used by the exporter or the producer.'' Further, as explained in the SAA, ''[t]he exporter or producer will be expected to demonstrate that it has historically utilized such allocations, particularly with regard to the establishment of appropriate amortization and depreciation periods and allowances for capital expenditures and other development costs.'' *See SAA* at 834. *See also Final Results 1998*, 63 FR at 50871.

We agree with Hyundai and LG that their method of amortizing and deferring R&D costs is permissible with Korean GAAP, and that their previous method of expensing all current period R&D expenses in the year incurred is also in accordance with Korean GAAP. However, Hyundai's and LG's practice of continually *changing* between these methods distorts the cost calculation in an antidumping analysis. As explained in the Department's Memorandum on ''Whether to Accept the Reported Research & Development Expenses of Hyundai Electronics Industries Co., Ltd. and LG Semicon, Ltd.,'' dated June 1, 1999 (''R&D Memo''), Hyundai and LG have repeatedly changed their accounting method for R&D expenses throughout the course of these proceedings (*i.e.,* from capitalizing and amortizing, to expensing in the year incurred, and now back to capitalizing and amortizing) and are now deferring certain R&D expenses indefinitely. *See* R&D Memo at 2. As a result, the respondents recognize, in relation to amounts that would be recognized if either method was constantly applied, aberrationally high amounts of R&D expense in some years, and aberrationally low amounts of R&D expense in other years, that do not reasonably reflect the costs of producing the subject merchandise. For example, in the first administrative review of this proceeding, LG changed its method for recognizing R&D expenses from capitalizing and amortizing R&D expenses over five years to expensing in full in the current year. *See DRAMs from Korea*, 61 FR 20216, 20219 (May 6, 1996) (''*Final Results 1996*'') and *Micron II*, Slip Op. 99–551. In that year, LG recognized, in addition to its current year R&D expense, R&D expenses from its balance sheet which it had capitalized in prior years (as part of its capitalizing and amortizing methodology) and not yet amortized and recognized on its income statement. Consequently, in that year, LG recognized the full amount of R&D expenses incurred in that current year (under its expensing methodology) *as well as* all of the previously unamortized and unrecognized amounts of R&D expenses remaining on its balance sheet from prior years. LG thus recognized in that year significantly higher than normal amounts of R&D expenses than it would have under the consistent application of either methodology.

In the current review period, Hyundai and LG have changed their accounting methodology for R&D expenses once again, this time back to capitalizing and amortizing their R&D expenses over five years. As a result, the respondents recognize (and have reported to the Department) less than one-fifth of their current year's R&D costs. With the adoption of this new methodology, the respondents next year will recognize approximately one-fifth of that year's R&D expense and approximately one-fifth from the current review period, and will not recognize the equivalent of a full year's R&D expense until at least the fifth year. Thus, because of inconsistent accounting treatment, the respondents are recognizing an aberrationally low amount of R&D expenses.

A second methodology that further distorts Hyundai's and LG's reported costs is their new practice of indefinitely capitalizing certain R&D costs. Apart from R&D costs that are amortized over five years, Hyundai and LG are now completely deferring R&D costs for certain long-term projects until they realize revenues from these projects, or until they foresee no possibility of realizing revenue from these projects. While in prior years, the respondents recognized all of this type of R&D expense in the year incurred, under the new methodology, none of this R&D expense is recognized in the current year. Moreover, this methodology is contrary to the principle of conservatism in accounting where an expense is recognized when incurred if the probability of associated revenue is remote or uncertain. Therefore, we find that, for dumping purposes, this methodology does not reasonably reflect the cost of producing the subject merchandise.

Hyundai and LG, by continually changing their R&D accounting methodologies, are manipulating the magnitude of the R&D expenses that they are recognizing, and reporting to the Department. This switching of methodologies can lead to distortions for antidumping purposes because the fluctuating costs tend to overstate per unit amounts in one period and understate these amounts in other periods. The CIT has noted the distortion that such changes in R&D accounting methodologies can cause. In *Micron II* (which relates to the first review of this proceeding, when LG switched from amortizing to expensing R&D costs currently), the Court ruled that it was distortive for the Department to include in its calculations, as LG included in its own books and records, both the current year's R&D expenses and the unamortized amount of prior years R&D expenses. *See Micron II*, Slip Op. 99-551. In the same manner that the CIT believes that the amount of R&D expenses that LG recognized, and the Department included in its calculations in the first review (*i.e.*, one full current year amount, plus prior capitalized amounts), was overstated, the amount of R&D expenses that Hyundai and LG recognized in the current review (*i.e.*, less than one-fifth of one year's R&D expense) is understated.

The Court, in *Micron II*, specifically stated that ''the object of the cost of production exercise is*** to capture***those expenses that reasonably and accurately reflect a respondent's actual production costs for

a period of review.'' *Micron II*, Slip Op. 99–551, at 6. However, by abruptly switching to amortizing and deferring R&D expenses, Hyundai and LG are not capturing those expenses that reasonably and accurately reflect their actual R&D costs for this POR. As a result of their constantly changing of R&D methodologies, their latest method of capitalization of R&D produces a distorted and meaningless (for the cost of production exercise) result that does not reasonably reflect the actual cost of producing the subject merchandise.

We have therefore determined that is appropriate to recognize for antidumping purposes all of Hyundai's and LG's 1997 R&D expenses in order to reasonably and accurately reflect their actual R&D costs for a given year. The Department also believes that, in general, recognizing the current year's R&D expenses is a reasonable method to recognize R&D expenses. This methodology is consistent with both Korean and U.S. GAAP, and is the same methodology that Hyundai and LG have been following for the past several years.

Moreover, as Hyundai recognizes, the Department's practice is to consider, among other factors, international accounting standards for determining the reasonableness of a cost accounting methodology. While IAS No. 9 principally provides for the amortization of R&D expenses, IAS No. 9 also states that costs should be recognized as an expense on a systematic basis, which directly contradicts Hyundai's and LG's practice of continually changing how they recognize R&D expenses.

We disagree with Hyundai that the SAA at 835 (on non-recurring costs) specifically supports Hyundai's argument that SAA prefers the amortization of R&D expenses. The SAA at 835 states that Commerce associates expenditures with all production benefitting from the expenditure, and gives R&D costs as an example of an expenditure that Commerce may allocate over current and future production. In some limited instances, consistent with the SAA at 835, it may be appropriate to allocate certain R&D costs for items that have alternative future uses (and benefits) over future production. The Department, in specific reference to the section of the SAA at issue, stated in the preamble to its final regulations that ''the allocation of nonrecurring costs, such as R&D costs, for purposes of computing COP and CV is dependent on case-specific factors.'' *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27362 (May 19, 1997) (''*Final Rule*''). Moreover, in its proposed rules, the Department, also in reference to the SAA at 835, specifically stated that:

> * * *there is no guarantee that * * * [R&D] * * * costs, if incurred to develop a new product or production process, would hold any future benefit to a company. To the contrary, after many months of costly research, a manufacturer could find its new product technologically useless due to the efforts of its competitors. In that case, the amounts incurred for R&D would not benefit the producer in terms of future product sales. Under these circumstances, the R&D expenditures must be recognized as a expense in the year incurred rather than amortized to some future periods.

See Antidumping Duties; Countervailing Duties; Notice of Proposed Rule Making and Request for Public Comments, 61 FR 7308, 7342 (February 27, 1996) (''*Proposed Rule*'') (emphasis added).

We also disagree with Hyundai that it has demonstrated, pursuant to the SAA, that it has historically utilized its new R&D accounting methodologies. While both Hyundai and LG previously amortized R&D, they have not done so consistently, and for the last several years have been expensing R&D currently. *See Final Results 1996, DRAMs from Korea*, 62 FR 965 (January 7, 1997) (''*Final Results 1997 (I)*'') (final results of second review), *DRAMs from Korea*, 62 FR 39809 (July 24, 1997) (''*Final Results 1997 (II)*'') (final results of third review), and Final Results 1998. Moreover, there is no evidence on the record that LG or Hyundai (prior to 1996) ever completely deferred R&D expenses. Additionally, the SAA at 834 is not, as Hyundai claims, directed at changes in depreciation, but only discusses depreciation as an example of how a company's records might not fairly allocate costs.

We disagree with both Hyundai and LG that the Department's decision to reject their R&D accounting methodologies is contrary to the *Micron I* decision. First, in *Micron I*, the Court ruled that the Department ''failed to articulate a reasoned analysis justifying the departure from its established practice of amortizing those R&D expenses.'' *See Micron I* at 28. In contrast, in the present case, the Department has specifically articulated how amortizing and deferring R&D expenses is distortive. Second, the Department's methodology of expensing R&D is no longer a ''departure from its established practice.'' The Department's established practice is to expense semiconductor R&D currently. While the Department, prior to the *Final Determination*, in the cases cited by Hyundai and LG (*i.e., CTVs from Korea, Pipe from Korea*, and *PET Film from Korea*), allowed respondents to amortize R&D, the Department, for at least the last six years, and throughout the course of this proceeding, has constantly required that respondents recognize R&D expenses currently. *See, e.g., Final Determination*, 58 FR at 15472 (Department rejected amortization of R&D), *Final Results 1996, Final Results 1997 (I), Final Results 1997 (II)*, and *Final Results 1998* (Department accepted expensing of R&D currently). *See also SRAMs from Korea*, 63 FR 8934 (February 23, 1998) and *SRAMs from Taiwan* (Department accepted expensing of R&D currently) and *Dynamic Random Access Memory Semiconductors of One Megabit or Above from Taiwan*, 64 FR 56308, 56319 (October 19, 1999) (Department agreed that ''R&D costs should be expensed as incurred''). Third, the substance of the issues in Micron I and the present case are different. The Micron I decision concerned only the respondents' amortization of R&D expenses, while the present case also involves the respondents' practice of continually changing how they recognize R&D expenses.

Hyundai's citation to *Steel Wire Rod from Canada* also is misplaced. *Steel Wire Rod from Canada*, 63 FR at 9187, concerned the amortization of certain costs relating to a furnace conversion, and not the amortization and deferral of R&D costs, as in the present case.

We disagree with LG that the Department would never allow a company to change from expensing any cost to amortizing that cost because of the reduced cost recognized in the transition year. The Department evaluates any such change on a case by case basis. In the present case, as explained above, we found that the reduced R&D cost recognized by Hyundai and LG through the amortization and deferral of their R&D expenses, and resulting allocation of R&D expenses to merchandise, does not reasonably reflect the cost of producing the subject merchandise.

Comment 2: Cross-Fertilization of R&D. Hyundai and LG argue that the Department erred in including the cost of R&D performed for non-memory and non-DRAM semiconductor products, respectively, in the cost of their DRAMs. Hyundai, citing section 773(e) of the Act, and LG, citing section 773(f)(1)(A) of the Act, argue that this decision violates the statutory requirements under the Act that Commerce calculates constructed value (''CV'') based on the production and general expenses related to the subject merchandise only. Hyundai, citing *High-Tenacity Rayon Filament Yarn from Germany*, 60 FR

15897, 15899 (March 28, 1995), *Large Power Transformers from Japan*, 57 FR 45767, 45768 (October 5, 1992), *Sweaters Wholly or in Chief Weight of Man-Made Fiber from the Republic of Korea*, 55 FR 32659, 32671 (August 10, 1990), *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 61 FR 66472, 66491 (December 17, 1996)), *Oil Country Tubular Goods from Argentina*, 60 FR 33539, 33549 (June 28, 1995), *High Information Content Flat Panel Displays and Display Glass Therefor from Japan*, 56 FR 32376, 32386 (July 16, 1991), and *Certain Small Business Telephone Systems and Subassemblies Thereof from Taiwan*, 54 FR 42543, 42548 (October 17, 1989); and LG, additionally citing *Lightweight Polyester Filament Fabrics from Korea*, 48 FR 49,679, 49,681 (Oct. 27, 1983), *Shop Towels from Bangladesh*, 57 FR 3996, 3998–99 (Feb. 3, 1992), *Erasable Programmable Read Only Memories from Japan*, 51 FR 39,680, 39,685 (Oct. 30, 1986) and *Nippon Pillow Block Sales Co.* v. *United States*, 17 CIT 276, 820 F. Supp. 1444 (1993); further argue that, consistent with the statute, the Department's long-standing practice has been to calculate the R&D expense component of CV on the most product-specific basis possible, and to exclude those R&D expenses that do not relate to the production of subject merchandise. LG, citing *Cost Analysis Under the Antidumping Law*, 21 George Wash. J. Int'l L. & Econ. at 389, notes that the Department has applied this practice without distinction to semiconductor cases, including *64K DRAMs From Japan*, 51 FR 15,943, 15,948 (April 29, 1986)

Hyundai and LG add that, in *Micron I*, 893 F. Supp. 21, 27, the CIT reversed the same decision to include non-subject R&D in the investigation of this case because it was unsupported by substantial evidence. Hyundai and LG contend that nothing has changed in this review that would justify a different result. Hyundai and LG maintain the Department has provided no factual support for its cross-fertilization theory that ''the subject merchandise benefits from R&D expenditures earmarked for non-subject merchandise.'' Hyundai and LG also maintain that the only cross-fertilization that may occur is that, for Hyundai, non-memory, and for LG, SRAM, semiconductor R&D may benefit from more advanced DRAM R&D.

Hyundai and LG state the Memorandum from Dr. Murzy Jhabvala to U.S. Department of Commerce/Office of Antidumping Compliance regarding Cross-Fertilization of R&D of Semiconductor Memory Devices (''September 1997 Jhabvala Memo''), on file in the CRU, provides no substantial evidence to justify the Department's decision. Hyundai and LG contend that the September 1997 Jhabvala Memo is general and conclusory, and argue that the September 1997 Jhabvala Memo provides no evidence specific to their R&D and operations. Hyundai specifically states that its R&D for non-memory devices in its System IC Laboratory does not benefit memory devices because of the fundamental differences in function, design, and production between non-memory and memory products. LG specifically argues that it demonstrated to the Department at verification that its DRAM production operations do not derive any benefit from the R&D conducted for other products. LG also argues that Mr. Jhabvala's qualifications as set forth in his letter do not reveal any experience in DRAM R&D and production, and that other letters by actual experts on the record contradict his opinion.

Micron argues that the Department properly accounted for the cross-fertilization of semiconductor R&D. Micron, citing to *Final Results 1996*, 61 FR at 20217–18, *Final Results 1997 (2)*, 62 FR at 967, *Final Results 1997 (3)*, 63 FR at 39823, *Final Results 1998*, 63 FR at 50870, *SRAMs from Korea*, 63 FR at 8938, *SRAMs from Taiwan*, 63 FR at 8925, and *DRAMs from Taiwan*, 64 FR at 56319, states that the Department has found that semiconductor industry R&D has a significant ''cross-fertilizing'' effect for R&D relating to all semiconductor products. Micron further argues that all of the respondents' arguments, including those relating to the *Micron I* decision, were rejected previously by the Department in *Final Results 1998* and *SRAMs from Korea.*

Micron also states that the September 1997 Jhabvala Memo, and information that Micron placed on the record, support the Department's finding on this matter. Micron also notes that the respondents have not included in their case briefs any direct citations to any expert opinion to support their arguments since the record evidence supports the Department's position.

Micron contends that the Department has not departed from its practice, or its statutory obligations, in this issue. Rather, as the Department explained in *SRAMs from Korea*, 63 FR at 8940, the cost calculations in the present review are product-specific. Micron further points out that Hyundai, by proposing to allocate R&D on broad product lines, memory and non-memory, has acknowledged that its R&D expenses cannot be allocated on a model-specific or subject merchandise-specific basis. Moreover, Micron notes that the Department stated in *Final Results 1998*, 63 FR at 50870, that it is not bound by the way a company such as Hyundai categorizes its costs.

DOC Position: We disagree with Hyundai and LG and have allocated all semiconductor R&D expenses over the total semiconductor cost of goods sold. This allocation methodology is fully consistent with the antidumping statute and the R&D calculations we have used throughout the Korean and Taiwan DRAMs and SRAMs proceedings.

In *SRAMs from Korea,* we noted that, as a result of the forward-looking nature of R&D activities, we could not predict every instance where SRAM R&D may influence logic products or where logic R&D may influence SRAM products. As a result, we requested that Dr. Murzy Jhabvala, a semiconductor device engineer at the National Aeronautics and Space Administration with twenty-four years of experience, state his views regarding any potential overlap or cross-fertilization of R&D efforts in the semiconductor industry. In fact, Dr. Jhabvala had identified in another semiconductor proceeding before the Department areas where R&D from one type of semiconductor product influenced another semiconductor product. These statements, including the September 1997 Jhabvala Memo, are on the record of this review. In a statement prepared for the SRAMs Final Determination, Dr. Jhabvala stated that:

> SRAMs represent along with DRAMs the culmination of semiconductor research and development. Both families of devices have benefitted from the advances in photo lithographic techniques to print the fine geometries (the state-of-the-art steppers) required for the high density of transistors * * * In addition to achieve higher access speeds bipolar (ECL or TTL) output amplifiers are incorporated directly on chip with the CMOS SRAM memory array, a process known as BiCMOS. Further efforts to improve speed have resulted in the combination of the bipolar ECL technology with CMOS technology with silicon on insulator (SOI) technology.
>
> Clearly, three distinct areas of semiconductor technology are converging to benefit the SRAM device performance. There are other instances where previous technology and the efforts expended to develop that technology occurs in the SRAM technology. Some examples of these are the use of thin film transistors (TFTs) in SRAMs, advanced metal interconnect systems, anisotropic etching and filling techniques for trenching and planarization (CMP) and implant technology for retrograde wells.

See September 8, 1997, Memorandum from Murzy Jhabvala to U.S. Department of Commerce regarding ''Cross Fertilization of Research and

Development of Semiconductor Memory Devices'' (''September 1997 Jhabvala Memo'').

In *SRAMs from Korea,* we disagreed with Hyundai's contention that we must follow Hyundai's normal accounting records which categorize R&D expenses by project and product. *See SRAMs from Korea,* 63 FR at 8940. We disagree with similar contentions from LG and Hyundai in this review. As we have said in the past (*see, e.g., Final Results 1998*, 63 FR at 50870), we are not bound by the way a company categorizes its costs, R&D projects, or laboratory facilities, or by the company's accounting records that we review at verification if they do not reasonably reflect the costs attributable to production of the subject merchandise. Moreover, the mere fact that R&D projects for memory and non-memory products may be run in different laboratories, the fact that process and product research for memory and non-memory products may be distinguished, and the fact that each of the respondents may account for these R&D projects separately in their respective books and records, does not address the issue of cross-fertilization in semiconductor R&D. The existence of cross-fertilization in semiconductor R&D is the central theme of Dr. Jhabvala's many statements to the Department. Dr. Jhabvala offers various examples in those statements to illustrate that, regardless of the accounting or laboratory arrangements, the research results or developments in the processes and technologies used in the production and development of one semiconductor family can be (and are) used in the production and development of other semiconductor families. Dr. Jhabvala goes so far as to state that it would be ''unrealistic to expect researchers to work in complete technical isolation constantly reinventing technology that might already exist.'' *See* September 1997 Jhabvala Memo. Hyundai, in contrast to LG, does not contest the Department's position that all R&D for memory semiconductor projects, including SRAMs, benefits DRAMs. Given these facts, we do not believe that the reported expenses for DRAM R&D projects reasonably reflect the appropriate cost of producing the subject merchandise. As a result, we have continued to allocate all semiconductor R&D expenses over the total semiconductor cost of goods sold, a methodology which does not overstate costs, but which we believe reasonably and accurately identifies the R&D expenses attributable to subject merchandise. [1]

This methodology is not a change in the Department's approach to this issue. It is the Department's long-standing practice where costs benefit more than one product to allocate those costs to all the products which they benefit. *See, e.g., SRAMs from Korea,* 63 FR at 8940. This methodology results in the calculation of product-specific costs consistent with sections 773(e) and 773(f)(1)(A) of the Act because we have determined that DRAM-specific R&D account entries do not by themselves reflect all costs associated with the production and sale of subject merchandise.

Comment 3: Level of Trade (''LOT'')/ CEP Offset. Micron argues that in two recent decisions the CIT held that the Department must perform its LOT analysis based on unadjusted starting prices both for the U.S. sales used to calculate CEP as well as the home market sales used to calculate NV. *See Borden, Inc.* v. *United States,* 22 CIT __, 4 F. Supp. 2d 1221 (1998); *Micron Technology, Inc.* v. *United States,* 23 CIT __, 40 F. Supp. 2d 481, 485–86 (1999). In the Preliminary Results, the Department failed to do this, and instead analyzed the LOT of the home market sales based on the unadjusted starting prices of those sales, while analyzing the LOT of the U.S. sales based on the ''level of the constructed sale from the exporter to the [affiliated] importer,'' i.e., the prices after adjustment for U.S.-related selling expenses.

Using this analysis, the Department determined, for both Hyundai and LG, that the home market and U.S. sales were made at different LOTs. In the absence of sales at more than one LOT in the comparison market, the Department found it could not quantify a LOT adjustment, and granted a CEP offset adjustment to each of the three respondents. *See id.* The Department declines to follow *Borden* on the grounds that it ''is not a final decision.'' *See* Level of Trade Memorandum, dated May 27, 1999. However, as the *Borden* and *Micron* decisions both establish, the Department's current practice is in conflict with the requirements of the statute. When the Department conducts a corrected LOT analysis, based on unadjusted starting prices in both the U.S. and the comparison markets, it will find that the comparison market sales made by Hyundai and LG were not made at a more advanced LOT than their sales in the United States, and therefore there is no basis for granting either a LOT adjustment or a CEP offset.

Hyundai argues that the Department has ruled that Hyundai has been entitled to a CEP offset in each administrative review and argues that there are no factual reasons why the Department should reverse its long-standing practice. The Department has consistently ruled that the LOT of CEP sales must be based on the adjusted CEP price, not on the CEP starting price as advocated by Micron. *See DRAMs from Taiwan* 64 FR at 56313 (October 19, 1999). Hyundai argues that Petitioner's reliance on *Borden* is based on an incorrect interpretation of the statute. The court in *Borden* stated that the adjustments to CEP must be disregarded in defining the LOT of the CEP for purposes of the offset. However, the adjustments authorized under section 772(b) are an integral part of the definition of the statute and must be adhered to when determining the adjusted CEP price for comparisons and conducting the LOT analysis. Hyundai argues that the adoption of the court's reasoning in the *Borden* case would result in an unfair and distorted price comparison that is contrary to Congressional intent.

Hyundai argues that it has established that there is a difference between the LOT in the home market and the CEP LOT. All of Hyundai's U.S. sales are on a CEP basis and its home market sales are at a more advanced stage of distribution than the CEP sales. Therefore, a CEP offset is appropriate under the provisions of the statute.

LG asserts that the Department made a CEP offset correctly. LG also maintains that the Department should not apply the *Borden* case to the instant review. According to LG, the court held mistakenly that the Department's adjustments to CEP starting prices (by removing certain expenses) are inconsistent with section 773(a)(7) of the Act. LG claims that the court believed that such adjustments distort the LOT analysis and that this ''pre-adjustment'' creates an automatic CEP offset in addition to any CEP offset or LOT adjustment made after a comparison of adjusted CEP to HM price. LG contends that the Department's methodology does not create a ''pre-adjustment'' and correctly removes from the starting U.S. price only those expenses related to the resale transaction between the U.S. affiliate and the unaffiliated U.S. customer.

DOC Position: The Department agrees with Hyundai and LG. We have

[1] In *SRAMs from Korea,* 63 FR at 8940, and *SRAMs from Taiwan,* 63 FR at 8925, we also disagreed with those same expert opinions regarding semiconductor R&D that LG submitted in this review, and for the reasons stated above, continue to disagree with those opinions.

consistently stated that the statute and the SAA support analyzing the LOT of CEP sales at the constructed level after expenses associated with economic activities in the United States have been deducted, pursuant to section 772(d) of the Act. In the preamble to our proposed regulations, we stated:

> With respect to the identification of levels of trade, some commentators argued that, consistent with past practice, the Department should base level of trade on the starting price for both export price EP and CEP sales . . . The Department believes that this proposal is not supported by the SAA. If the starting price is used for all U.S. sales, the Department's ability to make meaningful comparisons at the same level of trade (or appropriate adjustments for differences in levels of trade) would be severely undermined in cases involving CEP sales. As noted by other commentators, using the starting price to determine the level of trade of both types of U.S. sales would result in a finding of different levels of trade for an EP sale and a CEP sale adjusted to a price that reflected the same selling functions. Accordingly, the regulations specify that the level of trade analyzed for EP sales is that of the starting price, and for CEP sales it is the constructed level of trade of the price after the deduction of U.S. selling expenses and profit.

See Proposed Rule, 61 FR at 7347.

Consistent with the above position, in those cases where a LOT comparison is warranted and possible, the Department normally evaluates the LOT for CEP sales based on the price after adjustments are made under section 772(d) of the Act. *See, e.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Japan: Notice of Final Determination of Sales at Less Than Fair Value*, 61 FR 38139, 38143 (July 23, 1996). We note that, in every case decided under the revised antidumping statute, we have consistently adhered to this interpretation of the SAA and of the Act. *See, e.g., Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 15766, 15768 (April 9, 1996); *Certain Stainless Steel Wire Rods from France; Preliminary Result of Antidumping Duty Administrative Review,* 61 FR 8915, 8916 (March 6, 1996); and *Antifriction Bearings (Other Than Tapered Roller Bearings) and parts Thereof from France, et al., Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 25713, 35718–23 (July 8, 1996).

In this case, in accordance with the above precedent, our instructions in the questionnaire issued to respondents stated that constructed LOT should be used. All respondents adequately documented the differences in selling functions in the home and in the U.S. markets. Therefore, the Department's decision to grant a CEP offset to Hyundai and LG was consistent with the statute and the Department's practice, and was supported by substantial evidence on the record.

We disagree with the petitioner's interpretation of *Borden* and of its impact on our current practice. In *Borden,* the Court held that the Department's practice to base the LOT comparisons of CEP sales after CEP deductions is an impermissible interpretation of section 772(d) of the Act. *See Borden,* 4 F. Supp. 2d at 1236–38; *see also Micron*, 40 F. Supp. 2d at 485–86. The Department believes, however, that its practice is in full compliance with the statute, and that the court decision does not contain a persuasive statutory analysis. Because *Borden* is not a final and conclusive decision, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) of the Act, prior to starting a LOT analysis, as articulated in the regulations at section 351.412. Accordingly, consistent with the *Preliminary Determination,* we will continue to analyze the LOT based on adjusted CEP prices, rather than the starting CEP prices.

Comment 4: Exchange Rate Methodology. Hyundai and LG argue that the Department failed to consider the rapid decline in the value of the Korean won during the POR when it converted won to U.S. dollars. The respondents state that, in Policy Bulletin 96–1, the Department acknowledged the need to apply daily exchange rates in administrative reviews as well as investigations during periods of substantial exchange rate depreciation. The respondents further point out that in two recent administrative reviews, *Steel Wire Rope from Korea,* 63 FR 67662, 67665 (December 8, 1998), (unchanged at *Steel Wire Rope from the Republic of Korea,* 64 FR 17995 (April 13, 1999)) (''*Steel Wire Rope from Korea*''), and *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea*, 64 FR 48767, 48774 (September 8, 1999), and several investigations, specifically *Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30664, 30670 (June 8, 1999), *Stainless Steel Round Wire from Korea,* 64 FR 17342, 17343 (April 9, 1999), *Stainless Steel Plate in Coils (''SSPC'') from the Republic of Korea,* 64 FR 15444, 15446 (March 31, 1999), and *Emulsion Styrene-Butadiene Rubber from the Republic of Korea,* 64 FR 14865, 14867–8 (March 29, 1999) (''*ESBR from Korea*''), the Department applied the modified exchange rate methodology. The respondents contend that the same circumstances in these cases apply to this case because the POR includes the period (at the end of 1997) when the won lost over 40 percent of its value, and there is no reason why the Department should adopt any different treatment in this case. Hyundai specifically maintains that the Department should use daily won-dollar exchange rates for home market sales matched to U.S. sales occurring between November 1 and December 31, 1997; and should also use the average of the January 1 through February 28, 1998 exchange rate as a benchmark for U.S. sales occurring between those dates.

Micron states that the Department properly applied its standard exchange rate methodology in the preliminary results of the review, and it should adhere to that standard methodology in the final results.

DOC Position: We agree with the respondents, in part. Section 773A(a) of the Act directs the Department to use a daily exchange rate to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. The Department considers a ''fluctuation'' to exist when the daily exchange rate differs from the benchmark rate by 2.25 percent or more. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we generally substitute the benchmark rate for the daily rate, in accordance with established practice. (An exception to this rule is described below.) (For an explanation of this method, *see Policy Bulletin 96–1: Currency Conversions* (61 FR 9434, March 8, 1996).)

Our analysis of dollar-Korean-won exchange rates demonstrates that the Korean won declined rapidly in November and December 1997. Specifically, the won declined more than 40 percent over this two-month period. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-won exchange rate during recent years, and it did not rebound significantly in a short time. As such, we determine that the decline in the won during November and December 1997 was of such magnitude that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated at that time, *i.e.*, as having experienced only a momentary drop in value relative to the normal benchmark. Accordingly, the Department used actual daily exchange rates exclusively in November and

December 1997. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip from the Republic of Korea*, 64 FR 30664, 30670 (June 8, 1999) (''*SSSS from Korea*'').

We note, however, that we have refined our methodology somewhat from that applied in *SSSS from Korea*. We recognize that, following a large and precipitous decline in the value of a currency, a period may exist wherein it is unclear whether further declines are a continuation of the large and precipitous decline or merely fluctuations. Under the circumstances of this case, such uncertainty may have existed following the large, precipitous drop in November and December 1997. Thus, we devised a methodology for identifying the point following a precipitous drop at which it is reasonable to presume that rates, more than 2.25 percent from the benchmark, were merely fluctuating. Following the precipitous drop in November and December 1997, we continued to use only actual daily rates until the daily rates were not more than 2.25 percent below the average of the 20 previous daily rates for five consecutive days. At that point, we determined that the pattern of daily rates no longer reasonably precluded the possibility that they were merely ''fluctuating''. Using a 20-day average for this purpose provides a reasonable indication that it is no longer necessary to refrain from using the normal methodology, while avoiding the use of daily rates exclusively for an excessive period of time. Accordingly, from the first of these five days, we resumed classifying daily rates as ''fluctuating'' or ''normal'' in accordance with our standard practice, except that we began with a 20-day benchmark and on each succeeding day added a daily rate to the average until the normal 40-day average was restored as the benchmark. *See Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes from Thailand*, 64 FR 56759, 56763, October 21, 1999. *See also Polyethylene Terephthalate Film, Sheet and Strip From Korea: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke in Part*, 64 FR 62648, 62649 (November 17, 1999).

Applying this methodology in the instant case, we used daily rates from November 3, 1997, through January 13, 1998. We then resumed the use of our normal methodology, starting with a benchmark based on the average of the 20 reported daily rates from January 14, 1998. We used the normal 40-day benchmark from February 12, 1998, to the close of the review period.

Comment 5: Duty Absorption. Hyundai contends that the finding of duty absorption is null and void because the Department had no authority to conduct a duty absorption inquiry in this administrative review. Hyundai maintains that section 751(a)(4) of the Act ''explicitly limits'' duty absorption inquiries to administrative reviews initiated 2 years or 4 years after the publication of an antidumping duty order, and that this review was initiated on June 29, 1998, five years after publication of the antidumping duty order in this case. Hyundai also maintains that section 351.213(j)(2) of the Department's regulations, which provides for the Department to conduct duty absorption inquiries for transition orders (as defined in section 751(c)(6) of the Act) in reviews initiated in 1996 or 1998, cannot authorize the conduct of a duty absorption inquiry. Hyundai states that this regulation is ''directly contradicted'' by section 751(a)(4) of the Act, which makes no exception for transition orders.

Hyundai further argues that section 751(c)(6) of the Act, which defines transition orders, only applies to section 751(c) of the Act, which establishes procedures for the conduct of sunset reviews. Hyundai states that section 751(c)(6) of the Act has no relationship to administrative reviews conducted under section 751(a) of the Act, nor to duty absorption inquiries conducted under section 751(a)(4) of the Act.

LG argues that the Department may not lawfully presume that duties have been absorbed by LG without record evidence to support this conclusion. LG, citing to *Extruded Rubber Thread from Malaysia*, 63 FR 2752, 2757 (March 16, 1998) and *Report to the House and Senate Appropriations Committees: The Efficacy of Antidumping Measures in Related Importer Situations* (January 30, 1998), at 3, states that Department presumes that absorption is occurring where a dumping margin is found unless the U.S. affiliate's customers have promised in writing to pay any antidumping duties imposed on the merchandise. LG further states, citing to *Id.* at 4 and *Certain Cut-to-Length Carbon Steel Plate from Belgium*, 63 FR 2959, 2963–64 (January 20, 1998), that the Department has never found an instance of such a written agreement that is acceptable. LG argues that it defies commercial reality to expect a customer to agree to assume such a liability for antidumping duties, and the Department's establishment of an ''effectively irrebuttable'' presumption that duties are being absorbed ''makes a mockery'' of the duty absorption inquiry entrusted to the Department by Congress.

Micron argues that the Department correctly made a finding of duty absorption for Hyundai and LG. Micron notes that both respondents imported the subject merchandise through their affiliated U.S. importers, and therefore, the antidumping duties assessed as a result of this review will be paid, in the first instance, by those affiliated importers. Micron also points out that the Department provided Hyundai and LG with an opportunity to submit evidence that unaffiliated purchasers will pay the antidumping duties to be assessed on entries during the review period, and neither party submitted such evidence. Micron maintains that, in the absence of any evidence, and in the light of the ''commercial reality'' noted by LG under which no unaffiliated customer would assume the liability for these assessments, the Department can only reasonably conclude, based on record evidence, that duties will be absorbed by Hyundai and LG.

Micron argues that since LG explicitly declined to submit any evidence on this matter, it cannot now argue that the Department is employing an ''inappropriately high evidentiary standard.'' Micron also states, in reference to Hyundai's arguments, that section 751(a)(4) of the Act does not limit the Department's authority to make a duty absorption inquiry in the context of administrative reviews conducted in those years not referenced by this section. Micron further argues that, since Hyundai does not allege any harm arising out of the Department's conduct of this inquiry, it has no standing to complain that the Department's conduct is *ultra vires.*

Micron contends that the Department explained in *Final Regulations,* 62 FR at 27317–18, that its interpretation of section 751(a)(4) of the Act, under section 351.213(j)(2) of the Department's regulations, is necessary to carry out the legislative intent of the statute, *i.e.,* to provide the relevant information to the International Trade Commission (''ITC'') in connection with its conduct of sunset reviews. Micron further contends that if the Department had adopted Hyundai's interpretation of the Act, then the Department would have had the option of conducting a duty absorption inquiry, pursuant to Micron's July 21, 1997 request, in the fourth review of this proceeding.

DOC Position: We agree with Micron. With regard to the time frame in which we are conducting this review, section

351.213(j)(1) of our regulations, in accordance with section 751(a)(4) of the Act, provides for the conduct, upon request, of absorption inquiries in reviews initiated two and four years after the publication of an antidumping duty order. With respect to transition orders, the preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year, and reviews initiated in 1998 will be considered initiated in the fourth year. *Notice of Proposed Rulemaking and Request for Public Comments*, 61 FR 7308, 7317 (February 27, 1996). Because this order has been in effect since 1993, this is a transition order in accordance with section 751(c)(6)(C) of the Act. This being a review initiated in 1998 and a request having been made, we have made a duty absorption determination as part of this administrative review.

We believe that Congress intended that the ITC would consider the issue of duty absorption in all sunset reviews. In this regard, the statutory provision requiring the consideration of duty absorption does not distinguish between antidumping orders issued after January 1, 1995, and transition orders. *See* section 752(a)(1)(D) of the Act. Moreover, in all of the legislative history, Congress explained the implications of affirmative duty-absorption findings and clearly contemplated that such findings would be considered in all sunset reviews. *See* S. Rep.103–412 at 50 (1994). *See also* H. Rep. 103–826 at 60–61 (1994) (''Commerce will inform the Commission of its findings regarding duty absorption, and the Commission will take such findings into account in determining whether injury is likely to continue or recur if an order were revoked''). Thus, we have made a duty absorption determination as part of this administrative review. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590, 35601 (July 1, 1999) (''*AFBs*'').

In considering methodologies that might be used for a duty absorption inquiry, the Department sought to adopt one that would comply with the statute, as well as one that would be administrable within the time frame of a review period and still provide respondents with a sufficient opportunity to cure any deficiencies. The method the Department adopted accomplishes these goals. As the Department explained in *AFBs*, 64 FR at 35601, the ''existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty.'' This is a reasonable presumption because the continued existence of dumping margins indicates that the producer and its affiliated U.S. importer have not adjusted their prices to eliminate dumping. If the producer has not set its price to the first unaffiliated U.S. customer high enough to eliminate dumping and the affiliated importer is liable for payment of the antidumping duties, it is reasonable to presume that the producer is absorbing the antidumping duties. The reasonableness of this presumption is also reflected in the SAA at 885, which states that ''the affiliated importer may choose to pay the antidumping duty rather than eliminate the dumping.'' In sum, the existence of dumping gives rise to a reasonable presumption that the affiliated importer is absorbing dumping duties.

As in previous cases where the Department has found duty absorption (*see, e.g., AFBs*), this is an instance where the existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty. As such, the burden of producing evidence to the contrary shifts to the respondent. *See Creswell Trading Co., Inc.* v. *United States*, 15 F.3d 1054 (CAFC 1994). Here the respondents have not placed evidence on the record, despite being given ample time to do so, in support of their position that they and their affiliated importer(s) are not absorbing the duties. In fact, as noted by Micron, LG explicitly refused to do so. Therefore, because Hyundai and LG submitted no information showing that their respective affiliated importer is not absorbing the duties for this POR, we find that duty absorption occurred.

Comment 6: Cash Deposit Rate. Micron argues that the Department should establish a single cash deposit rate for both Hyundai and LG in the final results of this review, at a minimum, by weight averaging the combined dumping margins for Hyundai and LG. Micron asserts that, at the end of the current POR, LG was acquired by Hyundai and renamed Hyundai Microelectronics, and based on comments in a letter submitted by LG, the merger is to be completed in October 1999. Micron contends that one company will control both Hyundai and LG's fabrication facilities, and that company could choose to designate all of its exports to the United States as being from whichever respondent in the fifth review turns out to have the lower duty deposit rate.

Hyundai argues that it is entitled to its own cash deposit rate based exclusively on the Department's calculations for Hyundai. Hyundai contends that the single rate advocated by Micron would incorporate any adverse FA margin that the Department might impose on LG, and Hyundai should not be penalized for any action taken with respect to LG. Hyundai maintains that, whatever decisions the Department may make concerning LG, Hyundai had no involvement in the matters alleged. Hyundai states that there has been no indication of any diversion or unreported sales by Hyundai in the six consecutive times that Hyundai has been verified since this case began.

Hyundai further argues that the Department must disregard Micron's argument because it relates to ''matters that allegedly might occur well beyond'' the end of the current POR. Hyundai contends that Micron's speculation as to what might happen after the merger has no support on the record. Hyundai also contends that if one company controls both companies' fabrication facilities, the cash deposit rate would be the rate that applies to the controlling company, regardless of which fab produced the DRAMs or how the company chose to ''designate'' the origin of the exports.

DOC Position: We are concerned about the implications of the pending merger of Hyundai and LG on the efficacy of the antidumping duty order on DRAMs from Korea. However, pursuant to Micron's November 12, 1999 request, we initiated a changed circumstances review under section 751(b) of the Act to address the cash deposit issue. Because we have initiated a separate segment of this proceeding to address the cash deposit issue, we will continue to issue Hyundai and LG their own cash deposit rates for these final results.

Comment 7: All Others Rate. Micron claims that the Department should correct the ''all others'' rate to reflect the *revised* 4.55 percent rate calculated by the Department following judicial review of the original less than fair value (''LTFV'') determination. *See Micron Technology, Inc.* v. *United States*, 117 F.3d 1386 (Fed. Cir. 1997). In its notice of the preliminary results of review the Department states that the ''all others'' cash deposit rate ''will be 3.85 percent, the 'all others' rate established in the LTFV investigation.'' *Preliminary Results*, 64 FR at 30486. Therefore, the Department's revised ''all others'' rate of 4.55 percent has become final and should be reflected in these final results.

No rebuttal briefs were filed in regards to this issue.

DOC Position: We agree with the petitioner and have corrected the ''all others'' rate to reflect the revised 4.55 percent rate calculated by the Department following judicial review of the original LTFV investigation.

Company-Specific Issues

A. Hyundai

Comment 1: Use of Cost of Goods Sold to Calculate R&D Ratio. Hyundai states that the Department greatly overstated the per unit R&D costs allocated to each product by calculating Hyundai's R&D ratio as a percentage of cost of goods sold (''COGS'') rather than as a percentage of cost of manufacturing (''COM''). Hyundai, citing to *High Information Content Flat Panel Displays and Display Glass Therefor from Japan*, 56 FR 32376, 32382 (July 16, 1991), contends that since the R&D ratio is applied to the COM, the denominator for the R&D ratio should also be the COM. Hyundai points out that although the Department has used COGS as the denominator for the R&D ratio in other proceedings including DRAMs, it has not stated any reason why COGS is a more acceptable denominator than COM.

Hyundai maintains that it is inconsistent to apply a COGS-based percentage to calculate Hyundai's R&D cost since R&D is considered by the Department as an element of the COM, and the Department applies the R&D ratio to the total COM of each product. Hyundai notes that the Department used to classify certain R&D costs as G&A expenses, but now classifies all R&D costs as manufacturing costs. Hyundai states that, in contrast to R&D expenses, G&A expenses, which support both sales and production, could reasonably be compared to COGS to calculate the G&A ratio.

Hyundai, citing the Department's *Antidumping Manual* at 48, and *DRAMs from Taiwan*, 64 FR at 56312, further notes that, in the G&A ratio calculation, the Department adjusts COGS to make it equivalent to COM in order to reflect the same category of costs as the per unit COM to which this ratio is applied. Hyundai argues that if it is appropriate to adjust the COGS, when COGS is used as the denominator for a ratio calculation, to align it more closely to the COM, then it is accurate and appropriate to use COM itself as the denominator, which has been calculated in the same manner as the per unit COM of each product. Hyundai also contends that the Department's minor distinction between COGS and COM indicate that the use of COGS as the denominator is merely for administrative convenience.

Hyundai further argues that the propriety of the Department's practice of using COGS to represent COM depends entirely on the presumption that the COGS during a period is a reasonably close approximation of the COM. Hyundai contends that, in the DRAM industry, which has a consistent trend toward higher density products and strong learning curve effects on costs, this presumption does not hold. Hyundai explains that, during a period of ''rapid generational progress,'' the cost of (new generation) DRAMs that are produced during this period is higher than the cost of (old generation) DRAMs that are sold during this period. Hyundai states that consequently, when total current R&D expenses are calculated as a percentage of COGS rather than as a percentage of COM, the R&D ratio is inflated, and Hyundai's total R&D costs are overstated.

Finally, Hyundai argues that the application of the Department's standard cost-of-production (''COP'') completeness test demonstrates that the use of COGS as the denominator in the R&D ratio calculation significantly overstates Hyundai's R&D expenses. Hyundai states that multiplying Hyundai's total semiconductor COM by the Department's calculated R&D ratio results in a total R&D expense that greatly exceeds Hyundai's actual R&D expense.

Micron argues that the Department was correct to use the COGS instead of COM for its R&D calculation, as is the Department's practice. Micron contends that Hyundai never complained before about the Department's use of COGS instead of COM in its R&D calculation ratio, and is only complaining now because of the difference between its COGS and COM figures. Micron also contends that the difference in these figures is not due, as Hyundai claims, to the change in the density of the DRAMs that it produced, but is due to a certain proprietary item in its cost accounting records.

DOC Position: We agree with the petitioner. The Department's practice, as we have carried out throughout this proceeding, is to calculate the R&D ratio by dividing a respondent's R&D expense by the respondent's COGS. *See e.g., Final Determination*, 58 FR at 15470, *Final Results 1997 (I)*, 62 FR at 967, *Final Results 1997 (II)*, 62 FR at 39823, and *Final Results 1998*, 63 FR 50870. *See also DRAMs from Taiwan*, 64 FR at 56312. We calculate this ratio based on the COGS, or a modified COGS, and not the COM, because R&D expenses, like G&A expenses, are incurred for the products sold during a period, rather than the products manufactured during a period. Furthermore, we believe that evaluating whether to use COGS or COM as the denominator in the R&D ratio from one review segment to the next would eliminate significant consistency and predictability in our calculations.

We also agree with the petitioner that the record does not support Hyundai's assertions that the difference between its COGS and COM is due to the change in the densities that it produces. Rather, this difference is due, in part, to the proprietary accounting item referenced by Micron.

Comment 2: Double-Counting of R&D. Hyundai argues that the Department double-counted certain R&D expenses incurred by Hyundai Electronics America, Inc. (''Hyundai America''). Hyundai states that the Department included Hyundai America's actual expense for certain R&D projects, as well the amount that Hyundai paid to Hyundai America to reimburse it for these expenses. Hyundai explains that it did not itself offset these expenses in its response because these expenses were classified as long-term R&D, and not included by Hyundai in the current year R&D calculation. Hyundai states that the double-counting occurred when the Department included all of Hyundai's expenditures on long-term projects in current year production costs. Consequently, Hyundai maintains that if the Department decides to continue expensing all of Hyundai's R&D expenses incurred in 1997, then the Department should either exclude the expenses at issue from Hyundai's R&D costs, or offset Hyundai America's R&D expenditures, to avoid double-counting.

Micron did not comment on this issue.

DOC Position: We disagree with Hyundai that the record evidence demonstrates that we double-counted certain R&D expenses incurred by Hyundai America, and reimbursed by Hyundai. Hyundai America's financial statement indicates that Hyundai America received revenue from Hyundai for R&D services (*see* exhibit 17 of Hyundai's October 8, 1998 section A response). However, the record evidence does not demonstrate that Hyundai's R&D expenses include any payments to Hyundai America. Therefore, we cannot confirm that any R&D expense has been double-counted and have made no changes in our calculations with respect to this issue from our preliminary results.

Comment 3: Offset for Long-Term Interest Income. Hyundai argues that the Department improperly denied an offset

for long-term interest income earned on restricted bank deposits. Hyundai states that the interest income at issue was earned by Hyundai on (1) collateral that Hyundai is required to maintain on deposit at banks in order to obtain loans to finance current operations; and (2) deposits with insurance companies that can only be used to pay retirement benefits. Hyundai states that, in both cases, the income is not derived from long-term investments, but is directly tied to the current operations of the company. Citing to *Final Determination,* 58 FR at 15473, and *The Timken Company.* v. *United States,* 809 F. Supp. 121, at 125 (1992), Hyundai contends that the Department grants adjustments for interest income that is earned on compensating deposits because such income is related to current operations; and that the Department previously granted Hyundai an adjustment for interest income related to current operations. Hyundai maintains that, since the income derived from these deposits reduces the cost of the related loans, the interest earned from those deposits should be used to offset Hyundai's interest expense.

Hyundai explains that some of the deposits at issue are not investments, but a prerequisite for receiving loans from the Korea Development Bank. Hyundai states that the use of compensating deposits enabled Hyundai to receive a lower effective interest rate from the banks, and thus directly affected the interest expense that Hyundai incurred for financing current operations during the POR. Hyundai maintains that, since these deposits are an integral part of the relevant loans, and since the Department considers all financing costs to be related to current operations, then the interest earned on the deposits is directly related to current operations, regardless of the period of time over which the deposits are maintained.

Hyundai further explains that the other deposits at issue are held at life insurance companies to fund accrued severance benefits. Hyundai states that it makes these deposits in order to claim the total amount of severance benefits as a tax-deductible expense. Hyundai contends that, since the severance benefits themselves are included in the labor expense element of Hyundai's COM, the income earned from these deposits of severance benefits is directly related to current operations.

Hyundai, citing to *Gulf States Tube Div. Of Quanex Corp.* v. *United States,* 981 F. Supp. 630, 643 (CIT 1997) and *Recent Stitches in the Department of Commerce's Cost of Production Analysis: MMF Sweaters Antidumping Case and Commerce's Treatment of Interest Expense,* 25 George Wash. J. Int'l L (1991), also contends that the Department allows respondents an offset for interest income on long-term deposits that are related to current operations. Hyundai also notes that, in fact, the Department has granted offsets for long-term ''compensating'' deposits because such deposits are related to the cost of borrowing funds for current operations.

Micron argues that the Department should not make any adjustment for Hyundai's claimed offset for interest income. Micron, citing to *Final Determination,* 58 FR at 15473, contends that the Department only previously granted Hyundai an offset for interest income earned on short-term assets. Micron further maintains that a respondent must show at verification that deposits are compensating balances tied to loans in order to receive an offset for interest earned on such deposits, and that the verification report and preliminary calculation memorandum indicate that the Department was not satisfied that Hyundai had shown this.

Micron also contends that the severance insurance deposits are not connected to loans at all, but represent Hyundai's funding of accrued severance benefits. Micron states that the classification of the insurance balance as a restricted deposit does not qualify it as a compensating balance (for a loan). Micron concludes that Hyundai has not demonstrated that the interest earned on the insurance deposit is in any way tied to interest expense, and that the Department should continue to exclude the claimed interest income from the offset to Hyundai's interest expense rate.

DOC Position: We agree with Hyundai in part, and with Micron in part. Upon further review of cost verification exhibit 2, and Hyundai's 1997 consolidated financial statement, which specifically mentions that ''certain bank deposits are pledged as collateral for long-term debt,'' we agree with Hyundai that its long-term restricted deposits at issue with the Korea Development Bank are an integral part of certain loans from that Bank. Since the income derived from these deposits are directly related to specific loans, the interest earned from those deposits should be used to offset Hyundai's interest expense for the same loans. Additionally, we agree with Micron that the severance insurance deposits are long-term investments that represent Hyundai's funding of accrued severance benefits. These severance insurance deposits are simply a source of funds from which Hyundai funds severance benefits, and are only held by Hyundai as restricted deposits to allow Hyundai to claim a tax deduction. Accordingly, we have only offset the interest from the deposits at issue with the Korean Development Bank against Hyundai's interest expense.

B. LG

Comment 1: LG's Knowledge of U.S. Sales: Mexico. LG asserts that, in its relationship with a Mexican client, it requested a variety of proof of delivery (''POD's'') to determine that the DRAMs were actually destined for Mexico. LG states that it believed reasonably and in good faith that this customer was a legitimate third country purchaser of LG DRAMs with ample ability to consume them and to market LG's products in Mexico, Latin America, as well as in other third country markets.

LG alleges that taken together, the facts on the record demonstrate that it was the unsuspecting victim of Customs fraud, including the alteration and falsification of LG invoices, and the unlawful diversion of LG products into the United States. LG claims that there is overwhelming evidence that it did not have knowledge. Thus, LG contends that the Department has no lawful basis to attribute the illegally diverted shipments to LG and to include such shipments as ''unreported U.S. sales'' in the calculation of LG's dumping margin.

To support its argument, LG cites *Tapered Roller Bearings from China,* where the petitioner in the case argued that the Department should reclassify third country transactions, placed by a U.S. firm, as U.S. sales. The Department disagreed and considered these transactions as sales to a third country, stating ''the Act requires that the producer of the merchandise know, at the time of sale to the reseller, the country to which the reseller intends to export the merchandise in order for the Department to treat sales to a reseller as sales to the United States.'' LG points out that the Department made no inquiry as to whether the respondent ''should have known'' that the goods were destined for U.S. consumption.

According to LG, the Department applies its knowledge test to a respondent at the time of sale, not later. For example, in *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Sulfate From the People's Republic of China,* 60 FR 51255 (1995) (''*Manganese Sulfate*''), the Department determined that a transaction was not a U.S. sale where the respondent learned that the merchandise it sold to a third country trading company was ultimately destined for the United States ''at the time of shipment, after the sale had already been made.'' Similarly, in *Pure*

Magnesium from the Russian Federation (''*Magnesium*''), the Department treated certain sales as third country exports, even though the respondent later learned that some of these exports were sold to U.S. customers, because ''this knowledge always came after (the respondent) had sold the merchandise.'' LG maintains that in neither of these cases did the Department suggest that the sales could have been deemed U.S. sales by the respondent if the respondent ''should have known'' the ultimate destination was the United States, notwithstanding evidence on the record from which such a conclusion might have been drawn.

According to LG, the CIT, in *NSK Ltd.* v. *United States* (''*NSK*''), explicitly confirmed that the antidumping law mandates the knowledge test as applied by the Department in these prior cases. In *NSK,* the Department classified Honda as a reseller after concluding that Honda's Japanese suppliers were unaware of the ultimate destination of the merchandise they sold to Honda. The Court agreed, emphasizing the statutory language and legislative history upon which the Department's knowledge test is based. Specifically, the Court quoted the portion of the statute which states that U.S. purchase price is ''the price at which merchandise is purchased, or agreed to be purchased, prior to the date of importation, from a reseller or the manufacturer or producer of the merchandise for exportation to the United States.'' The Court cited the legislative history to this provision:

> If a producer knew that the merchandise was intended for sale to an unrelated purchaser in the United States under terms of sale fixed on or before the date of importation, the producer's sale price to an unrelated middleman will be used as the purchase price.

LG states that the *NSK* Court acknowledged that the Department's knowledge test requires a ''high standard'' which could possibly be exploited by ''the 'perfect' scenario, where a reseller hides the ultimate destination of its purchases from its foreign suppliers,'' but found nevertheless that ''such a standard is necessary to fulfill the statutory intent that purchase price be based on sales of goods sold abroad with the intent of being exported to the U.S.'' According to LG, both the stress on the word ''knew'' in the quoted legislative history and the Court's emphasis on the ''intent'' of the seller make clear that the U.S. sales may not be attributed to the foreign producer if the producer did not actually know that the United States was their destination, even if in retrospect it appears to an outside observer that the producer should have known that the goods would reach the United States. The Court ruled that this sort of generalized suspicion is not sufficient: ''the suppliers must have knowledge that particular sales are destined for import into the U.S.''

LG asserts that, in *INA Walzlager-Schaeffler KG* v. *United States* (''*INA*''), the CIT noted again the strict requirement for particularized knowledge before U.S. sales may be attributed to a foreign producer. After reviewing the Department's ''knew or should have known'' test, the Court reiterated that this test applies only under the NV section of the law:

> This decision is not intended to alter the standard for imputed knowledge pursuant to 19 U.S.C. 1677a(b). As both FAG and Commerce acknowledge, section 1677a(b) requires knowledge that the merchandise is purchased from a reseller for exportation to the United States * * *. Under 19 U.S.C. 1677b(a) it is not necessary for the respondent to have knowledge that all of the merchandise sold is destined for the United States in order to impute knowledge that the sales were not intended for home consumption.

LG states that, in *Tapered Roller Bearings and Parts Thereof from China* (''*TRBs II*''), the Department had occasion to consider the ''perfect'' scenario envisioned by the Court in *NSK*. In *TRBs II*, the petitioner argued that suppliers ''knew or had reason to know'' that sales to a reseller were destined for the United States because TRBs sold to the U.S. market were all identified with the supplier's trade name, constituting ''sufficient evidence on the record for the Department to impute knowledge on behalf of the suppliers.'' In response, the reseller argued that ''*NSK* requires the Department to find evidence of actual knowledge that particular sales were destined for importation into the United States.'' In response to these arguments, the Department held:

> Lacking evidence of actual knowledge that particular sales were destined for the United States, we cannot assume such knowledge, regardless of general knowledge that some merchandise was intended for exportation to the United States.

LG argues that the Department in *TRBs II* recognized that even when a reseller hides the ultimate destination of its purchases from its foreign supplier, and there is no evidence that the foreign supplier had actual knowledge that particular sales were destined for the United States, the Department may not attribute the resulting U.S. sales to the supplier, regardless of whether the supplier ''should have known'' or ''had reason to know'' that the goods would be resold into the United States.

Finally, in *Certain Cut-to-Length Carbon Steel Plate from Ukraine,* 62 FR 61,754, 61,760 (Nov. 19, 1997) (''*Ukraine Plate*''), the Department excluded diverted sales where the respondent producer, Ilyich, argued that it made the sales ''believing they were destined to third countries and had no knowledge that these sales were ultimately destined for the United States.'' The Department stated ''[i]t is the Department's practice to include as U.S. sales only those sales known by the producer/exporter to be destined for the United States at the time of sale and delivery'' and determined that ''these originally non-U.S. bound shipments were delivered to the U.S. without prior knowledge of Ilyich. Therefore, consistent with * * * Department practice, we have not included the pirated sales in the final margin calculation.''

LG states that the Department cited *Yue Pak, Ltd.* v. *United States,* Slip Op. 96–65 at 9 (''CIT''), *aff'd.* 1997 U.S. App. LEXIS 5425 (Fed. Cir. 1997) (''*Yue Pak*'') in the fourth review final results in support of its contention that U.S. resales may be charged to a supplier that did not know, but should have known, that the United States was the ultimate destination of its shipments. But, according to LG, *Yue Pak* fails to support the Department's legal theory. First, no party in that case argued that under the antidumping law ''should have known'' is not a sufficient standard for attribution of U.S. sales, and the Court was thus not presented with the relevant issue. Second, from the facts cited by the Court, it is apparent that the record evidence established that the suppliers knew that the merchandise was destined for the United States; the Court's references to whether the suppliers should have known are thus dicta. Third, neither of the cases cited by the Court for its interpretation of section 772(b) of the Act, 19 U.S.C. 1677a(b), *see* 20 CIT at 498, support the ''should have known'' theory; rather, both cases clearly state that the supplier must know that the merchandise is destined for the United States. Finally, to the extent that *Yue Pak* is contrary, it has been overruled by the CIT's later disposition of this issue in *NSK* and *INA*, both of which make clear that section 772(b) of the Act, 19 U.S.C. 1677a(b) and its legislative history allow U.S. sales to be charged to a producer only ''[i]f a producer knew that the merchandise was intended for sale to an unrelated purchaser in the United States.''

In sum, LG asserts that the CIT has clearly and consistently held, in line with the consistent practice of the Department, that the Department may treat third country sales as U.S. sales of a producer only if the producer knew, at the time of sale, that those particular sales were destined for the United States. LG contends that there is no evidence on the record that they actually knew that its sales were destined for the United States. Thus, it was unlawful for the Department in the preliminary results to consider the diverted shipments to have been U.S. sales of LG.

LG argues that the circumstances of the sales to its Mexican customer did not provide LG with knowledge that the diverted sales were destined for importation into the United States. According to LG, in the fourth review final results, as in other cases cited above, the Department suggested that the diverted transactions be deemed U.S. sales of LG, regardless of whether LG knew the shipments' final destination, because LG sometimes dealt directly with the customer's U.S. parent company and because it arranged for the DRAMs to be shipped in bond through the United States. This argument, LG maintains, is contrary to numerous Department precedents.

LG contends that the shipment route chosen by LG's customer is simply not relevant to the question of whether LG knew the ultimate destination of the merchandise. According to LG, the relevant inquiry is what LG knew at the time of sale about the goods' final destination, not what route the goods traveled to get there.

LG asserts that the Department has many precedents on this issue which uniformly hold that dealings with a U.S. company or a shipment route through the United States do not transform a third country sale into a U.S. sale. LG maintains that, in *Magnesium,* the Department ''found nothing to indicate any unreported instances of merchandise being sold with the knowledge at the time of sale that the ultimate destination was the United States,'' and refused to reclassify as U.S. sales certain third-country sales with purchase orders placed by a U.S. firm, determining that purchase orders placed by a U.S. company do not constitute evidence that the respondent had knowledge the sale was destined for the United States. Likewise, in *Manganese Sulfate from China,* the Department determined that a transaction was not a U.S. sale even where (1) the bill of lading listed the destination as a U.S. port; (2) PRC Customs export statistics' printout of exports to the United States showed that this shipment was sent to the United States; and (3) correspondence from a New York company regarding this shipment was dated before the issuance of the sales contract.

LG argues, contrary to the Department's conclusion that LG's sales to the Mexican customer ''were shipped by LG directly to the United States,'' that the undisputed facts on the record show that the customer's purchases from LG were transported by its freight forwarder from arrival in the United States in bond, just as the Mexican customer had agreed. LG asserts that the Department is prohibited from treating goods transported in bond as U.S. sales for purposes of the antidumping law because in-bond entries do not enter the Customs territory of the United States for consumption. LG maintains that in *Titanium Metals Corp.* v. *United States,* 19 CIT 1143, 901 F. Supp. 362, 364 (1995) (''*Titanium Sponge*''), the CIT has explicitly confirmed this point, holding that goods entered for transportation in bond are not entered for consumption, and thus cannot be included in the dumping margin calculation, because the law restricts the assessment of antidumping duties to merchandise entered or withdrawn from warehouse for consumption.

Further, LG claims that the Department's interpretation of *Persulfates from the PRC* (''*Persulfates*'') is wrong and entirely contradicts the proposition that sales may not be considered to be U.S. sales by the supplier unless (i) the supplier had actual knowledge that the goods would be resold to the United States, and (ii) the goods actually entered the Customs territory of the United States.

LG argues what dictated the result of *Persulfates* was not that the producer shipped the goods to the United States, but that the producer shipped the goods to the United States knowing that the customer planned to enter the goods into the United States, rather than ship them in bond to a third country. LG further asserts that the Department has described its decision in *Persulfates* as turning on the producer's knowledge, stating that ''in cases where evidence exists that a supplier had knowledge that the ultimate destination of the merchandise was the United States, such as * * * *Persulfates,* we have considered the sale by the supplier to the reseller as the starting price in our margin calculations.'' In direct contrast to *Persulfates,* LG claims that LG's customer was outside the United States, and LG's products were shipped to a bonded area, for further in-transit bonded shipment to a third country, and, so far as LG ever knew, the goods did not enter into the Customs territory of the United States. LG concludes that *Persulfates* thus squarely contradicts the Department's suggestion that the route of the shipments from LG to its third country customer renders irrelevant the question of whether LG knew that the goods would enter the United States.

LG also argues that the Department should correct errors committed in its calculation of the dumping margin on the diverted sales. LG contends that the Department may not apply adverse FA ignoring the timely data submitted by LG concerning the unlawfully diverted shipments. LG contends that it submitted timely expense data concerning the Mexican sales, which the Department chose not to accept, instead opting for adverse FA to determine the selling expenses for the diverted sales. LG argues that the Department's action is an abuse of discretion and must be reversed in the final results.

LG cites *Olympic Adhesives, Inc.* v. *United States* (''*Olympic Adhesives*''), where the Court ruled that if a company was sent and completely answered repeated questionnaires, and nothing in the record suggests that the company withheld information, the Department is not allowed to use best information available. LG additionally cites *Ferro Union, Inc.* v. *United States* and *Borden, Inc.* v. *United States* as particular examples where the Department must implement a narrower interpretation of when to use FA.

LG contends that the Department's rejection of LG's reported expenses in conjunction with its sales to the Mexican customer cannot be justified and is clearly unlawful under the standard of *Olympic Adhesives.* LG contends that the Department has failed to show that LG withheld requested information, failed to provide information by the applicable deadlines or in the form and manner requested, significantly impeded this proceeding, or provided information that was not accurate or verifiable. Thus, the Department's use of adverse FA in this review does not meet even the minimum required statutory conditions for the use of non-adverse FA.

Further, LG disputes the Department's two justifications for the use of adverse inferences with respect to the Mexican sales. First, LG disputes the reasoning that ''because LG did not report these sales as U.S. sales, we are not using the expenses.'' LG argues that the Department may not punish it simply for taking a position regarding the underlying sales—a position supported by Department and Court precedents—

with which the Department disagrees. LG additionally disputes the contention that the Department was unable to verify these sales. Because none of the expenses in question are transaction-specific, none are in any way different for the diverted sales than for the U.S. sales, and the Department verified each expense.

In conclusion, LG argues that the Department may not treat as U.S. sales third country sales for which there is no evidence of entry into the United States. LG contends that in the fourth review the Department did not include all the sales to the third country customer, but only sales for which there was corroborating Customs documentation which showed that the merchandise was entered into the United States. LG states that whether the error was intentional or inadvertent, however, the Department should correct this error in the final results. The law is clear that the Department may not treat as sales to the United States sales that did not enter the United States.

In rebuttal, Micron argues that the Department properly determined that LG knew or should have known that the unreported sales to its customer in Mexico were destined for the United States. According to the petitioner, the volume and pattern of the sales, the circumstances of the placement of orders and payment by the customer's U.S.-based parent, and the delivery of the subject merchandise by LG to the customer's agent in the United States, all substantiate the Department's finding that LG knew or should have known that the ultimate destination of the sales was the United States.

Micron disputes the ''facts'' submitted by LG. According to Micron, the declarations of Mr. Simon and Mr. Lee of LG, regarding LG's Mexican customer, are not ''facts,'' but simply statements from interested parties which do not square with neutral observers who claim something different. Micron cites a Dun & Bradstreet (''D&B'') Report which characterizes the company as a very small operation.

Micron asserts that it is not credible that Mr. Simon or Mr. Lee, if they had actually inspected the facilities of LG's Mexican customer, would have concluded that the company could have consumed internally all of the merchandise that it purchased from LG.

Micron also submits that the quantity of DRAMs that the company was buying makes it impossible for it to have been as small an operation as D&B and LG officials reported. Thus, according to Micron, if it really were an OEM consuming the merchandise it purchased from LG in its own production, the company evidently refurbished more computers than is possible for such a small company. (And this estimation does not take into account the fact that the computers being re-furbished would already contain some pre-existing DRAMs.)

Further, Micron argues that this is an unheard of quantity for a second-hand computer vendor, and would put it among the top tiers of new computer vendors. Micron contends that if the Mexican customer had really shipped that many computers in a year, it would have been a much better known name. Furthermore, the story of refurbishing old computers is inconsistent with the type of modules purchased. The overwhelmingly vast majority of the sales are of newer model DRAMs the type that cannot be used in the older computers that the company was refurbishing. The more advanced DRAMs are for use in newer generation computers. In short, according to Micron, the company was buying modules for use in the newest PCs.

With regard to manufacturing, Micron states that, during the POR, the company purchased a large amount of DRAMs for manufacturing. Micron points out that in his declaration, Mr. Simon stated that the facility in Tijuana had two manufacturing lines, with three or four workers each. These, Micron contends, are also evidently the same lines on which computers and other products, according to Daniel Lee's declaration, were being refurbished. Micron alleges that this means that Mr. Simon and Mr. Lee believed that it was reasonable that a small amount of workers could use a large amount of DRAMs to manufacture computer applications, while at the same time producing a great many computers. According to their declarations, both Mr. Simon and Mr. Lee had worked for LG for many years, and would have visited many computer manufacturing facilities while on sales calls. Micron contends that they would have noticed immediately the disparity between the quantity of merchandise purchased and the size of the companies facilities. Micron concludes that the statements that they thought the facilities could handle the quantity are extremely self-serving, but are just not credible.

Micron argues that if LG really did not know what the company was doing, it would be because nobody had actually visited the Tijuana facilities. The fact that they described the Tijuana facilities in terms similar to those in the D&B report indicate that they had either visited the facilities or had read the D&B report. In either case, according to Micron, it would have been readily apparent that the Mexican company could not do what it said it was doing.

During the POR, Micron alleges that the Mexican customer acted as a broker for LG's products. Micron states that most brokers have to take the risk, when they purchase DRAMs, that the price they can command on resale may fall below their own purchase price. LG, however, allowed the Mexican customer to distribute its DRAMs without such a risk. When the customer eventually sold the LG DRAMs, from several days to several weeks after it had bought them, LG reinvoiced the customer at a new price. Until near the end of the POR, when there was a temporary rise in market prices, the new price was always lower than LG's other customers. According to Micron, its research indicates that the price for the Mexican customer was always lower than the open market, or ''spot'' market, at the time of the re-invoicing.

Micron asserts that LG's Mexican customer buys the DRAMs, and immediately tries to sell them into the spot market, with LG's knowledge and assistance. When it has a buyer, it informs LG of the price, and based on the spot price, LG re-invoices the sale. Thus, Micron maintains that the facts indicate that LG always knew that it was dealing with a DRAM broker, not an OEM. The fact that LG felt compelled to come up with the thoroughly implausible story of this customer being a computer accessory manufacturer and refurbisher means that it had something to hide.

Micron argues that LG continues to misinterpret the law regarding whether actual knowledge is required to impute sales. According to Micron, the standard for attributing U.S. sales to a foreign producer or exporter is not restricted to ''actual knowledge,'' but is whether the producer or exporter ''knew or had reason to know'' that such sales were destined for the United States. Micron argues that in attributing U.S. sales to a foreign producer or exporter, longstanding administrative practice and judicial rulings, consistent with the statute's legislative history, establish that the Department may find either direct evidence of knowledge, or impute such knowledge, provided in either event its finding rests on a reasonable factual foundation. While the Department can rely on direct evidence of actual knowledge, such evidence is rarely forthcoming. Therefore, Micron maintains that the Department is not restricted to an actual knowledge test, and may impute knowledge, as warranted, as was referenced in the Department's May 27, 1999,

memorandum in this review. The Department applied this standard here.

Micron states that the statute's legislative history expressly supports the Department's ''knew or had reason to know'' standard. *See* section 772(a) of the Act, 19 U.S.C. 1677a(a). According to Micron, although the current statute does not directly address how the Department should determine attribution of sales ''for exportation'' to the United States, the legislative history to the term's predecessor provision, ''purchase price,'' does.

Micron states that in the Trade Agreements Act of 1979, Congress modified the definition of ''purchase price'' in 19 U.S.C. 1677a(b) to provide statutory authority for the administrative practice of basing U.S. price on the transaction from a producer to an unrelated reseller if the producer knew that the product was destined for the United States. The statute did not indicate the degree of knowledge necessary to find that a producer knew the destination of the merchandise, but the SAA adopted with the Trade Agreements Act of 1979 (H.R. Doc. No. 153, 96th Cong., 1st Sess., at 411 (1979)) states: ''The definition {of purchase price} makes clear that if the producer knew or had reason to know the goods were for sale to an unrelated U.S. buyer, and the terms of the sale were fixed or determinable from events beyond the control of the parties as of the date of importation, the producer's sales price will be used as the ''purchase price'' to be compared with that producer's foreign market value.'' The Department has explained that its application of the knowledge standard is based upon the House Report language cited in the 1979 SAA.

Moreover, Micron asserts that, when Congress amended the statute in 1994, changing ''purchase price'' to ''export price,'' it made clear that ''notwithstanding the change in terminology, no change is intended in the circumstances under which export price (formerly ''purchase price'') versus CEP (formerly ''exporters sales price'') are used.'' *See* 1994 SAA, H.R. Doc. 103–316, 103d Cong., 2d Sess. (1994), at 822–23. Micron claims that Congress implicitly endorsed retention of the ''knew or had reason to know'' standard under the old law when it changed purchase price to export price, and the Department continues to apply that standard to attribute to a foreign producer or exporter sales destined for the United States.

Micron argues that the Department's administrative practice and judicial precedent support the ''knew or had reason to know'' standard. Micron maintains that consistent with the legislative history, the Department's longstanding and current practice is to determine whether the foreign producer ''knew or had reason to know'' that the sales in question were destined for the United States. The Department makes its knowledge finding on a case-by-case basis after assessing all of the information on the record. Micron alleges that the courts have repeatedly upheld the Department's practice. *See, e.g., Federal Mogul Corp.* v. *United States, 17 CIT 1015* (1993) (''If the ITA finds that respondents knew, or should have known, that sales to Japanese OEMs with U.S. affiliates were destined for the U.S. market, the ITA will disregard those sales in calculating FMV''); *Yue Pak.* Micron argues that, in *Yue Pak,* the CIT expressly acknowledged that ''Commerce interprets the phrase ''for exportation to the United States'' to mean that the reseller or manufacturer from whom the merchandise was purchased knew or should have known at the time of the sale that the merchandise was being exported for the United States,'' and stated that it has upheld this interpretation. *Yue Pak,* 20 CIT at 498. The Court of Appeals affirmed the CIT decision in *Yue Pak,* adopting the holding and reasoning of the Court below. 111 F.3d 141–42.

Micron alleges that LG ignores this longstanding practice, however, contending that several of the Department's determinations and certain judicial rulings require evidence of ''actual'' knowledge. LG, Micron argues, misreads these cases. They do not repudiate use of the ''knew or should have known'' standard. Rather, as discussed below, those cases turned on whether there was evidence of knowledge, actual or constructive, with respect to the destination of the sales in question. For example, Micron contends that LG's assertion that the Court, in *NSK,* implicitly rejected a reason to know standard is simply erroneous. The point of the Court's holding in *NSK,* according to Micron, is that knowledge of the ultimate destination of the goods, whether actual or constructive, must exist with respect to particular sales. The type of required knowledge does not, as LG asserts, limit the evidentiary basis to proof of actual knowledge, or some admission by the producer. Micron states that the Department may reasonably impute knowledge concerning the ultimate destination of particular sales if the facts support such an inference, as they clearly did here. Unlike the situation in *NSK,* in this case, the Department looked at a very specific group of sales, and compiled an extensive record on the distinct facts and circumstances bearing on LG's reason to know that these particular sales to this particular customer were destined for the United States.

Similarly, according to Micron, LG contends that the CIT's ''knew or had reason to know'' test is relevant only to the issue of knowledge of sales in the home market under section 773(a) of the Act, 19 U.S.C. 1677b(a), as opposed to knowledge of sales for export to the United States. LG Case Brief at 27. The *INA* case, Micron maintains, stands for no such proposition.

Micron claims that in *INA,* the Court clarified the standard for determining whether sales of a respondent may be included in the home market database. The Court stated that the test was whether the respondent ''knew or should have known that the merchandise was not for home market consumption based upon the particular facts and circumstances surrounding the issues.'' The Court did not construe, and in fact, made clear it was not altering, the standard for imputed knowledge of U.S. sales. The Court merely noted that while knowledge (actual or imputed) of the U.S. destination must be established to treat an exporter's sales as sales to the United States, it was not necessary to find such knowledge of the ultimate destination in order to exclude sales for export from the home market database. The Court never suggested that imputed knowledge was only permissible in considering home market sales.

According to Micron, LG's arguments regarding *Yue Pak* are incongruous because, as discussed above, NSK and INA no more directly address LG's contention that ''should have known'' is not a sufficient basis for attributing sales than does *Yue Pak.* Neither of these cases discredit, but instead clarify, the Department's constructive knowledge standard. Indeed, far from ''overruling'' *Yue Pak,* neither NSK nor INA even reference the Court's earlier decision in *Yue Pak.*

Moreover, Micron claims that, LG inaccurately describes both the facts and the law under *Yue Pak.* According to Micron, the Department and the CIT considered extensive evidence that indicated knowledge by the PRC producers, but very little if any of the evidence could be considered the sort of direct evidence that would permit a finding that the PRC suppliers in question actually ''knew'' of the U.S. destination, such as when a producer is informed in advance of the U.S. destination, or otherwise admits its awareness. Rather, the bulk of the evidence was what might be considered

indirect, *i.e.,* specific labeling instructions relaying DOT and OSHA requirements, special order purchase practices, and the percentage of shipments to the United States versus those to third countries. Such evidence, Micron asserts, is precisely the sort of evidence indicating that the producer had ''reason to know'' of the U.S. destination, and thus the CIT's affirmance of the Department's finding of knowledge is directly relevant here.

Nor, according to Micron, does LG's citation to *TRBs II* support its theory of the knowledge standard. LG seizes on the Department's statement in that case that ''lacking evidence of actual knowledge that particular sales were destined for the United States, we cannot assume such knowledge, regardless of general knowledge that some merchandise was intended for exportation to the United States.'' However, Micron argues that the Department was merely noting that the proper evidentiary basis must exist in order to infer knowledge; it was not abandoning its longstanding knowledge standard. Indeed, the Department reaffirmed the ''knew or had reason to know'' formulation in the immediately following section of the decision, finding that respondent Premier's suppliers were unaware of the U.S. destination of their merchandise.

Further, Micron alleges that other cases cited by LG similarly do not repudiate a constructive knowledge standard, but merely show that where there was no reasonably plausible evidence suggesting the producer had knowledge at the time of the sale that the particular sales were destined for the United States. Therefore, the Department need not consider, let alone impute, knowledge. Micron contends that such cases are a far cry from the situation here, where the record is replete with evidence establishing that the producer knew or had reason to know of the U.S. destination of the sales in question. In such cases, the Department can and does impute knowledge.

For example, Micron alleges that in *Tapered Roller Bearings from China,* there was no indication that the goods ever entered the United States. In contrast, Micron argues, in the present case the record shows not only purchase orders issued directly by the U.S.-based purchaser to the producer's U.S.-based sales affiliate, but also delivery to the purchaser in the United States, entry of the goods for consumption in the United States, and payment by the purchaser from a U.S. bank. Thus, issuance of the purchase orders by a ''U.S. firm'' is only one piece of evidence among many.

Similarly, Micron maintains that the *Ukrainian Plate* decision starkly differs from the instant case. There, the Department had no basis to entertain imputed knowledge, because the evidence in this regard was virtually nonexistent. The Department has vastly more information in support of its decision in the instant case.

Micron alleges that in an attempt to side-step the collective impact of the multiple factors supporting the Department's preliminary decision here, LG addresses each factor in isolation, arguing that such factors as ''dealings with a U.S. company or a shipment route through the United States do not transform a third country sale into a U.S. sale.'' Aside from assuming the conclusion—that these were ''third country sales''—the decisions cited by LG can all be distinguished from the instant case.

With respect to *Magnesium,* Micron contends that LG confuses the allegations by the petitioner with the findings made by the Department. There, the Department found that the producer did not know until after the time of sale that it was selling to a U.S. customer. Here, by contrast, the producer's U.S.-based sales outlet, LG, was very clearly dealing directly and repeatedly with the U.S.-based customer. Similarly, in *Manganese Sulfate from China,* it was not until after the date of sale that the shipping document showing the U.S. port as the destination of shipment was issued, and numerous other factors indicated lack of knowledge. And in *Tapered Roller Bearings from China,* purchase orders from a U.S. company were insufficient to impute knowledge because the shipments were to a third country and there was no other evidence that the producer was aware at the time of sale that the merchandise was destined for the United States.

In this regard, Micron takes issue with LG's contention that after LG had arranged for delivery of the goods to its agent in the United States, they were transported away from the United States in bond, and in-bond entries are not considered to enter the Customs territory of the United States. Micron argues that, in fact, as the Department noted, LG shipped the DRAMs to its customer's agent in the United States, without requesting nor receiving assurance that the goods would be placed in Customs bond upon arrival and thereafter remain in bond until exported outside the United States. Moreover, as LG must acknowledge, the goods were in fact entered for consumption into the Customs territory of the United States.

In the *Persulfates* determination, according to Micron, the ''knowledge'' (or lack thereof) of the ultimate destination was not relevant; it was sufficient that the producer had knowledge that the goods were being shipped to an unaffiliated purchaser in the United States, and that the purchaser entered the goods for consumption. In this regard, Micron maintains that *Persulfates* offered an alternative basis for attributing the sales in question to LG, as the fact that the Mexican customer entered the merchandise for consumption in the United States rendered the knowledge issue irrelevant.

Micron believes the Department's application of adverse FA in the calculation of the margins for the Mexican sales is appropriate. Micron states that the Department should apply a total adverse FA rate to all of LG's U.S. direct and indirect sales.

Micron maintains, however, that if a calculation of the rate for the Mexican sales is required, the Department acted in accordance with law in using adverse FA to determine LG's dumping margin for the preliminary results, and should use the same methodology for the final results. Micron argues that LG withheld requested information, failed to provide information in the form and manner requested, significantly impeded the proceeding, and failed to act to the best of its ability to comply with the Department's request. *See* 19 U.S.C. 1677e. According to Micron, LG deliberately withheld important information requested by the Department concerning U.S. sales, and attempted instead to characterize that information as sales to third-countries. Not only did LG fail to provide information of its U.S. sales in the form and manner requested by the Department, but LG's willful attempt to mislead the Department, to LG's benefit, significantly impeded the proceeding. Micron argues that LG's failure to submit requested data constituted ''noncompliance with an information request'' within the meaning of *Olympic Adhesives*. In addition, LG's failure to produce requested information when it knew that these allegedly third-country sales were in fact sales to the United States, constituted a failure to cooperate. Therefore, LG failed to act to the best of its ability by knowingly withholding information requested by the Department. As a result, the Department appropriately applied an adverse inference under Section 1677e(b) in selecting from the facts otherwise available.

Micron states that to facilitate its analysis under Section 1677e, the

Department has developed several factors that it applies on a case-by-case basis. *See* SAA at 870 (''In employing adverse inferences, one factor the agencies will consider is the extent to which a party may benefit from its own lack of cooperation.''); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France et al.; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081, 2088 (Jan. 15, 1997) (considering (1) the experience of the respondent in antidumping duty proceedings, (2) whether the respondent was in control of the data which Commerce was unable to verify or rely upon, and (3) the extent the respondent might have benefitted from its own lack of cooperation); *see also Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty Administrative Review,* 63 FR 12762 (Mar. 16, 1998) (using same criteria).

Micron alleges that in applying these factors to this case, it is indisputable that the Department's use of total adverse FA to determine LG's dumping margin was warranted. Not only is LG an experienced respondent in the annual review processes, but LG was in control of the U.S. sales data requested, and due to its deceptive failure to report these sales, the Department was unable to verify such information. More important, however, LG stood to benefit from its lack of cooperation. Had the Department not known of LG's U.S. sales, its calculation of LG's dumping margin would be skewed in LG's favor. Micron contends that this is simply unacceptable. *See* SAA at 870.

DOC Position. A full discussion of our final conclusion, which requires references to proprietary information, is included in the December 6, 1999, Memorandum from John Conniff to Holly Kuga regarding sales through a third country by LG contained in the official file for this case. Generally, however, we have found that the record evidence concerning unreported sales supports the conclusion that LG knew, or should have known, that at the time it sold the subject DRAMs, the merchandise was destined for consumption in the United States.

With respect to knowledge, we do not agree with LG's contention that the Department may not assign a FA rate on the basis of the unreported sales since LG had no *actual* knowledge of the diversion of these sales. Numerous court decisions, including those by the U.S. Court of Appeals for the Federal Circuit, have held that the appropriate standard for making this decision is ''knew or should have known at the time of the sale that the merchandise was being exported for the United States.'' *See Yue Pak. See also Peer Bearing Co.* v. *United States,* 800 F. Supp. 959, 964 (CIT 1992), *Certain Pasta From Italy: Termination of New Shipper Antidumping Duty Administrative Review,* 62 FR 66602 (1997), and *Manganese Sulfate.* While the statute does not indicate the degree of knowledge necessary to find that the producer knew the destination of the merchandise, the courts have stated that even if a respondent denies knowledge of the destination of its sales, the Department may review all facets of a transaction, and based on extrinsic source data, determine that it is appropriate to impute knowledge in a given case. *See INA 1997,* 957 F. Supp. at 265.

In the matter of these unreported sales, first we note that LG essentially dealt with a U.S. customer. When shipping the merchandise, LG took no steps itself to ensure that, when the merchandise was delivered to the United States, it was subsequently placed under Customs bond and transported to a third country, clearing Customs upon export from the United States. What the record shows is that LG sold an enormous amount of DRAMs to a very small company and turned the merchandise over to the customer in the United States. Consequently, in contrast to such cases as *Ukraine Plate* and *Magnesium,* LG knew for certain that it was shipping DRAMs into the United States.

Moreover, this is not a situation where an exporter sells and ships a relatively small amount of subject merchandise to a third country and then, sometime much later, the customer reexports the merchandise to the United States. In this case, we are confronted with a staggering amount of merchandise that is being shipped by LG directly to the United States. The merchandise is subsequently being entered for consumption into the United States within days, if not hours, of it leaving the possession of LG.

The relative size and nature of the purchaser's operations and the quantity of acquisitions it made are germane to this case in several respects. The amount of purchases this customer made are not modest. In fact, the entered value of these transactions was quite large. However, based on LG's description of the purchaser's operations, it is clear that this party was not equipped to absorb such a vast amount of DRAMs. In particular, LG should have known that the purchaser was buying more DRAMs than it reasonably could consume in the manufacture of modules or the refurbishment of computers and printers. Furthermore, the amounts the customer purchased were so enormous they had to appear inconsistent with the size of the third-country DRAM markets in question. Moreover, as Micron points out, this customer could be expected to sell the vast majority of its merchandise to the United States. Consequently, not only was it reasonable to assume that this firm would sell some or all the subject merchandise that it purchased, but that it would sell the merchandise to the United States.

In summary, based on the nature and characteristics of these transactions, we conclude that LG knew, or should have known, that the merchandise was destined for the United States. Considering the above, and as more fully described in the above-mentioned agency memorandum, the Department has decided to include the unreported sales during the POR in the analysis conducted of LG's sales for these final review results. See the FA section of this notice for a discussion of the FA that were applied in the case of LG.

Comment 2: LG's Knowledge of U.S. Sales: Germany. On September 13, 1999, the Department placed on the record a memorandum and accompanying exhibits regarding certain LGSG sales to a customer in Europe that subsequently shipped the LG DRAMs in question to its related entity in the United States. The documents consisted of an anonymous e-mail from a former LG employee, LG verification exhibits, U.S. Customs data, and a signed declaration concerning this transaction chain from a former LG salesman. On October 7, 1999, LG submitted information in response to the Department's September 13, 1999, memorandum. Other interested parties also filed relevant factual information regarding this matter by letter dated October 7, 1999.

LG questions the Department's placing these allegations on the record so late in the proceeding, and states that nothing in the September 13, 1999, memorandum or elsewhere in the record provides a lawful basis for the Department to treat sales of DRAMs by LG's German subsidiary to its European customer as ''U.S. sales'' of LG. To the contrary, LG argues that the record provides no evidence that any responsible official of LG knew, at the time of sale, that these particular shipments were ultimately destined for the United States.

LG contends that the record before the Department provides overwhelming evidence that LG correctly considered these sales to Germany as third-country sales and accurately treated them as such in this proceeding. Furthermore,

LG claims that the evidence demonstrates that the transactions between LGSG and its European customer were motivated solely by legitimate business reasons and not by pricing differentials or the existence of an antidumping duty order.

LG argues that, as a matter of law, because LG did not know that particular sales were destined for the United States, none of the sales can properly be treated as U.S. sales by LG. LG contends that it is well-established that an exporter may not report sales made to a third country as U.S. sales unless the exporter knew at the time of sale that particular sales were destined for the United States. LG believes that the *NSK* case is directly on point, because while LG had generalized knowledge that some of the DRAMs sold to its European customer might ultimately be shipped to the United States, LG did not know that any particular sales were destined for import into the United States.

Similarly, LG argues that in *INA*, the CIT distinguished between the knowledge standard for treating sales to resellers as sales to the home market, and the standard for treating sales to export markets as sales to the United States. Thus, LG argues, only if the respondent had known which specific sales were destined for the United States could the Department have considered the sales to be U.S. sales under section 772(b) of the Act. LG asserts that in this case too, where LG did not have such knowledge, the sales to Germany cannot be considered U.S. sales.

Likewise, LG maintains that in *Tapered Roller Bearings and Parts Thereof from China,* the Department followed the holdings of *NSK* and *INA* in finding that generalized knowledge by suppliers that some sales to a reseller were destined for the United States was not adequate to treat the suppliers' sales as U.S. sales. Thus, according to LG, the Department has stated explicitly and unambiguously that the sort of general knowledge that some merchandise was intended for exportation to the United States that LG possessed with regard to the subject sales is insufficient for the sales to be treated as U.S. sales by LG.

LG contends that the record in this case establishes that LG did not know, and had no way of knowing, that any particular sales by LGSG to Europe were destined for the United States. Indeed, LG does not know even now which of its sales to its European customer were destined for the United States because it distributed the DRAMs that it bought from LG both to the United States and elsewhere, and did not inform LG as to the destination of the goods either before or after the time of sale. In these circumstances, where LG lacked ''actual knowledge that particular sales were destined for the United States,'' LG maintains that the law is clear that the sales may not be considered as U.S. sales of LG.

According to LG, the Department has placed on the record evidence obtained from the U.S. Customs Service that purports to ''indicate * * * the likelihood that all of LG['s] sales [to the European customer] entered the U.S.'' LG believes that there are numerous deficiencies, however, in the evidence provided by the Department and the conclusions that the Department draws from that evidence. LG states that from the Customs data, quite the opposite is true—all of LG's sales to its European customer did not enter the United States.

First, according to LG, the undisputed evidence on the record shows that during the fifth review period, LGSG sold a great quantity of DRAMs to its European customer. The Customs data produced by the Department, however, shows that fewer DRAMs were sold to the United States by its European customer during this period. Thus, LG concludes that even if all DRAMs that Customs claims came into the United States were manufactured by LG, there are still almost a majority of DRAMs that were sold by LGSG to its European customer that were not resold by the customer into the United States.

Second, LG maintains that there is no information contained in the Department's Exhibit 3a concerning the identity of the manufacturer of the DRAMs imported into the United States. LG alleges that the Department has placed on the record only two instances of underlying invoices in which LG is identified as the manufacturer, and these two imports cover an insignificant amount of units. Thus, LG contends that there is no way to determine, much less conclude that it is ''likely,'' that LG was the manufacturer of all of the DRAMs imported by its European customer into the United States. For all the record shows, the remaining DRAMs imported into the United States could all have been manufactured by Samsung or other DRAM suppliers.

Finally, LG claims that, for more than half of the transactions between LGSG and its European customer, the Department is unable to provide any evidence linking these sales to the specific Customs data regarding U.S. entries of Korean DRAMs. For the remainder of the transactions between LGSG and the European customer, which the Department has purported to link to particular U.S. imports by the customer, the Customs data fail to identify a manufacturer or even a product code. Thus, this record provides no evidence, other than two individual import transactions, that the customer shipped to the United States any DRAMs that LGSG had sold to it.

According to LG, the European customer's U.S. affiliate purchased DRAMs in Europe as a method in order to take advantage of various countries' Outward Processing Relief (''OPR'') provisions. Although DRAMs later went to a duty-free status in Europe and there was no longer a need to use the OPR provisions, the supply chain had been established. LG states that, because of the reliability of this transaction chain and the ''historic'' ties between the European customer and its U.S. affiliate, the sales continued through this channel.

LG argues that it makes no sense for the Department to conclude that LG made sales through Europe in order to avoid reporting them as U.S. sales when these transactions would have lowered its dumping margin. In the Department's recent decision in *DRAMs from Taiwan,* the Department stated with regard to two separate incidents that no adverse action is warranted when a respondent has erroneously reported or failed to report sales but correcting the error would lower the respondent's dumping margin. Thus, even if the Department were to conclude that LG's failure to report these sales was an error, there would still be no cause for the Department to take adverse action against LG.

LG claims that an e-mail sent by a former LG employee to the Department accusing LG of dumping DRAMs into the United States through its sales to the European customer is unreliable and has no evidentiary value. LG asserts that the employee left the company under unfavorable circumstances. LG submitted in its letter on October 7, 1999, a record of this individual's employment which documented his problems with the company. LG believes in light of the circumstances of his termination, the e-mail is wholly unreliable as evidence against LG. Additionally, LG argues that the evidence of an accountant who had no involvement in sales lacks probative value, particularly when that evidence is evaluated in light of his obvious bias and when that evidence is measured against abundant, reliable evidence that entirely contradicts it.

LG also questions the veracity of the declaration by Mark Vecchiarelli, the LG manager responsible for sales LG to the customer in question during the POR. LG has registered its strenuous objections to the Department's conduct

with regard to Mr. Vecchiarelli, both in performing a ''secret'' interview with him and in drafting multiple versions of his declaration.

LG disputes Mr. Vecchiarelli's claim that he ''was responsible for servicing all of the semiconductor requirements of [the customer in question] on a worldwide basis'' and that he was ''responsible for the pricing and supply decisions for all sales worldwide to the [company].'' LG claims that Mr. Vecchiarelli was responsible for all of LG's sales to the parent company worldwide, but he was not responsible for sales by other subsidiaries of LG to the branches of this company located outside the United States. His successor, Mr. Pizarev, confirmed this account in LG's October 7, 1999, submission to the Department.

LG claims that during the time that Mr. Vecchiarelli worked for LG, it was Mr. Sung-Jung Woo of LGSG who was responsible for making sales from LGSG to Europe, not Mr. Vecchiarelli. LG also disputes Mr. Vecchiarelli's statement that he ''left LG on good terms for a more lucrative position and for the career advancement opportunities available at TranSwitch.'' LG claims that Mr. Vecchiarelli left his employment at LG to become the Western Area Sales Manager at Macronix America, a subsidiary of a well-known Taiwanese memory semiconductor producer and a direct competitor of LG. LG believes this omission obscures Mr. Vecchiarelli's credibility.

Further, LG disputes Mr.Vecchiarelli's statement that he ''made sales to [the customer's] divisions located outside the United States and arranged for other LG entities to supply the semiconductors to these * * * divisions for ultimate delivery to [its] manufacturing facility in the United States.'' According to LG, Mr. Sung-Jung Woo of LGSG was responsible for making these sales, not Mr. Vecchiarelli. In addition, LG points out that Mr. Pizarev, who was trained by Mr. Vecchiarelli to be his permanent successor as the account manager, has attested to the fact that Mr. Vecchiarelli never mentioned that he sold DRAMS to this customer in the United States through other LG subsidiaries in third countries.

Moreover, LG also claims a ''floor'' price, or minimum price for the sales of DRAMs in the United States, as compared to Europe, did not exist. This is documented by the fact that prices to the European customer in question were not in fact lower than LG's prices in the United States.

In addition, LG argues that the customer in question claimed multiple uses for the discrete DRAMs it purchased, contradicting Mr. Vecchiarelli's statement that merchandise was ultimately destined for the United States, and that the parent ''did not subcontract, anywhere else in the world, the production of memory modules using the discrete DRAMs LG sold to [it].'' LG claims that Mr. Vecchiarelli was not in a position to know or supply the customer's global supply needs. According to LG, Mr. Vecchiarelli only had control of fulfilling the customer's supply requirements through LG.

LG concludes its arguments by stating that even if every word in Mr. Vecchiarelli's declaration is truthful and accurate, nothing in Mr. Vecchiarelli's declaration indicates that LG knew that particular sales to its European customer were destined for the United States. While some specific orders from LGSG may have been shipped in their entirety to its U.S. affiliate, others clearly were not; some or all of the DRAMs in those other orders were sent elsewhere, to destinations outside the United States. Rather, LG maintains that the evidence on the record shows that while LG had generalized knowledge that some DRAMs sold to its European customer might end up in the United States, LG did not know that any particular sales were destined for the United States. Further, LG contends that the evidence on the record shows that there were no significant differentials between LG's prices in Europe and in the United States. LG also questions the credibility of the assertions made by the two ex-LG employees referred to in the materials released by the Department. For all of these reasons, LG states that it is clear that the Department in the final results should not treat LGSG's sales to the customer in question as U.S. sales of LG.

Micron argues that LG engaged in multiple schemes to manipulate the calculation of its dumping margin by supplying the U.S. market with subject merchandise shipped through intermediaries and third countries. According to Micron, LG's attempts to explain away the unmistakable import of the record are unavailing. Two former employees of LG have come forward with direct evidence of an evasion scheme in which LG supplied the U.S. market by shipping DRAMs through its affiliate in Germany, knowing the DRAMs sold to the customer in question were destined for the customer's operations in the United States. Micron contends this deliberate evasion of the antidumping duty order has been fully substantiated by the sales data provided by LG at verification as well as the import records received by the Department from Customs. The egregious conduct demonstrated by respondent in this case demands that the Department apply total adverse FA to establish the dumping margin for LG.

According to Micron, the information LG has submitted confirms that LG was well aware that the Korean-made DRAMs that it supplied through Europe were being shipped to the United States. Micron argues that the record evidence supports the finding that LG had more than its admitted ''general knowledge'' regarding the U.S. destination of the LG DRAMs sold to the European customer in question. Micron maintains that the cumulative evidence of record—including the sworn statement of Mr. Vecchiarelli and the Department's corroborating data showing exact correspondence between individual LGSG sales to the customer in question and individual import transactions in the Customs data—indicate that LG had actual knowledge that particular sales to its European customer were for export to the United States.

Thus, Micron claims that, as LG itself points out, during the fifth review period LG sold a great amount of DRAMs to the European customer in question. According to Micron, the available Customs data show that, during the same period, the European customer's U.S. affiliate imported a large quantity of DRAMs that LG sold to the European customer in question. Moreover, Micron states that the available data show that a significant portion of these transactions were back-to-back, with the sale from LGSG to the European customer coinciding with a corresponding shipment (units and value) from its European customer to the U.S. affiliate. Micron contends that the correspondence of the sales volume admittedly sold from LGSG to the European customer to the available Customs import data provides sufficient evidence of LG's actual knowledge that particular sales were destined for the United States.

Micron disputes LG's claim that the Department lacks sufficient information to conclude that all of the entries of Korean-made DRAMs shown on the Customs import listing were in fact made by LG. First, Micron claims that the Customs listing of DRAM import transactions in Exhibit 3a to the September 22, 1999, Memorandum indicates that all of the transactions were entered showing Korea as the country of origin and the customer in question as the importer. Further, the Department's September 22, 1999, Memorandum indicates that the attached import transaction

documentation in Exhibit 3c are provided as ''two examples'' demonstrating that the entries of DRAMs at issue were in fact manufactured by LG.

Second, Micron states that the back-to-back transactions listed in Exhibit 3b to the Department's September 22, 1999, Memorandum, identical as to quantity and value, further confirm that LG was the manufacturer of these DRAMs. Finally, Micron alleges that the customer in question never contended that the imports entered by its U.S. affiliate were manufactured by any party other than LG. Since the customer does not dispute that all imports consist of LG-made DRAMs, and the sample import documentation establishes that LG was the manufacturer, it is reasonable to conclude that all of the listed entries consist of LG DRAMs.

Further, Micron alleges that the customer's manufacturing operations reinforce LG's knowledge of the U.S. destination of its sales. Micron argues that the statement of Mr. Vecchiarelli establishes that LG had actual knowledge of the U.S. destination of the discrete DRAMs that LG was supplying to the customer in question through third countries. Mr. Vecchiarelli describes the particular types of DRAMs that LG was selling to the customer in question, and the operations in which those DRAMs were being utilized. Micron contends that any vendor supplying a large multinational OEM with a large volume of product will not remain so ignorant of the OEM's operations as LG contends to be. *See* DRAMs from the Republic of Korea—Revision of Exhibit 3 of the Department's September 13, 1999 Memorandum from John Conniff to the File.

Micron notes that LG places great reliance on the very generalized denials of the customer in question. According to Micron, the customer claimed that it uses discrete DRAMs in many manufacturing locations other than the United States, but makes the most generalized claim of alternative uses and fails to identify even one specific location where the purchased LG DRAMs were being used. Moreover, Micron maintains, the denial is set forth in a compound form that lumps the LG-supplied DRAMs with DRAMs purchased from all other vendors: ''DRAM sold to the European IPO by L.G. Semicon and other vendors went to a variety of [sites throughout Europe].''

Micron states that LG attempts to buttress its story by attributing to the arrangement some unsubstantiated, and internally inconsistent, business justifications. According to Micron, LG also places great emphasis on the second-hand statements of Mr. Sung-Jung Woo, an LG employee who had previously served as sales manager of LGSG. These statements are not provided directly by Mr. Woo, but instead through the declaration of Mr. Jae-Byung Kim, another LG employee.

Micron maintains that the unexplained second-hand nature of the statements attributed to Mr. Woo casts significant doubt on their reliability. Micron contends that, since Mr. Woo continues to be employed by LG, there appears to be absolutely no reason why LG could not have provided a first-hand account by Mr. Woo. For that reason, the conclusory denials of LG's knowledge of the destination of the sales should be given little weight.

Micron argues that the prices charged by LG to its European customer confirm LG's intent to evade the antidumping order. According to Micron, the prices charged by LG through its alternative sales through LG and LGSG confirm the critical facts contained in the statement of Mr. Vecchiarelli that LG maintained a ''floor price'' on its sales through LG to the United States, and that LG made sales through LGSG when the price needed to make the sales to its European customer was below that ''floor price''.

Micron asserts that, in a market in which prices are continually declining, prices averaged over twelve months can be significantly skewed by the volumes sold at different times; and this was particularly true with sales by LGSG to the customer in question. Indeed, Micron states that when prices are examined on a daily basis, there is a clear pattern confirming Mr. Vecchiarelli's statement that LG was selling through LGSG in order to continue to supply its European customer's U.S. affiliate.

According to Micron, LG also points to the statement of Mr. Vlad Pizarev, Mr. Vecchiarelli's successor, as indicating that pricing is the one function that is centralized worldwide. Micron states that LG emphasizes the statement: ''Prices were usually the same worldwide.'' Micron argues that, as noted, this statement very pointedly does not dispute, and the establishment of a single world-wide price for this customer only confirms, LG's need to supply this customer in the United States through an alternative route when the agreed-upon world-wide price is set.

Micron argues that Mr. Vecchiarelli's statement is corroborated by other evidence of record and provides every indication of reliability. According to Micron, LG makes an attack on Mr. Vecchiarelli's integrity in an attempt to discredit his testimony. Those claims, Micron argues, are misplaced and should be rejected. First, the Department employees who spoke directly with Mr. Vecchiarelli had a first-hand basis on which to judge his credibility and reliability. LG acknowledges that Mr. Vecchiarelli left LG on good terms, and can proffer no substantial reason why Mr. Vecchiarelli should harbor any bias towards LG. Second, Mr. Vecchiarelli's apparent employment at Macronix America immediately after leaving LG's employment provides absolutely no basis for inferring any bias against LG. Mr. Vecchiarelli was no longer employed at Macronix at the time he provided his statement to the Department, so the basis for any potential ''bias'' had already been eliminated. Moreover, LG by its own actions has indicated that it did not consider Mr. Vecchiarelli's employment at Macronix to constitute a disqualifying bias against LG. As related in the Statement of Mr. Pizarev, Mr. Vecchiarelli continued to be engaged by LG as a consultant ''on a retainer from LG for a couple of months'' after he left LG to work at Macronix.

Third, LG grossly mischaracterizes the supposed discrepancies in Mr. Vecchiarelli's statement. Thus, LG first contests his statement that he was responsible for the pricing and supply decisions for all sales worldwide to the customer in question. Yet LG's own submissions confirm this statement. As already discussed above, LG submitted the statement of another LG employee (Mr. Pizarev), who confirmed that the parent company's pricing is ''centralized'' worldwide. And the organization charts submitted by LG at verification quite plainly indicate that Mr. Vecchiarelli was in charge of worldwide sales to the customer in question. In fact, Mr. Vecchiarelli is shown at the top of the chart, with the title ''WW Act. Mgr''. Furthermore, this document from the Department's sales verification report clearly reviews the customer in question's DRAM product needs on a worldwide basis, with information on products manufactured at each location.

Micron reiterates that nowhere does LG deny that LG maintained a ''floor price'' system, as Mr. Vecchiarelli described it in his statement.

In sum, Micron contends that Mr. Vecchiarelli's statement describing LG's evasion scheme is credible, corroborated by the Customs documents as well as by LG's own sales documents, and confirmed in many respects both by LG's and the customer in question's admissions and by their failure to deny critical aspects of the arrangement.

Micron submits that LG's complaints regarding the Department's procedures should be summarily rejected. According to Micron, it did not respond to the summary arguments in LG's October 7 letter because they appeared to be nothing more than a preview of legal arguments to be presented in LG's case brief. Micron contends that it now appears that LG is resting on the arguments as summarily stated in the October 7 letter. Those arguments are entirely baseless and, like so many of LG's assertions in this proceeding, not worthy of serious consideration.

Micron maintains that LG's allegations that the Department (1) failed to ''promptly'' place information on the record, (2) conducted ''secret'' interviews, and (3) failed to afford respondent with a ''meaningful'' opportunity to respond to allegations, thereby denying LG's ''fundamental right to due process,'' totally lack merit.

First, according to Micron, LG ignores the fundamental nature of an antidumping proceeding. Second, LG's allegation with respect to the Department's ''secret interviews'' with Mr. Vecchiarelli goes against the statute, which affirmatively authorizes the conduct of ex parte meetings. Third, LG's ''strenuous'' objections to these meetings, and to the proffer of information by a former employee concerning fraudulent conduct by the employer, are totally baseless.

Finally, the Department is afforded great discretion in conducting its proceedings. *E.I. Dupont de Nemours & Co.* v. *United States,* Slip Op. 98–7, 1998 WL 42598, at *11 (CIT Jan. 29, 1998) (''Commerce enjoys broad discretion in conducting investigations and reviews under the antidumping statute''). As the Court of International Trade has previously recognized:

> Commerce regularly balances its interest in conducting an efficient, uniform and expeditious administrative investigation against its equally compelling interest in conducting accurate fact-finding. Such a weighing of competing interests involves choices of administrative practice and procedure which Commerce, in its specialized role as administrator of antidumping investigations, is uniquely qualified to make.

See Union Camp Corp. v. *United States,* 53 F. Supp. 2d 1310, 1328 (CIT 1999); *see* also *NEC Corp.* v. *United States Dept. of Commerce,* 978 F. Supp. 314, 327 (CIT 1997), aff'd, 151 F.3d 1361 (Fed. Cir. 1998), cert. denied, 119 S.Ct. 1029 (1999) (noting that the Assistant Secretary for Import Administration ''enjoy(s) a presumption of honesty and integrity which must be overcome''). In short, Micron contends that LG has failed to provide any legal foundation for its allegations concerning the Department's investigative procedures, and the Department should dismiss these claims as groundless.

DOC Position: A full discussion of our final conclusion, which requires references to proprietary information, is included in the December 3, 1999, Memorandum from John Conniff to Holly Kuga regarding sales through a third country by LG contained in the official file for this case.

In sum, an employee in a significant position of LG stated for the record that he set up a sales channel for one of LG's major customers to procure DRAMs for the United States through LG's subsidiary in Germany. LG has not submitted anything for the record of the instant review that would lead us to believe that the employee's responsibilities were any less than he described. LG itself acknowledges that it knew that ''some of the merchandise'' sold through Germany was destined for the United States. The record contains ample information to document the fact that the overwhelming majority of the merchandise sold through Germany did, in fact, ultimately enter the United States for consumption during the POR. Therefore, we believe the record evidence supports the conclusion that LG knew, or should have known, at the time it sold the subject DRAMs, that the merchandise was destined for consumption in the United States.

Comment 3: Adjustments to LG's Reported Cost of Manufacturing. LG claims that the Department should not adjust its cost of manufacturing by including certain costs from LG's construction-in-progress (''CIP'') account.

Micron argues that the Department properly adjusted LG's reported cost of manufacture for certain production expenses that LG had excluded from cost of manufacture and instead relegated to a CIP account.

DOC Position: Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department should adjust LG's reported COM is moot.

Comment 4: Adjustment to LG's Reported G&A Expense. In its preliminary results, the Department adjusted LG's reported G&A expense by excluding foreign currency transaction gains and losses related to accounts receivables. *See Preliminary Results,* 64 FR at 30,485; Analysis Memorandum at 4 & Attachments 7, 9, 10. LG alleges that the Department's calculations contain a significant error that should be corrected in the final results. Specifically, the Department inadvertently added three zeros to three of the figures in the tables contained in Attachments 9 and 10: accounts receivable, long-term accounts payable, and bank deposits. Thus, the Department should use a revised G&A ratio percent in the Final Results.

No rebuttal briefs were filed with regard to this issue.

DOC Position. Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department should adjust LG's reported G&A expense is moot.

Comment 5: The Department Should Use the Data Submitted by LG in Its March 26, 1999 Supplemental Response. In the preliminary results, the Department used the sales and cost data submitted by LG with its original October 8, 1998, questionnaire response. However, LG submitted revised cost and sales data with its March 26, 1999, supplemental response. LG argues that this data was timely submitted and was used as the basis for the Department's verification in April 1999, and the Department should, therefore, use LG's March 26, 1999, data in the final results.

No rebuttal briefs were filed with regard to this issue.

DOC Position: Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department should use LG's March 26, 1999, data submission is moot.

Comment 6: The Department Should Correct Programming Errors in the Calculation of G&A and Interest Expense for Modules LG argues that the Department made programming errors in its application of the revised G&A and interest expenses for memory modules.

No rebuttal briefs were filed with regard to this issue.

DOC Position: Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department revises LG's G&A and interest expenses for memory modules is moot.

Comment 7: The Department Should Correct a Programming Error in the Calculation of LG's COP and CV for DRAMs. LG claims that the Department should correct a programming error in the calculation of COP and CV for DRAMs.

No rebuttal briefs were filed with regard to this issue.

DOC Position: Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department corrects the programming error in the calculation of COP and CV for DRAMs is moot.

Comment 8: The Department Should Correct a Programming Error that Significantly Overstates the Duty Assessment Rates Covering LG Imports. LG claims that, due to a computer programming error, the Department's duty assessment rates by importer are significantly overstated.

No rebuttal briefs were filed with regard to this issue.

DOC Position: Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department has the duty assessment programming error is moot.

Comment 9: The Department Should Calculate LG's CV Selling Expenses Based on Density. LG claims that the Department erroneously calculated a single weighted-average home market selling expense figure for CV-based on sales of all products. To correct this distortion in the dumping margin calculation, the Department should calculate CV selling expenses based on density.

No rebuttal briefs were filed with regard to this issue.

DOC Position: Given that the Department is rejecting LG's reported sales and cost information to calculate LG's margin, and is applying total FA, the issue of whether the Department calculates CV selling expenses based on density is moot.

Final Results of Review

As a result of this review, we have determined that the following margins exist for the period May 1, 1997 through April 30, 1998:

Manufacturer/Exporter	Weighted-average margin percentage	Weighted-average per megabit rate
Hyundai Electronics Industries, Co., Ltd.	10.44	.03
LG Semicon Co., Ltd.	10.44	.03
G5 Corporation	10.44	.03

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. These final results of review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review. For Hyundai, for duty-assessment purposes, we calculated an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total estimated entered value reported by Hyundai of those sales. Hyundai, in accordance with the Department's questionnaire, estimated the entered value of its sales by calculating the average of the entered value of each control number for the POR. For all other respondents, we based the importer-specific assessment rate on the facts available margin percentage.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of DRAMs from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a) of the Act: (1) for the companies named above, the cash deposit rates will be the rates listed above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results which covered that manufacturer or exporter; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review or in the most recent final results which covered that manufacturer; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 4.55 percent, the all others rate established in the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402 (f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305 (a) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 6, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–32399 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–850, A–588–851, A–791–808]

Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and the Republic of South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Charles Riggle at (202) 482–5288 or Constance Handley at (202) 482–0631, Import Administration, Room 1870, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

Preliminary Determinations

We preliminarily determine that large diameter carbon and alloy seamless standard, line and pressure pipe (large diameter seamless pipe) from Japan, and small diameter carbon and alloy seamless standard, line and pressure pipe (small diameter seamless pipe) from Japan and the Republic of South Africa (South Africa), are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

On June 30, 1999, the Department received petitions on large diameter seamless pipe from Japan and Mexico filed in proper form by U.S. Steel Group (a unit of USX Corp.—Fairfield Seamless Pipe Mill) and USS/Kobe Steel Company. Also that day, the Department received petitions on small diameter seamless pipe from the Czech Republic, Japan, Romania and South Africa filed in proper form from Koppel Steel Corporation, Sharon Tube company, U.S. Steel Group, USS/Kobe Steel Company and Vision Metals, Inc. (Gulf States Tube Division). On June 30, 1999, the United Steel Workers of America joined as co-petitioners in all of the cases.[1]

These investigations were initiated on July 20, 1999. *See Initiation of Antidumping Duty Investigations: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Mexico and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from the Czech Republic, Japan, the Republic of South Africa and Romania;* (*Initiation Notice*), 64 FR 40825 (July 28, 1999). Since the initiation of the investigations, the following events have occurred:

On August 12, 1999, the Department selected the following companies as mandatory respondents in the investigations: Kawasaki Steel Corporation (Kawasaki), Nippon Steel Corporation (Nippon) and Sumitomo Metal Industries (Sumitomo) for both investigations involving Japan; and Iscor Ltd (Iscor), the sole producer of the subject merchandise for South Africa. *See* Respondent Selection, below. On August 12, 1999, the Department issued the antidumping questionnaires to each of the selected respondents.

On August 16, 1999, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to each of these antidumping investigations are materially injuring the U.S. industry. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa,* 64 FR 46953 (August 27, 1999).

On September 10, 1999, Iscor notified the Department that it would not be responding to the Department's questionnaire. Likewise, in the cases involving Japan, none of the mandatory respondents answered the Department's questionnaire.

Period of Investigation

The period of investigation (POI) for both the large and small diameter seamless pipe cases is April 1, 1998, through March 31, 1999. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* June 1999).

Scope of Investigations[2]

For purposes of the large diameter seamless pipe investigation, the products covered are large diameter seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes produced, or equivalent, to the American Society for Testing and Materials (ASTM) A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335 (grades P1, P2, P11, P12, P21 and P22 only), ASTM A–589, ASTM A–795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of these investigations also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of these investigations are seamless pipes greater than 4.5 inches (114.3 mm) up to and including 16 inches (406.4 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to these investigations are currently classifiable under the subheadings 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.31.60.50, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.60, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifications, Characteristics, and Uses: Large diameter seamless pipe is used primarily for line applications such as oil, gas, or water pipeline, or utility distribution systems. Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code

[1] The preliminary determinations in the investigations involving the Czech Republic, Mexico and Romania has been postponed until January 26, 2000

[2] On September 3, 1999, the petitioners requested that the scope of the investigations be amended to exclude certain products made to the A–335 specification. This change is reflected in the current scope.

requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes in large diameters is for use as oil and gas distribution lines for commercial applications. A more minor application for large diameter seamless pipes is for use in pressure piping systems by refineries, petrochemical plants, and chemical plants, as well as in power generation plants and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

The scope of these investigations includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of these investigations. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335 (grades P1, P2, P11, P12, P21 and P22 only), ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of these investigations.

Specifically excluded from the scope of these investigations are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335 (grades P1, P2, P11, P12, P21 and P22 only), ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished oil country tubular goods (OCTG) are excluded from the scope of these investigations, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

For purposes of the small diameter seamless pipe investigations, the products covered are seamless carbon and alloy (other than stainless) steel standard, line, and pressure pipes and redraw hollows produced, or equivalent, to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and the American Petroleum Institute (API) 5L specifications and meeting the physical parameters described below, regardless of application. The scope of these investigations also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters described below, regardless of specification. Specifically included within the scope of these investigations are seamless pipes and redraw hollows, less than or equal to 4.5 inches (114.3 mm) in outside diameter, regardless of wall-thickness, manufacturing process (hot finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish.

The seamless pipes subject to these investigations are currently classifiable under the subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.30.00, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the HTSUS.

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM A–106 standard may be used in temperatures of up to 1000 degrees Fahrenheit, at various ASME code stress levels. Alloy pipes made to ASTM A–335 standard must be used if temperatures and stress levels exceed those allowed for ASTM A–106. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements. If exceptionally low temperature uses or conditions are anticipated, standard pipe may be manufactured to ASTM A–333 or ASTM A–334 specifications.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless water well pipe (ASTM A–589) and seamless galvanized pipe for fire protection uses (ASTM A–795) are used for the conveyance of water.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53, API 5L–B, and API 5L–X42 specifications. To avoid maintaining separate production runs and separate inventories, manufacturers typically triple or quadruple certify the pipes by meeting the metallurgical requirements and performing the required tests pursuant to the respective specifications. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple or quadruple certified pipes is in pressure piping systems by refineries, petrochemical plants, and chemical plants. Other applications are in power generation plants (electrical-fossil fuel

or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, ASTM A–106 pipes may be used in some boiler applications.

Redraw hollows are any unfinished pipe or ''hollow profiles'' of carbon or alloy steel transformed by hot rolling or cold drawing/hydrostatic testing or other methods to enable the material to be sold under ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications.

The scope of these investigations includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line, and pressure applications and the above-listed specifications are defining characteristics of the scope of these investigations. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications shall be covered if used in a standard, line, or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in ASTM A–106 applications. These specifications generally include ASTM A–161, ASTM A–192, ASTM A–210, ASTM A–252, ASTM A–501, ASTM A–523, ASTM A–524, and ASTM A–618. When such pipes are used in a standard, line, or pressure pipe application, such products are covered by the scope of these investigations.

Specifically excluded from the scope of these investigations are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–53, ASTM A–106, ASTM A–333, ASTM A–334, ASTM A–335, ASTM A–589, ASTM A–795, and API 5L specifications and are not used in standard, line, or pressure pipe applications. In addition, finished and unfinished OCTG are excluded from the scope of these investigations, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the merchandise under investigation is dispositive.

The Department set aside a period for all interested parties to raise issues regarding product coverage. From August through November 1999, the Department received responses from a number of parties including importers, respondents, consumers, and petitioners.

Class or Kind

We have preliminarily determined that there are only two classes or kinds of merchandise, one for small diameter pipe and one for large diameter pipe. Our determination is based on an evaluation of the criteria set forth in *Diversified Products* v. *United States,* 572 F. Supp. 883, 889 (CIT 1983) (*Diversified Products*), which look to differences in: (1) The general physical characteristics of the merchandise, (2) the expectations of the ultimate purchaser, (3) the ultimate use of the merchandise, (4) the channels of trade in which the merchandise moves, and (5) the manner in which the product is advertised or displayed. In making this preliminary determination, we have rejected a request by Sumitomo that the Department determine that there are three separate classes or kinds of merchandise subject to investigation: (1) Commodity grade standard, line and pressure pipe, (2) high-strength line pipe produced to proprietary specification for use in deep sea, arctic or other harsh conditions and (3) alloy pressure pipe. *See* letter from Sumitomo to the Department of Commerce (August 3, 1999). Likewise we have rejected the requests of MC Tubular Products, Inc., an importer of the subject merchandise, and the American Boiler Makers Association (ABMA), consumers of the subject merchandise, that we determine that alloy seamless pipe is a separate class or kind than carbon seamless pipe. *See* letter from MC Tubular Products to the Department of Commerce (August 10, 1999), and letter from the ABMA to the Assistant Secretary (November 5, 1999). In our analysis of the *Diversified Products* criteria, we find that, consistent with past seamless pipe cases, alloy grade steels, high-strength line pipe, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Brazil,* 60 FR 31960, 31963 (June 19, 1995); *Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Germany,* 60 FR 31974 (June 19, 1995). Information placed on the record of this proceeding, which does not address all of the *Diversified Products* criteria or contain compelling new documented evidence, does not constitute sufficient justification for deviating from our established precedent. *Id.* For further discussion on this topic *see Memorandum from Case Analysts to Holly Kuga, Re: Class or Kind,* dated December 7, 1999. On December 2, 1999, Sumitomo made an additional submission with regard to class or kind. Due to the statutory deadline for the preliminary determination in these investigations, we will consider this information in making the final determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can be reasonably examined.

After consideration of the complexities expected to arise in these proceedings and the resources available to the Department, we determined that it was not practicable in the Japanese investigations to examine all known producers/exporters of subject merchandise. This was not a concern in the investigation involving South Africa, since there was only one producer/exporter of subject merchandise in that country during the POI. However, with respect to Japan, which had multiple producers/exporters of subject merchandise during the POI, we determined that, given our resources, we would be able to investigate three such companies. The respondents selected for Japan were

those with the greatest export volume, that together accounted for more than 50 percent of all known exports of the subject merchandise during the POI from Japan. For a more detailed discussion of respondent selection in these investigations, *see Respondent Selection Memorandum,* dated August 12, 1999.

Facts Available

As stated above, none of the respondents answered the Department's questionnaire. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Because Iscor, Kawasaki, Nippon and Sumitomo failed to respond to our questionnaire, pursuant to section 776(a)(2)(A) of the Act, we resorted to facts otherwise available to determine the dumping margins for these companies.

Section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103–316 at 870 (1994) (SAA). Failure by Iscor, Kawasaki, Nippon and Sumitomo to respond to the Department's antidumping questionnaire constitutes a failure to act to the best of their ability to comply with a request for information, within the meaning of section 776 of the Act. Because Iscor, Kawasaki, Nippon and Sumitomo failed to respond, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted in selecting the facts available for these companies.

Because we were unable to calculate margins for the respondents in Japan, or South Africa, consistent with Department practice, we assigned the respondents in these cases the highest margins alleged in the amendments to the respective petitions. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Germany (Wire Rod from Germany),* 63 FR 10847 (March 5, 1998). The highest petition margins are 106.07 percent in the small diameter seamless pipe investigation for Japan, 107.80 percent in the large diameter seamless pipe investigation for Japan and 43.51 percent for South Africa. *See Initiation Notice.*

Section 776(b) states that an adverse inference may include reliance on information derived from the petition. *See also* SAA at 829–831. Section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870).

We reviewed the adequacy and accuracy of the information in the petitions during our pre-initiation analysis of the petitions, to the extent appropriate information was available for this purpose. *See Import Administration AD Investigation Initiation Checklist,* dated June 21, 1999, for a discussion of the margin calculations in the petitions. In addition, in order to determine the probative value of the margins in the petitions for use as adverse facts available for purposes of this determination, we examined evidence supporting the calculations in the petitions. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petitions were based. Our review of the EP and NV calculations indicated that the information in the petitions has probative value, as certain information included in the margin calculations in the petitions is from public sources concurrent, for the most part, with the POI (*e.g.,* international freight and insurance, customs duty, interest rates). However, with respect to certain other data included in the margin calculations of the petition (*e.g.,* gross United States and home market unit prices), neither the respondents nor other interested parties provided the Department with further relevant information and the Department is aware of no other independent source of information that would enable it to further corroborate the remaining components of the margin calculation in the petition. The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(c) states, ''[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, we note that the SAA at 870 specifically states that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. Accordingly, we find, for purposes of this preliminary determination, that this information is corroborated to the extent practicable.

All Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign, as the ''all others'' rate, the simple average of the margins in the petition. We have done so in these cases. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Canada,* 64 FR 15457 (March 31, 1999); *see also Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coil from Italy,* 64 FR 15458, 15459 (March 21, 1999).

Suspension of Liquidation

For entries of large and small diameter seamless pipe from Japan, and entries of small diameter seamless pipe from South Africa, we are directing the U.S. Customs Service to suspend liquidation of those entries that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below.

Manufacturer/exporter	Margin (percent)
Japan—large diameter:	
Nippon Steel Corporation	107.80
Kawasaki Steel Corporation	107.80
Sumitomo Metal Industries	107.80
All Others	68.88
Japan—small diameter:	
Nippon Steel Corporation	106.07
Kawasaki Steel Corporation	106.07
Sumitomo Metal Industries	106.07
All Others	70.43
South Africa—small diameter:	
Iscor Ltd	43.51
All Others	40.17

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. If our final antidumping determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of these preliminary determinations or 45 days after the date of our final determinations.

Public Comment

For the investigations of large and small diameter seamless pipe from Japan and small diameter seamless pipe from South Africa, case briefs must be submitted no later than 30 days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. In the event that the Department receives requests for hearings from parties to several seamless pipe cases, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If these investigations proceed normally, we will make our final determinations no later than 75 days after the date of issuance of this notice.

These determinations are published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 7, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–32393 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Oil Country Tubular Goods From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 14, 1999.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the antidumping duty administrative review of the antidumping order on oil country tubular goods from Korea, covering the period August 1, 1997 through July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Jonathan Lyons, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–0374.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Tariff Act, as amended (the Act), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 120 days after the date on which the preliminary determination is published. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. See Memorandum from Joseph A. Spetrini to Robert S. LaRussa. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the final results until March 6, 2000. This extension fully extends the statutory deadline to 180 days after the date on which the preliminary determination was published.

Dated: December 6, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary Enforcement Group III.

[FR Doc. 99–32396 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–856]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Synthetic Indigo From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Dinah McDougall or David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3773 or (202) 482–4136, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department's'') regulations are to 19 CFR part 351 (1998).

Preliminary Determination

We preliminarily determine that synthetic indigo from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (*Notice of Initiation of*

Antidumping Duty Investigation: Synthetic Indigo from the People's Republic of China, 64 FR 40831, July 28, 1999) (*Notice of Initiation*) the following events have occurred:

On August 16, 1999, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

On August 20, 1999, the Department issued an antidumping questionnaire to the China Chamber of Commerce for Metals, Minerals & Chemicals (the ''Chamber'') and the Ministry of Foreign Trade and Economic Cooperation (''MOFTEC'') with instructions to forward the questionnaire to all producers/exporters of the subject merchandise for their response by the specified deadline dates. We also sent courtesy copies of the antidumping duty questionnaire to the following companies identified as possible exporters/producers of the subject merchandise during the period of investigation (''POI''):

Beijing Dyestuffs Plant
China National Chemical Construction Jiangsu Company
Chongqing Chuanran Chemicals General Plant
Chongqing Dyestuff Import & Export United Corp.
Chung Hing Chemicals
Hainan Huanhai Development Co., Ltd
Hebei Jinzhou Import & Export Corporation
Hebei Chemical Import & Export Co.
Hebei WuQiang Chemical General Factory
Jinhua Chemical Group
Jiahui Chemicals Works Theeast Tianjin
Jiangsu Taifeng Chemical Industry Co., Ltd.
Lianyungang Chemicals Medicines Products
Sinochem Hebei Import & Export Corp.
Sinochem Liaoning Import & Export Co.
Sinochem Ningbo Import & Export Corp.
Suzhou Foreign Trade Corp.
Syntron Industrial Co., Ltd.
Wonderful Chemical Industrial Ltd.
Wuhan Tianging Chemicals Import & Export Corp.
Yong Fong Trade & Development Corp.

During the period September through October 1999, the Department received questionnaire responses from (1) Wonderful Chemical Industrial Ltd. (''Wonderful''); (2) Taixing Taifeng Dyestuff Company Ltd. (''Taixing Taifeng''); (3) Jiangsu Taifeng Chemical Industry Co., Ltd. (''Jiangsu Taifeng''); (4) China National Chemical Construction Jiangsu Company (''CNCCJC''); (5) China Jiangsu International Economic Technical Cooperation Corp. (''CJIETCC''); (6) Shanghai Yongchen International Trading Company Ltd. (''Shanghai Yongchen''); (7) Kwong Fat Hong Group of Hong Kong (''Kwong Fat''); (8) Tianjin Jiahui Dyestuffs & Chemical Plant (''Tianjin Jiahui''); (9) Tianjin Hongfa Group Co. (''Tianjin Hongfa''); (10) Hebei Jinzhou Import & Export Corporation (''Hebei Jinzhou''); (11) Hebei Huiqian (''Hebei Huiqian''); (12) Beijing Dyestuffs Plant (''Beijing Dyestuffs''); (13) Sinochem Hebei Import & Export Corp. (''Sinochem Hebei''); (14) Chongqing Dyestuff Import & Export United Corp. (''Chongqing United''); and (15) Wuhan Tianging Chemicals Import & Export Corp., Ltd. (''Wuhan''). In addition, Jinhua Chemical Group Import & Export Corp. contacted the Department and stated that it does not produce or export the subject merchandise to the United States.

On October 5, 1999, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters/producers of the subject merchandise, it would limit the number of mandatory respondents in this investigation. *See* ''Respondent Selection'' section below.

On October 13, 1999, the Department invited interested parties to provide publicly available information (''PAI'') for valuing the factors of production and for surrogate country selection.

On October 28, 1999, the petitioners alleged that critical circumstances exist with respect to imports of synthetic indigo from the PRC. Accordingly, pursuant to section 732(e) of the Act, on November 2, 1999, the Department requested information regarding monthly shipments of synthetic indigo to the United States during the period January 1997 to October 1999, from the mandatory respondents participating in this investigation. We received the requested information on November 17, 1999. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

On November 2, 1999, the respondents requested that the PRC be treated as a market economy in this investigation. The respondents also requested that the synthetic indigo industry be considered a market-oriented industry (''MOI'') in a November 22, 1999, submission. Treatment of both of these claims is discussed below under ''Nonmarket Economy Country and Market-Oriented Industry Status.''

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on December 1, 1999, the mandatory PRC respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of an affirmative preliminary determination in the **Federal Register**. On December 6, 1999, these parties amended their request to agree to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The products subject to this investigation are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as ''Vat Blue 1.'' Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (*e.g.,* powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this investigation are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI comprises each exporter's two most recent fiscal quarters prior to the filing of the petition, *i.e.,* October 1, 1998 through March 31, 1999.

Respondent Selection

The Department determined that the resources available to it for this investigation limited its ability to analyze any more than the responses of the two largest exporter/producers of

the subject merchandise in this investigation, their affiliates, and their associated producers. Based on Section A questionnaire responses, the Department selected the two largest exporter groups to be the mandatory respondents in this proceeding: (a) Wonderful/Jiangsu Taifeng and (b) Kwong Fat. (*See* Memorandum from the Team to Louis Apple dated October 5, 1999). After further analysis of the questionnaire responses and in consideration of section 772(a) of the Act, we preliminarily determined that Tianjin Hongfa, rather than Kwong Fat, is the appropriate respondent exporter and thus have used Tianjin Hongfa's sales to Kwong Fat, rather than Kwong Fat's sales to unaffiliated purchasers in the United States, in this preliminary determination (*see* discussion below under ''Export Price''). Accordingly, Wonderful and Tianjin Hongfa are the mandatory respondents analyzed in this preliminary determination.

Nonmarket Economy Country and Market-Oriented Industry Status

The Department has treated the PRC as a NME in all past antidumping investigations (*see, e.g., Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China,* 63 FR 72255, December 31, 1998 (''*Mushrooms*''); *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22545, May 8, 1995, (''*Furfuryl Alcohol*''); and *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, May 2, 1994, (''*Silicon Carbide*'')). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act).

On November 2, 1999, the respondents made a claim that economic changes in the PRC warrant revocation of the PRC's NME status. Because the respondents' submission does not provide sufficient support for their claim for market economy status and does not address a number of important factors for determining market economy status (*see* Memorandum from the Team to Lou Apple, dated December 6, 1999), we have preliminarily determined to continue to treat the PRC as a NME.

In a November 22, 1999, submission, the respondents requested that synthetic indigo be treated as a MOI, and accordingly, that the Department should rely on the actual PRC prices or costs for calculating normal value (''NV''). As a threshold matter, we note that the respondents have not provided information for the record that covers virtually all of the producers of the industry. While the Department has received information from a number of exporters and manufacturers of the subject merchandise, as stated above, we do not have information from other exporters and producers. The Chamber states in a September 10, 1999, submission that ''[w]e believe that the quantity exported by the companies who have agreed to cooperate in this investigation accounts for a substantial majority of the total quantity exported from China during the POI.'' The Chamber refers to the exporters ''who have agreed to be respondents'' as accounting for at least 65 percent of exports and acknowledges that there are a number of companies which have not supplied any data for this investigation. Further, there is no information on the record which defines how large the universe of synthetic indigo producers in the PRC is with any specificity. Even in those cases where the number of investigated firms is limited by the Department, a MOI allegation must cover all (or virtually all) of the producers in the industry in question (*see Mushrooms* at 72256, and *Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat from the PRC*, 62 FR 41347, 41353, August 1, 1997). Thus, as it is clear that the respondents' claim does not cover substantially all of the producers in the PRC synthetic indigo industry, we are unable to consider the MOI claim further.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. In this case, each respondent has requested a separate company-specific rate. Wonderful is a Hong Kong trading company which is wholly-owned by a Hong Kong entity. Therefore, we determined that no separate rate analysis is required for it. Because Wonderful's affiliate Jiangsu Taifeng, which is jointly owned by Wonderful and a PRC company, also made direct sales to the United States during the POI, it is eligible for consideration of a separate rate. Tianjin Hongfa states that it is ''owned by the people.'' As stated in *Silicon Carbide* and *Furfuryl Alcohol*, ownership of the company by ''all the people'' does not require the application of a single rate. Accordingly, Tianjin Hongfa is also eligible for consideration of a separate rate.

The Department's separate rate test to determine whether the exporters are independent from government control is not concerned, in general, with macroeconomic/border-type controls, *e.g.*, export licenses and quotas and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757, November 19, 1997; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279, November 17, 1997; and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14726, March 20, 1995.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 May 6, 1991 and amplified in Silicon Carbide. Under the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of *De Jure* Control

The respondents have placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''Foreign Trade Law of the People's Republic of China'' and the ''Company Law of the People's Republic of China.'' In prior cases, the Department has analyzed such laws and found that they establish an absence of *de jure* control (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472, October 24, 1995; and *Furfuryl Alcohol*). We have no new information in this proceeding which would cause us to reconsider this determination.

According to the respondents, exports of synthetic indigo are not subject to export quotas, nor does the subject merchandise appear on any government list regarding export provisions or export licensing. Therefore, we

preliminarily determine that, within the synthetic indigo industry, there is an absence of *de jure* government control over export pricing and marketing decisions of firms.

2. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (*See Silicon Carbide* and *Furfuryl Alcohol*.) Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Both Jiangsu Taifeng and Tianjin Hongfa asserted the following: (1) They establish their own export prices; (2) they negotiate contracts without guidance from any governmental entities or organizations; (3) they make their own personnel decisions; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to sell their assets and to obtain loans. Additionally, the questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that both Jiangsu Taifeng and Tianjin Hongfa have met the criteria for the application of separate rates.

Margins for Exporters Whose Responses Were Not Analyzed

For the responding companies that provided all the questionnaire responses requested of them and otherwise fully cooperated with the Department's investigation, but nonetheless, were not fully analyzed by the Department due to limited resources (*see* ''Respondent Selection'' section above), we assigned the weighted-average of the rates of the fully-analyzed companies as a non-adverse facts available rate. Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

The parties who responded but were not analyzed have applied for separate rates, and provided information for the Department to consider for this purpose. Although the Department is unable, due to administrative constraints, to consider the requests for separate rates status, and to calculate a separate rate for each of these named parties who are exporters, there has been no failure on the part of these exporters to provide requested information. Because it would not be appropriate for the Department to assign to these cooperative exporters a margin based on adverse facts available, the Department has assigned these exporters a rate based on a weighted-average of the rates of the two analyzed exporters.

PRC-Wide Rate

U.S. import statistics indicate that the total quantity and value of U.S. imports of synthetic indigo from the PRC is greater than the total quantity and value of synthetic indigo reported by all PRC exporters that submitted responses in this investigation. In addition, as noted above, the Chamber stated in a September 10, 1999, letter that not all exporters have responded to the Department's questionnaire. Accordingly, we applied a single antidumping deposit rate—the PRC-wide rate—to all exporters in the PRC, other than those specifically identified below under ''Suspension of Liquidation,'' based on our presumption that the export activities of the companies that failed to respond to the Department's questionnaire are controlled by the PRC government (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, April 30, 1996 (*''Bicycles from the PRC''*)).

As explained below, this PRC-wide antidumping rate is based on adverse facts available. Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) Withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The exporters that decided not to respond to the Department's questionnaire failed to act to the best of their ability in this investigation. Further, absent a response, we must presume government control of these and all other PRC companies for which we cannot make a separate rates determination. Therefore, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

As adverse facts available, we assigned the highest margin based on information in the petition, because the margins derived from the petition are higher than either of the calculated margins.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA''), states that ''corroborate'' means to determine that the information used has probative value. See SAA at 870.

The petitioners' methodology for calculating the export price (''EP'') and NV is discussed in the *Notice of Initiation*. To corroborate the petitioners' EP calculations, we compared the prices in the petition to the prices submitted by respondents for the same indigo product. To corroborate the petitioners' NV calculations, we compared the petitioners' factor consumption data to the data reported by the respondents, and the surrogate values for these factors in the petition to the values selected for the preliminary determination.

As discussed in the Memorandum from the Team to the File entitled *Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate*, dated December 6, 1999,

we found that the U.S. price and factors of production information in the petition to be reasonable and of probative value. As a number of the surrogate values selected for the preliminary determination differed from those used in the petition, notably the ratio for selling, general and administrative (''SG&A'') expenses, we compared the petition margin calculations to the calculations based on the selected surrogate values wherever possible and found they were reasonably close. Therefore, we preliminarily determine that the petition information continues to have probative value. Accordingly, we find that the highest margin from the petition, 129.60 percent, is corroborated within the meaning of section 776(c) of the Act.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Wonderful/Jiangsu Taifeng and Tianjin Hongfa to the United States were made at LTFV, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide, weighted-average EPs to the POI-wide, weighted-average NV.

Export Price

Under section 772(a) of the Act, EP is to be based on the ''price at which the merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. * * *'' That is, the Department must examine the first sale between unaffiliated parties where the seller knows that the merchandise is destined for the United States.

Wonderful/Jiangsu Taifeng

The Hong Kong-based exporter Wonderful purchases the subject merchandise from its PRC-based affiliated producers, Jiangsu Taifeng and Taixing Taifeng, via PRC trading companies.[1] Because the producers are affiliated with Wonderful, we based EP on Wonderful's sales to the unaffiliated U.S. customer in accordance with section 772(a) of the Act (*see also Preliminary Determination of Sales at Less Than Fair Value : Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 41794, 41796, August 5, 1998). Wonderful also reported that a small percentage of all sales of synthetic indigo to the United States during the POI were made directly by its affiliated producer, Jiangsu Taifeng. Because of the close affiliation between Wonderful and Jiangsu Taifeng, we have calculated a single rate for these companies based on product-specific, weighted-average EPs.

We used EP methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise indicated. We calculated EP based on packed CIF prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price), for inland freight from the plant/warehouse to port of exit, brokerage and handling in the PRC, and ocean freight and insurance, where appropriate, in accordance with section 772(c) of the Act. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India, as discussed in the Preliminary Determination Valuation Memorandum from the Team to the File dated December 6, 1999 (''Valuation Memorandum''). As Wonderful and Jiangsu Taifeng reported using market economy suppliers for ocean freight and insurance, we valued these expenses using the actual reported costs.

Tianjin Hongfa

For purposes of the preliminary determination, we have based EP on sales by Tianjin Hongfa, a trading company in the PRC, to Kwong Fat, an unaffiliated Hong Kong-based exporter. To determine the appropriate transaction to analyze for purposes of EP, we examined whether Tianjin Hongfa sold the subject merchandise to Kwong Fat with the knowledge that the merchandise was destined for export to the United States.

Based on our examination of the questionnaire responses, we preliminarily determined that Tianjin Hongfa has knowledge that merchandise is for export to the United States at the time of sale, since it is involved in arranging for the direct shipment of the merchandise to the port of destination in the United States, and is responsible for preparing sales and shipment documents issued on or about the date of sale which clearly indicate that the United States is the destination for the merchandise being exported. Furthermore, Tianjin Hongfa reports that it only sells synthetic indigo to Kwong Fat, with the knowledge that Kwong Fat only ships synthetic indigo to the United States. Thus, for purposes of the preliminary determination, we have based EP on Tianjin Hongfa's sales to Kwong Fat.

We used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to an unaffiliated purchaser for exportation to the United States prior to importation, as discussed above, and CEP methodology was not otherwise indicated. We calculated EP based on packed FOB prices and made deductions from the starting price (gross unit price) for inland freight from the plant/warehouse to port of exit, and brokerage and handling in the PRC. Because domestic brokerage and handling and inland freight were provided by NME companies, we based those charges on surrogate rates from India, as discussed in the Valuation Memorandum.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Sri Lanka, Egypt, Indonesia, and the Philippines are countries comparable to the PRC in terms of overall economic development (*see* Memorandum from Jeff May, Director of Office of Policy, to Louis Apple, Director of Office 2, AD/CVD Enforcement Group I, dated October 8, 1999). According to the available information on the record, we have determined that India meets the statutory requirements for an appropriate surrogate country for the PRC. Accordingly, we have calculated NV using Indian values for the PRC producers' factors of production except, as noted below, in certain instances where an input was sourced from a market economy and paid for in a market economy currency. We have obtained and relied upon PAI wherever possible.

B. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production reported by the companies in the PRC which produced

[1] Wonderful reported the following entities as the intermediate trading companies it used: CNCCJC, Shanghai Yongchen, CJIETCC, and China National Chemical Supply & Sales Corp.

synthetic indigo for the exporters which sold synthetic indigo to the United States during the POI. To calculate NV, the reported unit factor quantities were multiplied by publicly available Indian values, where possible. For comparison to sales made by Wonderful and its affiliate Jiangsu Taifeng, we calculated a weighted-average NV based on the factors of production reported by Jiangsu Taifeng and Taixing Taifeng, as the record evidence indicates that these companies produced the same merchandise during the POI.

Wonderful claimed that its producers' consumption of aniline was sourced from a market economy and paid for in market economy currency, and thus the actual price paid should be used in our calculation of NV, in accordance with 19 CFR 351.408(a)(1). However, the support documentation submitted by Wonderful shows that the aniline was imported by an intermediate trading company in the PRC, not by Wonderful's affiliated PRC producers. Further, there is no indication on the support documentation that the material was actually produced in a market economy, or that the material was ever actually transported to the producers and used by them. Accordingly, there is an insufficient basis upon which to rely on this alleged market economy purchase to value these indigo producers' consumption of aniline and, therefore, we have relied on the surrogate value, as discussed below.

Wonderful also claimed that it purchased the dispersing agent SK2 for its producers from a market economy through the supplier's affiliate in Hong Kong. However, the support documentation included in Wonderful's questionnaire response provides no indication that the material was actually produced in, or even shipped from, a market economy. Thus, there is an insufficient basis upon which to rely on this alleged market economy purchase to value the indigo producers' consumption of this dispersing agent. We have no other information to value this material. As this material is reportedly consumed in very small quantities, we have not valued this material for purposes of this preliminary determination.

The selection of the surrogate values applied for purposes of this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*. For a complete analysis of surrogate values, see the Valuation Memorandum.

We valued raw materials used in the producers' production of the subject merchandise based on data from one of the following sources:

- Average Indian domestic unit price, as quoted in the Indian publication *Chemical Weekly* from November 1998 through March 1999. We adjusted the average price to exclude the Indian excise tax, based on information provided by the petitioners.
- The weighted-average unit import value derived from various editions of *Monthly Statistics of the Foreign Trade of India ("Monthly Statistics")*.
- The weighted-average unit price for Indian exports, on an FOB basis, as published in *Chemical Weekly* during the period October 1997 through September 1998.
- The average of price quotes submitted as public documents by the petitioners and the respondents, adjusted to exclude Indian excise taxes, where appropriate.

For certain materials reportedly consumed in small to very small quantities, such as dispersing agents, wetting agents, and lubricants, we were unable to identify appropriate surrogate values. Therefore, we have not included these factors in our preliminary determination NV calculation.

In past antidumping proceedings, the Department has relied on the import data from *Monthly Statistics* to value aniline, rather than the domestic price from *Chemical Weekly*, because of distortions and aberrations in the Indian domestic price (*see, e.g., Final Results of Antidumping Administrative Review: Sulfanilic Acid from the People's Republic of China*, 63 FR 63834, November 17, 1998). However, the petitioners have placed information on the record of this investigation to indicate that the distortions in domestic prices are disappearing, as the Indian import tariff on aniline has been reduced to the same level as that of other chemicals, and the pricing of domestic aniline is now comparable to that of imported aniline (*see* the petitioners' submission of November 5, 1999, at pages 7–8 and Exhibit 6A). While the Department continued to rely on the import value in the *Preliminary Results of Antidumping Administrative Review: Sulfanilic Acid from the People's Republic of China*, 64 FR 48788, September 8, 1999, based on the information on the record of the instant proceeding, it appears that any distortions remaining in the Indian domestic prices are not any greater than those which may exist in the import prices. Of the values under consideration, the domestic, excise-tax-exclusive value for the POI is preferable to the average unit import value from an earlier period. Therefore, for purposes of this preliminary determination, we have relied on the average Indian domestic prices (exclusive of excise taxes) for the aniline surrogate value.

Tianjin Hongfa's PRC producer, Tianjin Jiahui, reported that it resold iron slurry and mixed alkali by-products from its synthetic indigo production. However, we did not make an offset deduction to the surrogate cost of production because we were unable to identify appropriate surrogate values for these materials. We note further that Tianjin Jiahui considers these materials to have very low values.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value electricity and furnace oil, we used an average rate derived from the 1998–1999 annual reports of three Indian companies. We based the value of steam coal on data from the *Monthly Statistics*. For diesel fuel, we used average prices reported in the December 1997 issue of *Economic Times of India*. Where a producer reported the consumption of purchased steam, we valued the steam based on an average rate found in the 1997–1998 annual report of an Indian company.

To value water, we relied on the publicly available tariff rates reported in the October 1997 publication *Second Water Utilities Data Book: Asian and Pacific Region*. We valued water separately, rather than as part of factory overhead, in accordance with a number of other PRC proceedings, because the information used to derive factory overhead appeared to exclude water consumption expenses (*see* Valuation Memorandum).

We based our calculation of factory overhead, SG&A expenses, and profit on data contained in the 1998–1999 Annual Report of Daurala Organics Ltd., an Indian producer of phenylglycine, a chemical intermediate produced during the manufacture of synthetic indigo. As discussed in the Valuation Memorandum, we used this information as no data was available from a synthetic indigo producer in any of the surrogate countries.

To value truck freight rates, we used POI rates published in the *Economic Times of India*. As we were unable to identify a surrogate value for inland water transportation, we valued boat and barge transportation using the surrogate value for truck freight. With regard to rail freight, we based our

calculation on information from the *Indian Railway Conference Association*.

In accordance with the decision in *Sigma Corp.* v. *United States*, 117 F.3d 1401 (CAFC 1997), when using an import surrogate value, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory.

For the reported packing materials, we used import values from the *Monthly Statistics.*

Critical Circumstances

On October 28, 1999, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of synthetic indigo from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed at least 20 days before the deadline for the Department's preliminary determination, we must issue our preliminary critical circumstances determination no later than the preliminary determination of sales at LTFV.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) there have been massive imports of the subject merchandise over a relatively short period.

We are not aware of any antidumping order in any country on synthetic indigo from the PRC. Therefore, we examined whether there was importer knowledge. The Department normally considers margins of 25 percent or more for EP sales, or 15 percent or more for CEP sales, and a preliminary ITC determination of material injury sufficient to impute knowledge of dumping and the likelihood of resultant material injury. In this investigation, because the dumping margins for both mandatory respondents, the non-mandatory PRC exporters, and all other producers/exporters are greater than 25 percent, we have imputed knowledge of dumping to importers of subject merchandise from all producers/exporters. As to the knowledge of injury from such dumped imports, if, as in this case, the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there would be material injury by reason of dumped imports during the critical circumstances period—the 90-day period beginning with the initiation of the investigation. *See* 19 CFR 351.206(i).

Accordingly, we find that the importers either knew, or should have known, that the imports of synthetic indigo were being sold at LTFV and that there was likely to be material injury be reason of such sales.

Because we have preliminarily found that the first statutory criterion is met, we must consider the second statutory criterion: whether imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) Volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Under 19 CFR 351.206(h), unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider the imports to have been ''massive.'' The Department examines shipment information submitted by the respondent or import statistics when respondent-specific shipment information is not available.

To determine whether or not imports of subject merchandise have been massive over a relatively short period, we compared the mandatory respondent's export volume for the four months subsequent to the filing of the petition (July-October 1999) to that during the four months prior to the filing of the petition (March-June 1999). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was submitted through the effective date of the preliminary determination. For the non-mandatory PRC exporters and all PRC exporters subject to the PRC rate, we performed this analysis using import statistics through September 1999 (the latest month for which such data was available), and then subtracted the figures of the mandatory respondents. Although synthetic indigo is classifiable under several HTSUS subheadings, we based our analysis on the one HTSUS category which includes the majority of synthetic indigo and its derivatives subject to this investigation. For further discussion of the data examined, see the Memorandum from The Team to The File dated December 6, 1999.

Based on our analysis, we preliminarily find that the increase in imports was significantly greater than 15 percent with respect to the named respondents, the non-mandatory PRC exporters, and all other producers/exporters.

With regard to seasonal trends, we reviewed the record and found no information indicating that seasonal trends apply in this case. With regard to the share of domestic consumption accounted for by imports, pursuant to 19 CFR 351.206(h)(iii), we considered the information submitted by petitioners on November 24, 1999.

Based on the foregoing analysis, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to synthetic indigo from the mandatory respondents in this investigation as well as the non-mandatory respondents and all other producers/exporters.

We will make a final determination concerning critical circumstances when we make our final determination of sales at LTFV in this investigation.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter	Weighted-average margin percentage	Critical circumstances
Wonderful Chemical Industrial Ltd./Jiangsu Taifeng Chemical Industry Co., Ltd	78.35	Yes
Tianjin Hongfa Group Co.	126.65	Yes
China National Chemical Construction Jiangsu Company	97.58	Yes
China Jiangsu International Economic Technical Cooperation Corp	97.58	Yes
Shanghai Yongchen International Trading Company Ltd.	97.58	Yes
Hebei Jinzhou Import & Export Corporation	97.58	Yes
Sinochem Hebei Import & Export Corp.	97.58	Yes
Chongqing Dyestuff Import & Export United Corp.	97.58	Yes
Wuhan Tianging Chemicals Import & Export Corp., Ltd.	97.58	Yes
PRC-wide Rate	129.60	Yes

The PRC-wide rate applies to all entries of subject merchandise except for entries from exporters that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than March 23, 2000, and rebuttal briefs, no later than March 28, 2000. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on March 30, 2000, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: December 7, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–32395 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–854]

Notice of Opportunity to Comment on the Scope of the Antidumping Duty Investigation of Certain Tin Mill Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg at (202) 482–1386 or Linda Ludwig at (202) 482–3833, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Background

On November 30, 1999, the Department of Commerce (''the Department'') published a notice of initiation for the antidumping duty investigation of certain tin mill products from Japan (64 FR 66892). Omitted from this initiation notice was the Department's invitation for public comment on the scope of the investigation. The Department is now seeking public comment on the scope of the investigation.

Scope of Investigation

The scope of this investigation includes tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single-or double-reduced), and whether or not coated with a plastic material.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS''), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as we discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street

and Constitution Avenue, NW, Washington, DC 20230.

The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Dated: December 6, 1999.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–32394 Filed 12–13–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–842]

Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Structural Steel Beams From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 14, 1999.

FURTHER INFORMATION CONTACT: Eric B. Greynolds or Tipten Troidl, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–2786.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that counteravailable subsidies are not being provided to producers and exporters of structural steel beams from the Republic of Korea.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed by Northwestern Steel & Wire Co., Nucor-Yamato Steel Co., TXI-Chaparral Steel Co., and the United Steelworkers of America (the petitioners).

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigation: Structural Steel Beams From the Republic of Korea,* 64 FR 42088, (August 3, 1999) (*Initiation Notice*)), the following events have occurred. On July 29, 1999, we issued countervailing duty questionnaires to the Government of Korea (GOK), and the producers/exporters of the subject merchandise. On October 4, 1999, we postponed the preliminary determination of this investigation until no later than December 6, 1999. *See Structural Steel Beams From the Republic of Korea: Postponement of Preliminary Determination of Countervailing Duty Investigation,* 64 FR 53665 (October 4, 1999).

We received responses to initial questionnaires from the GOK and Kangwon Industries Ltd. (Kangwon), Inchon Iron and Steel Co., Ltd. (Inchon), producers of subject merchandise, on September 21, 1999. In addition, we received responses from three trading companies which are involved in exporting the subject merchandise to the United States: Hyosung Corporation (Hyosung), Sampyo Corporation (Sampyo), and Hyundai Corporation (Hyundai). Dongkuk Steel Mill Co, Ltd. (DSM) and its trading company, Dongkuk Industries Co., Ltd. (DKI), did not respond to the initial questionnaire. On October 15, 1999, we issued supplemental questionnaires to all of the responding parties and to DSM and DKI. We received responses from Kangwon and Inchon on November 15, 1999. We received a response to the second questionnaire from DSM and its trading company DKI on November 19, 1999. On November 19, 1999, we issued a second supplemental questionnaire to responding parties and received their responses on November 29, 1999.

Scope of the Investigation

For purposes of this investigation, the products covered are doubly-symmetric shapes, whether hot-or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coasted, or clad. These products (Structural Steel Beams) include, but are not limited to, wide-flange beams (W shapes), bearing piles (HP shapes), standard beams (S or I shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products, are outside and/or specifically excluded from the scope of this investigation: Structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR part 351 (1999) and to the substantive countervailing duty regulations published in the **Federal Register** on November 25, 1998 (63 FR 65345) (CVD Regulations).

Injury Test

Because the Republic of Korea (Korea) is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry. On September 1, 1999, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Korea of the subject merchandise (*See Certain Structural Steel Beams From Germany, Japan, Korea, and Spain,* 64 FR 47866 (September 1, 1999).

Alignment With Final Antidumping Duty Determination

On November 22, 1999, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final antidumping duty determinations in the antidumping investigations of structural steel beams. *See Initiation of Antidumping Investigations: Structural Steel Beams From Germany, Japan, South Korea, and Spain,* 64 FR 42084 (August 8, 1999).

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1998.

Subsidies Valuation Information

Allocation Period

19 CFR 351.524(d)(2) states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System and updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

In this investigation, no party to the proceeding has claimed that the AUL listed in the IRS tables does not reasonably reflect the AUL of the renewable physical assets for the firm or industry under investigation. Therefore, according to 19 CFR 351.524(d)(2), we have allocated all companies' non-recurring subsidies over 15 years, the AUL listed in the IRS tables for the steel industry.

Benchmarks for Long-Term Loans and Discount Rates:

During the POI, the respondent companies had both won-denominated and foreign currency-denominated long-term loans outstanding which had been received from government-owned banks, Korean commercial banks, overseas banks, and foreign banks with branches in Korea. A number of these loans were received prior to 1992. In the 1993 investigation of *Steel Products from Korea*,[1] the Department determined that, through 1991, the GOK influenced the practices of lending institutions in Korea and controlled access to overseas foreign currency loans. *See Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea,* 58 FR 37338, 37339 (July 9, 1993) (*Steel Products from Korea*), and the ''Direction of Credit'' section below. In that investigation, we determined that the best indicator of a market rate for long-term loans in Korea was the three-year corporate bond rate on the secondary market. Therefore, in the preliminary determination of this investigation, we used the three-year corporate bond rate on the secondary market as our benchmark to calculate the benefits which the respondent companies received from direct foreign currency loans and domestic foreign currency loans obtained prior to 1992, and still outstanding during the POI.

In *Plate in Coils* and the *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30636 (June 8, 1999), (*Sheet and Strip*), the Department, for the first time, examined the GOK's direction of credit policies for the period 1992 through 1997. Based on new information gathered during the course of those investigations, the Department determined that the GOK controlled directly or indirectly the lending practices of most sources of credit in Korea between 1992 and 1997. In the current investigation, we preliminarily determine that the GOK still exercised substantial control over lending institutions in Korea during the POI.

Based on our findings on this issue in prior investigations, as well as in the instant investigation, discussed below in the ''Direction of Credit'' section of this notice, we are using the following benchmarks to calculate respondents' long-term loans obtained in the years 1992 through 1998: (1) For countervailable, foreign-currency denominated long-term loans, we used, where available, the company-specific weighted-average U.S. dollar-denominated interest rates on the companies' loans from foreign bank branches in Korea. With respect to Kangwon, the firm did not report any U.S. dollar loans from foreign bank branches in Korea. Therefore, we had to rely on a U.S. dollar loan benchmark that is not company-specific, but provides a reasonable representation of industry practice, to determine whether a benefit was provided to Kangwon from U.S. dollar loans received from government banks and Korean domestic banks. Thus, in keeping with the methodology employed in *Sheet and Strip,* 64 FR 30636, 30640, we used the weighted-average interest rates on U.S. dollar loans from foreign bank branches in Korea received by another respondent in this investigation, Inchon, as a benchmark for Kangwon's U.S. dollar loans from government banks and Korean Domestic Banks; (2) For countervailable won-denominated long-term loans, where available, we used the company-specific corporate bond rate on the companies' public and private bonds. We note that this benchmark is based on the decision in *Plate in Coils,* 64 FR 15530, 15531, in which we determined that the GOK did not control the Korean domestic bond market after 1991, and that domestic bonds may serve as an appropriate benchmark interest rate. Where unavailable, we used the national average of the yields on three-year corporate bonds as reported by the Bank of Korea (BOK). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in *Plate in Coils,* 64 FR 15530, 15532, in which we determined that, absent company-specific interest rate information, the corporate bond rate is the best indicator of a market rate for won-denominated long-term loans in Korea.

We are also using, where available, the company-specific corporate bond rate as the discount rate to determine the benefit from non-recurring subsidies received between 1992 and 1998. Where unavailable, we are using the national average of the three-year corporate bond rate.

Benchmarks for Short-Term Financing

For those programs that require the application of a short-term interest rate benchmark, we used as our benchmark a company-specific weighted-average interest rate for commercial won-denominated loans outstanding during the POI. Kangwon, Inchon, Hyundai, Hyosung and DKI reported company-specific, short-term commercials interest rates.

Creditworthiness

As stated in our *Initiation Notice*, we initiated an investigation of Kangwon's creditworthiness from 1991 through 1998, to the extent that nonrecurring grants, long-term loans, or loan guarantees were provided in those years.

Regarding the period from 1992 through 1998, Kangwon reported that it issued long-term corporate bonds during each of these years. The Department's regulations, as well as its past practice,

[1] On October 1, 1999, the United States Court of Appeals for the Federal Circuit (CAFC) issued a decision regarding *Steel Products from Korea. See AK Steel Corp* v. *United States, 192 F.3d (AK Steel, 192 F.3d).* The Department has not received specific instructions on this decision. However, our review of the decision indicates that the CAFC found that there was not sufficient evidence on the record of *Steel Products from Korea* to determine that the GOK provided credit directly to the Korean steel industry. In this investigation, we have additional information on the record indicating that the GOK's direction of credit prior to 1992 provided a countervailable benefit to the Korean steel industry. Therefore, the selection of long-term benchmarks cited to in *Steel Products from Korea* is appropriate for this current investigation. For further information on direction of credit prior to 1992, see the ''Direction of Credit'' section of this notice.

indicate that the receipt by a firm of comparable long-term commercial loans, provided without a government guarantee constitutes dispositive evidence that the firm is creditworthy. *See*, 19 CFR 351.505(a)(4)(ii) and *e.g.*, *Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Laminated Hardwood Trailer Flooring from Canada*, 62 FR 5201 (February 4, 1997). In *Plate in Coils*, the Department determined that the GOK did not control the domestic bond market. Therefore, because the domestic bond market represents a legitimate commercial source of long-term financing, we preliminarily determine that the issuances of these bonds provides evidence of Kangwon's creditworthiness during the period 1992 through 1998.

Because we determined that the Korean bond market was controlled prior to 1992 by the GOK in *Steel Products from Korea*, we could not use Kangwon's issuance of bonds to establish whether the company was creditworthy for the period prior to 1992. Therefore, with respect to 1991, we considered Kangwon's past and present financial health, as reflected in various financial indicators calculated from the firm's financial statements and accounts, in making a determination on whether Kangwon was creditworthy in that year. To this end, we calculated Kangwon's financial indicators for the years 1988 through 1991. In our examination of Kangwon's relevant financial ratios, we did not find that the company would be unable to meet its debt obligations. For more information on the creditworthiness of Kangwon during 1991, see the December 6, 1999, memorandum to David Mueller, Director of the Office of AD/CVD Enforcement VI, a public document on file in the Department's Central Records Unit, Room B–099. Therefore, based upon our examination of Kangwon's financial ratios during the years 1988 through 1991, we preliminarily determine Kangwon to also be creditworthy in 1991.

Treatment of Subsidies Received by Trading Companies

We required responses from trading companies with respect to the export subsidies under investigation because the subject merchandise may be subsidized by means of subsidies provided to both the producer and the exporter of the subject merchandise. All subsidies conferred on the production and exportation of subject merchandise benefit the subject merchandise even if it is exported to the United States by an unaffiliated trading company rather than by the producer itself. Therefore, the Department calculates countervailable subsidy rates on the subject merchandise by cumulating subsidies provided to the producer with those provided to the exporter. *See* 19 CFR 351.525.

During the POI, Kangwon exported the subject merchandise to the United States through two trading companies, Hyosung and Sampyo. Inchon exported subject merchandise through one trading company, Hyundai. DSM exported subject merchandise through its trading company, DKI. Hyosung, Sampyo, Hyundai and DKI responded to the Department's questionnaires with respect to the export subsidies under investigation.

Under 19 CFR 351.107, when subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may establish a ''combination'' rate for each combination of an exporter and supplying producer. However, as noted in the ''Explanation of the Final Rules'' (the Preamble), there may be situations in which it is not appropriate or practicable to establish combination rates when the subject merchandise is exported by a trading company. In such situations, the Department will make exceptions to its combination rate approach on a case-by-case basis. *See* Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27303 (May 19, 1997).

In this investigation, we preliminarily determine that it is not appropriate to establish combination rates. This preliminary determination is based on two main facts: First, the majority of subsidies conferred upon the subject merchandise were received by the producers. Second, the difference in the levels of subsidies conferred upon individual trading companies with regard to subject merchandise is insignificant. Thus, combination rates would serve no practical purpose because the calculated subsidy rate for any of the producers and a combination of any of the trading companies would effectively be the same rate. Instead, we have continued to calculate rates for the producers of subject merchandise that include the subsidies received by the trading companies. To reflect those subsidies that are received by the exporters of the subject merchandise in the calculated *ad valorem* subsidy rate, we used the following methodology: For each of the three trading companies, we calculated the benefit attributable to the subject merchandise. We then factored that amount into the calculated subsidy rate for the relevant producer. In each case, we determined the benefit received by the trading companies for each export subsidy, and weighted the average of the benefit amounts by the relative share of each trading company's value of exports of the subject merchandise to the United States. These calculated *ad valorem* subsidies were then added to the subsidies calculated for the producers of subject merchandise. Thus, for each of the programs below, the listed *ad valorem* subsidy rate includes countervailable subsidies received by both the producing and trading companies.

I. Programs Preliminarily Determined To Be Countervailable

A. The GOK's Direction of Credit Policies

1. The GOK's Credit Policies Through 1991

As noted above in the ''Subsidies Valuation Section'' of this notice, on October 1, 1999, the CAFC issued a decision regarding *Steel Products from Korea. See AK Steel , 192 F.3d.* The Department has not received specific instructions on this decision. However, our review of the decision indicates that the CAFC found that there was not sufficient evidence on the record of *Steel Products from Korea* to determine that the GOK provided credit directly to the Korean steel industry. Nevertheless, information placed on the record of this proceeding supports and indicates that the GOK's direction of credit provided a countervailable benefit to the steel industry. *See Memorandum to Holly Kuga from David Mueller RE: Direction of Credit Pre-1991* dated December 6, 1999, and placed on file in the Central Records Unit, Room B–099 of the Department of Commerce. Thus, based on this information, which includes new information that was not on the record of *Steel Products from Korea*, we preliminarily determine that all loans disbursed to respondent companies through 1991 are countervailable. Therefore, we continue to determine that the provision of long-term loans in Korea through 1991 results in a financial contribution within the meaning of section 771(5)(D)(i) of the Act. In accordance with section 771(5)(E)(ii) of the Act, a benefit has been conferred to the recipient to the extent that the regulated loans are provided at interest rates less than the benchmark rates described under the ''Subsidies Valuation Information'' section, above.

Kangwon received long-term fixed and variable loans that were outstanding during the POI. Because the terms, grace

periods, and repayment schedules of Kangwon's long-term fixed rate loans differed from those of the long-term fixed rate benchmark, we applied the methodology provided for in 19 CFR 351.505(c)(3). Specifically, to derive the benefit, we performed the following: (1) We calculated the net present values of the repayment streams; (2) We subtracted the net present value figures from the original loan amounts; and (3) We allocated the differences (*i.e.,* the grant equivalents) to the POI using the methodology provided for in 19 CFR 351.524(d)(1). To determine the benefit from the loans with variable interest rates, we applied the methodology provided for in 19 CFR 351.505(c)(4). Therefore, for Kangwon and DSM's variable rate loans, we calculated the difference in interest payments for the POI based upon the difference in the amount of actual interest paid during 1998 on the regulated loans and the amount of interest that would have been paid on a comparable commercial loan. Having derived the benefit amounts attributable to the POI for Kangwon's and DSM's fixed and variable rate loans, we then summed the benefit amounts from the loans and divided the total benefit by the companies' respective total sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.09 percent *ad valorem* for Kangwon and 0.06 percent *ad valorem* for DSM. Inchon did not have any pre-1992 loans outstanding during the POI.

2. The GOK's Credit Policies From 1992 Through 1998

In the *Plate in Coils* and *Sheet and Strip* investigations, the Department determined that the GOK continued to control directly and indirectly the lending practices of most sources of credit in Korea through 1997.[2] The Department also determined that the GOK's regulated credit from domestic commercial banks and government-controlled banks such as the Korea Development Bank (KDB) was specific to the steel industry. This credit conferred a benefit on the producers/exporters of the subject merchandise to the extent that the interest rates on the countervailable loans were less than the interest rates on comparable commercial loans. *See* section 771(5)(ii) of the Act. *See* also *Plate in Coils*, 64 FR 15530, 15533, and *Sheet and Strip*, 64 FR 30636, 30642.

We provided the GOK with the opportunity to present new factual information concerning the government's credit policies during the 1992 through 1997 period, which we would consider along with our finding in the prior investigations. The GOK did not provide new factual information that would lead us to change our determination in *Plate in Coils* and *Sheet and Strip.* Therefore, we continue to find lending from domestic banks and from government-owned banks such as the KDB to be countervailable.

In this investigation, petitioners allege that the GOK continued to control the practices of lending institutions in Korea through the POI, and that the steel sector received a disproportionate share of low-cost, long-term credit, resulting in countervailable benefits being conferred on the producers/exporters of the subject merchandise. Petitioners assert, therefore, that the Department should countervail all long-term loans received by the producers/exporters of the subject merchandise that were still outstanding during the POI.

We examined whether the GOK continued to control or influence directly or indirectly, the lending practices of sources of credit in Korea in 1998, in light of our prior finding that the GOK controlled and directed credit provided by domestic banks and government-owned banks during the period 1992 through 1997. In its questionnaire responses, the GOK asserted that it does not provide direction or guidance to Korean financial institutions in the allocation of loans to selected industries. The GOK stated that the lending decisions and loan distributions of financial institutions in Korea reflect commercial considerations. The GOK also stated that its role in the financial sector is limited to monetary and credit policies as well as bank supervision and examination.

According to the GOK, measures were taken in 1998 to liberalize the Korean financial sector. For example, in January 1998 the GOK announced closure of some banks, and in April 1998, launched the Financial Supervisory Commission (FSC) to monitor the competitiveness of financial institutions. In June 1998, the Regulation on Foreign Exchange Controls was amended to further liberalize foreign currency transactions, and in July, the GOK abolished the limit on purchasing foreign currency. According to the GOK, it also liberalized access to foreign loans. For direct foreign loans to Korean companies, the approval process under Article 19 of the Foreign Investment and Foreign Capital Inducement Act (FIFCIA) and Article 21 of its enforcement decree were eliminated and replaced with the Foreign Investment Promotion Act (FIPA), effective in November 1998. However, during most of the POI, access to direct foreign loans still required the approval of the Ministry of Finance and Economy.

Regarding the GOK regulated credit from government-controlled banks such as the Korea Development Bank (KDB), the GOK reported that the KDB Act was amended in January 1998, in response to the financial crisis in 1997. According to the GOK, with the new Act the KDB no longer allocates funds for various functional categories; such as R&D, environment and technology. All functional loan categories were eliminated and such loans were consolidated into a single category for facility (equipment) loans. The GOK also stated that the KDB strengthened its credit evaluation procedures by developing an objective and systematic credit evaluation standard to prevent arbitrary decisions on loans and interest rates. The KDB changed its Credit Evaluation Committee to the Credit Deliberation Committee (CDC), and gave the CDC the authority to make lending decisions. As a result, the KDB governor no longer makes lending decisions without the approval of the CDC. The GOK also stated that in 1997, the KDB used the prime rate plus a spread for determining interest rates. Effective January 1, 1998, the KDB increased the range of the credit spread to provide more flexibility in determining interest rates based on creditworthiness and to allow the KDB to increase its profits. However, respondents did not provide any evidence to demonstrate that the KDB has discontinued the practice of selectively making loans to specific firms or activities to support GOK policies.

In *Plate in Coils*, the Department noted conflicting information regarding the GOK's direct or indirect influence over the lending decisions of financial institutions. For example, the GOK policies appeared to be aimed, in part, at promoting certain sectors of the economy, such as high technology and small and medium-sized industries (SMEs).

[2] In the *Plate in Coils* and *Sheet and Strip* investigations, the Department based its affirmative direction of credit determination for the period 1992 through 1997 on record evidence covering a time period different than that covered by the CAFC's decision in *Steel Products from Korea* which was Pre-1991. Moreover, in its decision, the CAFC did not reject the notion of the GOK directing credit specifically to the Korean steel industry but rather took issue with the evidence upon which the Department based its affirmative finding. Thus, because the Department based its affirmative direction of credit determination for the years 1992 through 1997 on evidence that was not before the CAFC at the time of its decision in *AK Steel*, that case does not preclude a finding of directed credit during this later time period.

While the GOK started to plan and implement reforms in the financial system during the POI as a result of the 1997 financial crisis, the record evidence indicates that the GOK previously attempted reforms of the financial system in order to remove or reduce its control and influence over lending in the country. In the past ten years, the GOK has twice attempted to reform its financial system. In 1988, the GOK attempted to deregulate interest rates. However, the government deemed the 1988 liberalization a failure. When the interest rates began to rise, the GOK canceled the reforms by indirectly pressuring the banks to keep interest rates low. In the early 1990s, the GOK attempted reforms again with a four-stage interest rate deregulation plan. Again, the GOK deemed this attempt to reform the financial system a failure. During 1998 and 1999, the GOK has threatened to cut off credit to Korean companies unless the companies follow GOK policies. In addition, during the POI, the GOK took control of five large commercial banks due to the financial crisis.

Based upon the information on the record and our determinations in *Plate in Coils* and *Sheet and Strip*, we preliminarily determine that the GOK continued to control directly and indirectly, the lending practices of domestic banks and government-owned banks through the POI.

With respect to foreign sources of credit, in *Plate in Coils* and *Sheet and Strip*, we determined that access to government regulated foreign sources of credit in Korea did not confer a benefit to the recipient as defined by 771(5)(E)(ii) of the Act, and, as such, credit received by respondents from these sources were found not countervailable. This determination was based upon the fact that credit from Korean branches of foreign banks was not subject to the government's control and direction. Thus, respondents' loans from these banks served as an appropriate benchmark to establish whether access to regulated foreign sources of credit conferred a benefit on respondents. On the basis of this comparison, we found that there was no benefit. Petitioners have not provided any new information or evidence of changed circumstances to cause us to revisit this determination. Therefore, we continue to determine that credit from Korean branches of foreign banks were not subject to the government's control and direction. As such, lending from this source continues to be not countervailable, and loans from Korean branches of foreign banks continue to serve as an appropriate benchmark to establish whether access to regulated foreign sources of funds confer a benefit to respondents.

With respect to loans provided under the Energy Savings Fund, in *Plate in Coils*, 64 FR 15330, 15533, the Department found that these loans were countervailable as directed credit on the grounds that they are policy loans provided by banks that are subject to the same GOK influence as described above. Inchon and Kangwon reported Energy Savings Fund loans outstanding during the POI. Accordingly, the loans are countervailable as directed credit, and we have included these long-term, fixed-rate loans in Inchon's and Kangwon's benefit calculations for directed credit.

Similarly, loans provided under the Science and Technology Promotion Fund, are disbursed by the Korea Technology Bank, a GOK owned/controlled bank. We preliminarily find that these long-term fixed rate loans are provided by banks subject to GOK influence and, therefore, are countervailable as directed credit.

With respect to loans that Kangwon received under the industry technology development fund, Kangwon stated in its questionnaire response that these loans were for a research and development project that was tied to non-subject merchandise. Thus, for the purposes of this preliminary determination, we have not included these loans in our subsidy calculations. We note that Kangwon's questionnaire response on this matter will be subject to verification.

Inchon, Kangwon and DSM received long-term fixed and variable rate loans from GOK owned/controlled institutions during the years 1992 through 1998 that were outstanding during the POI. In order to determine whether these GOK directed loans conferred a benefit, we employed the same methodologies described in the ''GOK's Credit Policies Through 1991'' section of this notice. Having derived the benefit amounts attributable to the POI for the companies' fixed and variable rate loans, we then summed the benefit amounts from the loans and divided the total benefit by each company's respective total sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.02 percent *ad valorem* for Inchon, 0.57 percent *ad valorem* for Kangwon and 0.12 percent *ad valorem* for DSM.

B. Debt Restructuring for Kangwon

In late 1997, Korea experienced a foreign exchange crisis that sharply increased the cost of foreign currency loans in won terms and greatly decreased the availability of domestic, won-denominated loans. This external crisis placed many Korean corporations in jeopardy. As a result, the International Monetary Fund (IMF) coordinated a $58 billion loan package in the form of Stabilization Assistance Loans (SAL) aimed at bolstering the Korean economy. In order to receive the SALs, the GOK had to agree to certain terms. Among these terms was the financial restructuring of the corporate sector, in which companies voluntarily submitted to corporate workouts. To implement these reforms, the GOK adopted a method of debt restructuring recommended by the IMF called the ''London Approach,'' a corporate restructuring program first developed by the Bank of England. Under the London Approach, the central bank establishes a set of basic principles that govern how banks respond when one of their corporate customers faces serious financial difficulty. The main elements of this approach are as follows: First, banks should remain supportive of those companies that are facing financial difficulties. While a bank should be concerned with their level of exposure, it must keep a company's facilities in place and should not appoint receivers. Second, decisions about a company's longer term future should only be made on the basis of comprehensive information, which is shared among all the banks facing exposure and other parties to the workout. Third; banks should work together to reach a collective view on whether and on what terms a company should be eligible for financial restructuring. The fourth and final factor specifies that the seniority of claims should continue but be tempered by an element of ''shared pain,'' (*i.e.,* equal treatment for all creditors of a single category). Additionally, among the tenets of the London Approach is that authorities should not guarantee the survival of businesses nor should they influence what companies or industries be preserved. Rather, the London Approach attempts to lay down a framework for securing an orderly and well-informed decision on whether and on what terms a company is worth supporting.

In order to implement the London Approach, the GOK, through the FSC developed three agreements especially designed for the debt restructuring process: The Agreement of Financial Institutions for Promoting Corporate Restructuring (Corporate Restructuring Agreement), the Enforcement Regulations of the Corporate Restructuring Agreement, and the

Operational Guideline for Workout Agreements. A total of 205 financial institutions agreed to adhere to these agreements by December 31, 1998. Under these agreements, the FSC adopted principles similar to those under the London Approach such as the sharing of lost principal by creditor banks and the minimization of lost principal.

Under the corporate financial restructuring program, the workouts were divided by corporate groups. The FSC identified the lead bank, normally the group's largest creditor, as the bank responsible for negotiating the terms of any corporate workout. The lead bank sent letters of introduction to companies in the group describing the types of companies that were targets for the restructuring program and inviting those companies to submit to the restructuring program. Applicants were then reviewed by a selection committee appointed by the lead banks, and were selected based upon the likelihood of success.

In July of 1998, the FSC selected the Kangwon Group, of which Kangwon is a member, to participate in the debt restructuring program. Chohung Bank is the largest creditor of the Kangwon Group and, thus, was selected to be the lead bank. Responding to Chohung's initial letter of introduction, Kangwon, along with three other members of the Kangwon group, petitioned for consideration as candidates for the workout program. Accordingly, Chohung, along with the other creditors, held a series of creditor conferences during which they established the terms of the debt restructuring. These meetings culminated in a debt restructuring contract between participating Kangwon Group companies and their creditors. This contract was signed on December 22, 1998.

As a result of the debt restructuring, principal and interest payments were suspended on many of Kangwon's loans. In addition, with the exception of policy loans, public and private bonds and foreign securities, the repayment dates of all long-term loans were extended. The debt restructuring also created for Kangwon three additional types of long-term loans. First, many of Kangwon's short-term loans (Type 1 Loans) were converted into long-term loans with maturity dates of December 31, 2001. Second, Kangwon received new three-year loans for operating capital (Type II Loans). Third, with respect to Kangwon's previously disbursed long-term loans (Type III Loans), the unpaid interest that accrued prior to the applicable date of the workout agreement, October 18, 1998, was converted into new three-year loans with maturity dates of December 31, 2001. Under the plan, no debt was written off and no debt nor did any debt-for-equity swaps occurred.

Petitioners allege that the GOK influenced the banks' decision to select Kangwon for a restructuring. Petitioners further allege that the restructured loans and newly issued loans that came out of the workout were carried out on terms inconsistent with comparable commercial practices and, thus, conferred a benefit upon Kangwon. Petitioners further allege that pursuant to section 771(5B)(iii) of the Act, the GOK's involvement in the debt restructuring constitutes a financial contribution in which the GOK directed private banks to restructure Kangwon's debt.

Regarding previously disbursed long-term loans that were later refinanced under the restructuring program (Type III Loans), we preliminarily determine that they are specific and confer a benefit because they only converted interest due on loans originally provided during a period in which we determined that the GOK directed credit specifically to the Korean Steel Industry. For more information, see the ''Direction of Credit'' section of this notice.

With respect to the new Type I and II loans provided under the debt restructuring program, we analyzed whether they were countervailable within the relevant provisions of section 771(5) of the Act. Specifically, the Act states that a subsidy shall be deemed to exist provided that its meets all three of the following criteria: (1) There is a financial contribution by a government or any public entity within the territory of that government, (2) a benefit is conferred and (3) the subsidy meets the specificity criteria under section 771(5A) of the Act.

In order to determine whether the previously issued short-term loans that were converted to long-term loans (Type I Loans) and the new long-term loans issued under Kangwon's debt restructuring (Type II Loans) conferred a subsidy upon Kangwon, we analyzed whether they were specific in law (*de jure* specific), or in fact (*de facto* specific), within the meaning of section 771(5A)(D) (i) and (iii) of the Act. First, we examined the eligibility criteria that governed the debt restructuring program.

According to the GOK's questionnaire response, each corporate group's lead bank in conjunction with an independent selection committee determined the eligibility for participation in debt restructuring. Among the criteria listed in the Operational Guidelines for the Workout Agreement, prospective workout candidates had to demonstrate: that their core business was viable and stable, that credit obligations were not excessive relative to their sales and profitability, that the company had the ability to maintain the normal payment of interest and business transactions on the restructured debt, that credit obligations did not greatly exceed those of other workout candidates, and that the company had a history of timely and sound financial transactions. Thus, based on the fact that the criteria enumerated in the Operational Guidelines for the Workout Agreement do not explicitly limit eligibility to a specific enterprise or industry or group, we find that the Type I and II loans provided under the debt restructuring program are not *de jure* specific within the meaning of section 771(5A)(D)(iii) of the Act.

We then examined data on the distribution of companies that were restructured under the program to determine whether the debt restructuring program meets the criteria for *de facto* specificity under section 771(5A)(D)(iii) of the Act. In its questionnaire response, the GOK provided a chart listing the industries involved in debt restructuring programs. The industries that participated in the debt restructuring program ranged across the entire economic spectrum from basic metals, textiles, construction, telecommunications, electronics, and chemicals to the hotel and restaurant industry. The construction industry received the largest percentage of debt restructurings with 16 percent followed by the chemicals industry with 13 percent. With respect to the basic metals companies, they represented only 6 percent of the companies selected. Thus, based on the fact that a broad range of industries participated in the program and the basic metals industry was not a dominant user, we preliminarily find that this program, as it pertains to Type I and II loans, is not *de facto* specific. Additionally, because the Type I and Type II loans do not meet the specificity criteria under section 771(5A) of the Act, we preliminarily determine that the loans do not confer a subsidy and, thus, are not countervailable. We note that because these loans are not specific, it is not necessary to analyze whether these loans constitute a financial contribution or confer a benefit, within the meaning of section 771(5) of the Act.

As with the loans found countervailable in the ''GOK's Direction

of Credit Policies'' section of this notice, we calculated the benefit attributable to the variable-rate, Type III loans by following the methodology provided for in 19 CFR 351.505(c)(4). Having derived the benefit amounts attributable to the POI for Kangwon's loans, we summed the benefit amounts from the loans and divided the total benefit by the company's total sales. On this basis, we preliminarily determine the net countervailable subsidy to be less than 0.005 percent *ad valorem* for Kangwon.

C. Reserve for Export Loss—Article 16 of the TERCL

Under Article 16 of the Tax Exemption and Reduction Control Act (TERCL), a domestic person engaged in a foreign-currency earning business can establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of net income for the respective tax year. Losses accruing from the cancellation of an export contract, or from the execution of a disadvantageous export contract, may be offset by returning an equivalent amount from the reserve fund to the income account. Any amount that is not used to offset a loss must be returned to the income account and taxed over a three-year period, after a one-year grace period. All of the money in the reserve is eventually reported as income and subject to corporate tax either when it is used to offset export losses or when the grace period expires and the funds are returned to taxable income. The deferral of taxes owed amounts to an interest-free loan in the amount of the company's tax savings. This program is only available to exporters. During the POI, Inchon and DKI claimed benefits under this program.

We preliminarily determine that the Reserve for Export Loss program constitutes an export subsidy under section 771(5A)(B) of the Act, because the use of the program is contingent upon export performance. We also preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. *See Plate in Coils,* 64 FR 15530, 15534, and *Sheet and Strip,* 64 FR 30636, 30645.

To determine the benefit conferred by this program, we calculated the tax savings by multiplying the balance amount of the reserve as of December 31, 1997, by the corporate tax rate for 1997. We treated the tax savings on these funds as a short-term interest-free loan. *See* 19 CFR 351.509. Accordingly, to determine the benefit, we multiplied the amount of tax savings by Inchon's and DKI's respective weighted-average interest rate for short-term won-denominated commercial loans for the POI, as described in the ''Subsidies Valuation Information'' section, above. With respect to DKI, we used the methodology for calculating subsidies received by trading companies, which is also detailed in the ''Subsidies Valuation'' section of this notice, to calculate the benefit for the DKI. We then divided the benefit by each companies' respective total export sales. On this basis, we calculated a countervailable subsidy of 0.05 percent *ad valorem* for Inchon and 0.05 percent *ad valorem* for DKI.

D. Reserve for Overseas Market Development Under TERCL Article 17

Article 17 of the TERCL allows a domestic person engaged in a foreign trade business to establish a reserve fund equal to one percent of its foreign exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning, from the reserve to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one-year grace period. As is the case with the Reserve for Export Loss, the balance of this reserve fund is not subject to corporate income tax during the grace period. However, all of the money in the reserve is eventually reported as income and subject to corporate income tax either when it offsets export losses or when the grace period expires. The deferral of taxes owed amounts to an interest-free loan equal to the company's tax savings. This program is only available to exporters. Hyosung and Hyundai claimed benefits under this program during the POI.

In *Sheet and Strip,* 64 FR 30636, 30645, we determined that this program constituted an export subsidy under section 771(5A)(B) of the Act because the use of the program is contingent upon export performance. We also determine that this program provided a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan. No new information or evidence of changed circumstances has been presented to cause us to revisit this determination. Thus, we preliminarily determine that this program constitutes a countervailable export subsidy.

To determine the benefit conferred by this program during the POI, we employed the same methodology used for determining the benefit from the Reserve for Export Loss program under Article 16 of the TERCL. We used as our benchmark interest rate, each company's respective weighted-average interest rate for short-term won-denominated commercial loans for the POI, as described in the ''Subsidies Valuation Section'' above. Using the methodology for calculating subsidies received by trading companies, which is also detailed in the ''Subsidies Valuation'' section of this notice, we calculated a benefit for the two trading companies. We then divided the benefit by each trading companies' respective total export sales. On this basis, we calculated a countervailable subsidy of less than 0.005 percent *ad valorem* for Kangwon and Inchon and a subsidy of 0.02 percent *ad valorem* for DSM.

E. Investment Tax Credits under Article 25 of the TERCL Act

Under the TERCL, companies in Korea are allowed to claim investment tax credits for various kinds of investments. If the tax credits cannot all be used at the time they are claimed, the company is authorized to carry them forward for use in later tax years. In *Steel Products from Korea,* we found that investment tax credits were not countervailable (*see Steel Products from Korea,* 58 FR 37338, 37351); however, there were changes in the statute effective in 1995, which caused us to revisit the countervailable status of the investment tax credits. *See Plate in Coils,* 64 FR 15530, 15534, and *Sheet and Strip,* 64 FR 30636, 30645.

Inchon claimed or used tax credits under Article 25 in its fiscal year 1997 income tax return which was filed during the POI and DSM claimed Article 25 for its 1997 fiscal year income tax return. Under Article 25, a company normally calculates its authorized tax credit based upon 3 or 5 percent of its investment, *i.e.*, the company receives either a 3 or 5 percent tax credit. However, if a company makes the investment in domestically-produced facilities under Article 25, it receives a 10 percent tax credit. Though the investment tax credit was amended to eliminate the rate differential between domestic and foreign-made facilities for investments that are made after December 31, 1997, the differing rate remains in effect for investments made prior to that date. Moreover, Article 25 tax credits on these investments can be carried forward beyond the POI.

Under section 771(5A)(C) of the Act, a program that is contingent upon the use of domestic goods over imported goods is specific, within the meaning of the Act. In *Sheet and Strip,* we

examined the use of investment tax credits under Article 25. *See Sheet and Strip,* 64 FR 30636, 30645. In that case, we determined that investment tax credits received under Article 25 constituted import substitution subsidies under section 771(5A)(C) of the Act, because Korean companies received a higher tax credit for investments made in domestically-produced facilities under this Article. In addition, because the GOK foregoes collecting tax revenue otherwise due under this program, we also determined that a financial contribution is provided under section 771(5)(D)(ii) of the Act.

As stated above, Inchon and DSM claimed investment tax credits under Articles 25. Therefore, we preliminarily determine that these tax credits provided Inchon with a countervailable benefit. DSM was entitled to claim investment tax credits under Article 25 during the POI. However, DSM did not use the tax credits to reduce its tax liability during the POI. Instead, the company carried forward the tax credits which can be used in the future. Because DSM did not claim the investment tax credits on its tax return which was filed during the POI, we preliminarily determine that DSM did not use this program during the POI.

To calculate the benefit to Inchon from this tax credit program, we determined the value of the tax credits Inchon deducted from its taxes payable for the 1997 fiscal year. In Inchon's 1997 income tax return filed during the POI, it deducted from its taxes payable, credits earned prior to and during 1997, which were carried forward and used in the POI. We first determined those tax credits which were claimed based upon the investment in domestically-produced facilities. We then calculated the additional amount of tax credits received by the company because it earned tax credits of 10 percent on investments in domestically-produced facilities rather the regular 3 or 5 percent tax credit. Next, we calculated the amount of the tax savings received through the use of these tax credits during the POI, and divided that amount by Inchon's total sales for the POI. On this basis, we preliminarily determine a net countervailable subsidy of 0.07 percent *ad valorem* for Inchon.

F. Asset Revaluation Pursuant to TERCL Article 56(2)

This provision under Article 56(2) of the Tax Exemption and Reduction Control Act (TERCL) allowed companies making an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets without meeting the requirement in the Asset Revaluation Act of a 25 percent change in the wholesale price index since the company's last revaluation. In *Steel Products from Korea,* after verification, petitioners submitted additional information which, according to them, indicated that certain steel companies revaluation may have been significantly greater than that of the other companies that revalued. Because the information submitted by petitioners was untimely, it was rejected; however, we requested additional information on the subject. The additional information submitted by petitioners contained data on the amount of assets revalued of only 45 of the 207 companies that revalued pursuant to Article 56(2). It was unclear from petitioners' data which companies revalued pursuant to Article 56(2) and which revalued in accordance with the general provisions of the Asset Revaluation Act. Because of these shortcomings, and because the information was submitted too late for verification, we were unable to draw conclusions with respect to the relative benefit derived by steel companies from this program. Since there was no evidence of *de jure* or *de facto* selectivity concerning the timing of these steel companies' revaluation or the method of revaluation under the Asset Revaluation Act, the Department determined this program to be not countervailable. *See Steel Products from Korea,* 58 FR 37338, 37351.

The Department is currently reviewing Asset Revaluation under Article 56(2) in the *Cut-to-Length Plate* case. Based upon information provided in that case, and subsequent findings, there is information to substantiate the allegation that Inchon and DSM received a benefit under this program because their massive asset revaluations permitted the companies to substantially increase their depreciation and, thereby, reduce their income taxes payable. In the *Cut-to-Length Plate,* petitioners provided a chart listing 197 eligible companies for revaluation of their assets pursuant to this program. The chart illustrates that 14 companies in the basic metals industry that used this program accounted for 67 percent of the total amount of asset revaluations under Article 56(2). Based on this new information, the Department initiated a reexamination of the countervailability of this program and solicited information regarding the usage of this program.

Because the enabling legislation does not expressly limit access to the subsidy to an enterprise or industry, or group thereof, the program is not *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act. Although the regulation itself does not expressly limit the access to this law to a specified group or industry, it does place restrictions on the time period and eligibility criteria which may have caused *de facto* limitations on the actual usage of this tax program. For example, Article 56(2) was enacted on November 28, 1987, and applied only to companies making an initial public offering from January 1, 1987 until the provision was abolished effective December 31, 1990. Pursuant to Article 56(2), companies listed on the Korea Stock Exchange between January 1, 1987 and December 31, 1988, had until December 31, 1989 to revalue their assets. A company that listed its stock after December 31, 1988 had to revalue its assets prior to being listed on the stock exchange. Therefore, based upon the eligibility criteria of the program, Article 56(2) effectively limited usage of this program to only the 316 companies that were newly listed on the Korean Stock Exchange during the three years the program was in place rather than the 15 to 24 thousand manufacturers in operation in Korea during that period. Kangwon revalued in 1976 and therefore was not allowed to revalue under Article 56(2).

According to section 771(5A)(D)(iii) of the Act, a subsidy is *de facto* specific if one of the following factors exist: (1) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number; (2) An enterprise or industry is a predominant user of the subsidy; (3) An enterprise or industry receives a disproportionately large amount of the subsidy; or (4) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

Information on the record of the current investigation indicates that during the period 1987–1990, there were between 14,988 and 24,073 manufacturing companies operating in Korea. As a requirement for participation in this program, companies had to make an initial public offering between January 1, 1987 and December 31, 1990. DSM listed its initial public offering in May 1988 and revalued its assets under Article 56(2) in July 1988. Inchon listed its initial public offering in May 1987 and revalued its assets under Article 56(2) in April 1989. According to the GOK's July 1, 1999 questionnaire response, 77 companies revalued their assets in 1989. The basic metal sector accounted for 83 percent of the total revaluation surplus amount (book value less revalued amount). The record evidence indicates that the basic

metal industry was a dominant user of this program in 1988 through 1989. *See, e.g., Stainless Steel Plate in Coils from South Africa,* 64 FR 15553 (March 1999). Therefore, we preliminarily determine that this program is specific, within the meaning of 771(5A)(D)(iii) of the Act. As a result of the increase in the value of depreciable assets resulting from the asset revaluation, the companies lowered their tax liability. Therefore, we also preliminarily determine that the program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, by allowing companies to reduce their income tax liability, the GOK has foregone revenue that is otherwise due.

The benefit from this program is not the amount of the revaluation surplus, but rather the impact of the difference that the revaluation of depreciable assets has on a company's tax liability each year. However, respondents did not provide this information, and stated that the depreciation expense resulting from the asset revaluation would involve a detailed, item-by-item comparison of thousands of items, and that it would be difficult for them to distinguish between the remaining benefit from revaluation under Article 56(2), and revaluation pursuant to normal procedures of the Asset Revaluation Act. Therefore, we have calculated the benefit from this program by determining the surplus amount of the revaluation of assets authorized under the program for each company subtracting out land, as land is not a depreciable asset, and divided the total revaluation surplus by 15, the AUL we are using in this investigation. We then multiplied the amount of the revaluation surplus attributable to the POI by the tax rate applicable to the tax return filed in the POI, and divided the benefit for each company by their respective total sales during the POI. On this basis, we preliminarily determine a net countervailable subsidy of 0.21 percent *ad valorem* for Inchon and 0.08 percent *ad valorem* for DSM.

G. Electricity Discounts Under the Requested Load Adjustment Program

Petitioners alleged that Korean steel producers are being charged utility rates at less than adequate remuneration and, hence, the production of the subject merchandise is receiving countervailable benefits from this subsidy. Petitioners further alleged that producers of subject merchandise are receiving these countervailable benefits in the form of utility rate discounts.

The GOK reports that during the POI, the government-owned Korea Electric Power Company (KEPCO) provided Kangwon and DSM with electricity discounts. Under the program, the discounts are based, in part, on the companies' monthly maximum power demands.

With respect to the Requested Load Adjustment (RLA) program, the GOK introduced the discount in 1990, to address emergencies in KEPCO's ability to supply electricity. Under this program, customers with a contract demand of at least 5,000 kilowatts (kW), that are able to curtail their maximum demand by 20 percent or that are able to suppress their maximum demand by at least 3,000 kW, are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their electricity consumption upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO approves the application, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months, normally July and August. Under this program, a basic discount of 440 won per kW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. During the POI, KEPCO granted 33 companies RLA discounts even though KEPCO did not need to request that these companies reduce their respective loads. The GOK reports that because KEPCO increased its capacity to supply electricity in 1997, it reduced the number of companies with which it maintained RLA contracts in 1997 and 1998. In 1996, KEPCO entered into RLA contracts with 232 companies, which was reduced to 44 companies in 1997 and 33 in 1998.

In *Sheet and Strip,* 64 FR 30636, 30646, we found the RLA program countervailable because the discounts provided under this program were distributed to a limited number of users. No new information or evidence of changed circumstances have been provided to the Department to warrant a reconsideration of that determination. Therefore, we continue to find the RLA program countervailable.

Because the electricity discounts are not ''exceptional'' benefits and are received automatically on a regular and predictable basis without further government approval, we preliminarily determine that these discounts provide a recurring benefit to Kangwon. *See* 19 CFR 351.524(a). Therefore, we have expensed the benefit from this program in the year of receipt. *See Sheet and Strip,* 30636 at 30646. To measure the benefit from these programs, we summed the electricity discounts that Kangwon and DSM received from KEPCO under the RLA program during the POI. We then divided the total RLA discount amount Kangwon and DSM received by each companies' respective total sales for the POI. On this basis, we preliminarily determine a net countervailable subsidy of 0.01 percent *ad valorem* for Kangwon and less than 0.005 percent *ad valorem* for DSM under the RLA discount program.

H. Scrap Reserve Fund

The Scrap Reserve Fund is administered by the Supply Administration (SA), a GOK agency that purchases certain industries' inputs to production and then makes the inputs available to producers on credit. During the POI, the SA purchased and made available on credit such commodities as scrap metal, non-ferrous and scarce metals (aluminum, ferrosilicon, etc.), forest products (pulp, rubber, etc.), and environmental materials (chip board, steel billet, etc.). In order to reduce the burden on Kangwon and DSM of holding large inventories during the POI, the SA purchased steel scrap on behalf of the companies and then provided them with a five-month repayment option in the form of a loan.

Because the Scrap Reserve Fund is available only for a relatively limited number of materials, and the use of steel scrap is largely limited to the steel industry, we preliminarily determine that this program is specific under section 771(5A) of the Act.

Next, in order to determine whether the loans constituted a financial contribution and conferred a benefit within the statutory provisions, we employed the same short-term loan methodology used for determining the benefit from the Reserve for Export Loss program under Article 16 of the TERCL. We used as our benchmark interest rate, each company's respective weighted-average interest rate for short-term won-denominated commercial loans for the POI, as described in the ''Subsidies Valuation Section'' above. Having derived the benefit amounts attributable to the POI for Kangwon's Scrap Reserve Fund loans, we then summed the benefit amounts from the loans and divided the total benefit by Kangwon's total sales. For DSM we followed the same calculation methodology except we reduced total sales by the amount of plate sales. We followed this methodology because scrap is not an input in DSM's plate production. On this basis, we preliminarily determine the net countervailable subsidy to be

0.03 percent *ad valorem* for Kangwon and 0.01 percent *ad valorem* for DSM.

I. Export Industry Facility Loans

In *Steel Products from Korea,* 58 FR 37338, 37328, the Department determined that export industry facility loans (EIFLs) are contingent upon export, and are therefore subsidies to the extent that they are provided at preferential rates. The decision in *Steel Products from Korea* was later reaffirmed in *Sheet and Strip,* 64 FR 30636, 30644. In this investigation, the GOK did not provide any new factual information that would lead us to change our treatment of this program. Therefore, for the purposes of this preliminary determination, we continue to find that EIFLs are provided on the basis of export performance and are export subsidies under section 771(5A)(B) of the Act. We also determine that the provision of loans under this program results in a financial contribution within the meaning of section 771(5)(D)(i) of the Act because the loan was disbursed by the KDB, an institution that, according to information submitted on the record of this proceeding, had a policy of directing loans specifically to the Korean steel industry. For more information, see the ''Direction of Credit'' section of this notice. In accordance with section 771(5)(E)(ii) of the Act, a benefit has been conferred on the recipient to the extent that the EIFLs are provided at interest rates less than the benchmark rates described under the ''Subsidies Valuation'' section of this notice. We note that this program is also countervailable due to the GOK's direction of credit; however, we have separated this program from direction of credit because it is an export subsidy, and therefore requires a different benefit calculation. Kangwon was the only respondent with an outstanding loan under this program during the POI.

To calculate the benefit conferred by this program, we compared the actual interest paid on the loan-term fixed interest rate loan with the amount of interest that would have been paid at the applicable dollar-denominated long-term benchmark interest rate. However, because the terms, grace periods, and repayment schedule of Kangwon's long-term fixed rate EIFL loan differed from those of the long-term fixed rate benchmark, we applied the methodology provided for in 19 CFR 351.505(c)(3). We note that this methodology is described in detail in the ''The GOK's Credit Policies through 1991'' section of this notice. We then divided the benefit derived from the loan by Kangwon's total export sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.10 percent *ad valorem* for Kangwon.

J. Special Cases of Tax for Balanced Development Among Areas (TERCL Article 43)

TERCL Article 43 allows a company to claim a tax reduction or exemption for income gained from the disposition of factory facilities when relocating from a large city to a rural area. On December 29, 1995, DSM sold land from its Pusan factory and, within three years from the sales date, began production at its Pohang plant. In accordance with Article 16, paragraph 7 of the Addenda to the TERCL, DSM was entitled to receive an exemption on its income tax for the capital gain. No other respondent company used this program.

Payment for the Pusan facilities is on a longer-term installment basis, the income tax on the capital gain is payable when DSM actually receives payment or transfers the title of ownership. The capital gain in the tax year can not exceed DSM's total taxable income. The maximum tax savings permitted is 100 percent of the taxable income; however, this program is also subject to the minimum tax. This program does not allow carrying forward of unused benefits in future years.

We preliminarily determine that the TERCL Article 43, for Special Cases of Tax for Balanced Development Among Areas, is regionally specific. This program is specific within the meaning of 771(5)(D)(iv) of the Act, because the program is limited to an enterprise or industry located within a designated geographical region. We also preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(ii), because the GOK foregoes revenue that is otherwise due by granting this tax credit.

To calculate the benefit from this tax credit program, we examined the amount of the tax credit DSM deducted from its taxes payable for the 1997 fiscal year. In DSM's 1997 income tax return filed during the POI, it deducted from its taxes payable, credits earned in 1997. Next, we calculated the amount of the tax savings earned and divided that amount by DSM's total sales during POI. Using this methodology, we preliminarily determined a countervailable subsidy of 0.59 percent *ad valorem* for DSM.

K. R&D Grants under The Korea New Iron & Steel Technology Research Association (KNISTRA)

The Korea New Iron & Steel Technology Research Association (KNISTRA) is an association of steel companies established for the development of new iron and steel technology. KNISTRA is a member based R&D agency that supports R&D projects through private and public contributions. KNISTRA acts as a coordinating organization for R&D. While individual companies provide a portion of the funding, the GOK also contributes funds to these projects.

If the research is deemed successful, 50 percent of the GOK's contribution will be repaid in proportionate amounts from each individual participating company. Inchon, Kangwon and DSM are all members of KNISTRA and participated in an R&D project during the POI. The current project can be connected with the production of subject merchandise. This project began in 1995, and continued in 1996 and 1998 (POI).

The Department preliminarily determines that through KNISTRA the Korean steel industry receives funding specific to the steel industry. Therefore, given the nature of the agency, the Department finds projects under KNISTRA to be specific. Since most companies normally fund R&D programs to enhance their own technology, we determine that GOK funding to KNISTRA relieves companies of this obligation. Therefore, GOK's grants are a financial contribution under section 771(5)(D)(i) of the Act which provide a benefit to the recipient in the amount of the grant. Therefore, we determine that the KNISTRA grants constitute countervailable subsidies within the meaning of section 771(5) of the Act.

Under 19 CFR 351.524, non-recurring benefits are allocated over time, while recurring benefits are expensed in the year of receipt. In addition, non-recurring benefits which are less than 0.5 percent of a company's relevant sales are also expensed in the year of receipt. The grants received by respondents did not exceed 0.5 percent of each companies sales. Therefore, regardless of whether this program provides recurring or non-recurring benefits, the benefits are expensed in the year of receipt. Therefore, we summed the grants received by each company under this program and divided the amount by each companies' respective total sales. On this basis, we preliminarily determined a countervailable subsidy rate of less than

0.005 percent *ad valorem* for Inchon, Kangwon, and DSM.

II. Programs Preliminarily Determined To Be Not Used

Based on the information provided in the questionnaire response, we preliminarily determine that the companies under investigation either did not apply for, or receive benefits under the following programs during the POI:

A. Private Capital Inducement Act
B. Tax Credit in Equipment to Develop Technology and Manpower Under Article 10 of the TERCL Act
C. Tax Credits for Vocational Training Under Article 18 of the TERCL
D. Exemptions of Corporate Tax on Dividend Income from Overseas Resources Development Resources Act Under Article 24 of the TERCL
E. Tax Credits for Investments in Specific Facilities Under Article 26 of the TERCL
F. Tax Credits for Temporary Investments Under Article 27 of the TERCL
G. Social Indirect Capital Investment Reserve Funds Under Article 28 of the TERCL
H. Energy-Savings Facilities Investment Reserve Funds Under Article 29 of the TERCL
I. Tax Credits for Specific Investments Under Article 71 of the TERCL
J. Mining Investment Reserve Funds Under Article 95 of the TERCL
K. Grants Under the Technology Development Promotion Act
L. Highly Advanced National Project Fund Industry Technology Development Fund
M. Short-Term Export Financing
N. Korean Export-Import Bank Loans
O. Tax Incentives for Highly Advanced Technology Businesses
P. Special Depreciation of Assets Based on Foreign Exchange Earnings
Q. Steel Campaign for the 21st Century
R. Excessive Duty Drawback
S. Reserve for Investment
T. Export Insurance Rates By The Korean Export Insurance Corporation
U. Special Cases of Tax for Balanced Development among Areas (TERCL Articles 41, 42, 44, and 45)
V. Reserve for Investment
W. Overseas Resource Development Loan

Verification

In accordance with section 782(d)(1)(A)(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Summary

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated individual subsidy rates for Inchon, Kangwon, and DSM, the manufacturers of the subject merchandise. We preliminarily determine that the total estimated net countervailable subsidy rates are 0.35 *ad valorem* for Inchon, 0.80 percent *ad valorem* for Kangwon, and 0.93 percent *ad valorem* for DSM, which are de minimis. Therefore, we preliminarily determine that no countervailable subsidies are being provided to the production or exportation of structural steel beams in Korea.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: December 6, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–32398 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120899C]

Submission for OMB Review; Comment Request.

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: The GLOBE Program.

Agency Form Number(s): None.

OMB Approval Number: 0648–0310.

Type of Request: Revision of a currently approved collection.

Burden Hours: 770 hours.

Number of Respondents: 1,062.

Average Hours Per Response: 20 to 80 minutes depending on survey/assessment.

Needs and Uses: The GLOBE (Global Learing and Observation to Benefit the Environment) Program is an international environmental science and

education program that brings together students, teachers, and scientists from around the world to study the global environment. The students collect environment (atmospheric, hydrological, biological and geological) measurements in their communities, with the guidance of trained teachers, and reporting their findings to Federal scientists over the Internet.

This provides GLOBE Program managers and staff vital information needed to enhance the quality of the program and guide its program improvements. The information will also ensure that the GLOBE Program continues to be implemented to carry out its mission and enable evaluation of the program in many areas.

Affected Public: Individuals or households.

Frequency: Semi-annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 724 17th Street, NW, Washington, DC 20503.

Dated: December 6, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–32319 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Ricardo Ramirez From an Objection by the Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

By letter dated April 6, 1999, Mr. Ricardo Ramirez (Appellant) filed with the Secretary of Commerce a notice of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act. The appeal is taken from an objection by the Puerto Rico Planning Board (PRPB) to the Appellant's consistency certification for an Army Corps of Engineers permit to reconstruct a stilt house of 47′ by 42′. The proposed project is located within the maritime-terrestrial zone, territorial waters and submerged lands.

The CZMA provides that a timely objection by a state precludes any federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either ''consistent with the objectives'' of the CZMA (Ground I) or ''necessary in the interest of national security'' (Ground II). Section 307(c)(3)(A). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 C.F.R. 930.121 or 930.122.

The Appellant requests that the Secretary override the State's consistency objections based on Ground I. To make the determination that the proposed activity is ''consistent with the objectives'' of the CZMA, the Secretary must find that: (1) the proposed activity furthers one or more of the national objectives or purposes contained in Sections 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program. 15 C.F.R. 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 C.F.R. 930.121. Comments are due within 30 days of the publication of this notice and should be sent to Ms. Molly Holt, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910. Copies of comments will also be forwarded to the Appellant and the State.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the State and the Office of the Assistant General Counsel for Ocean Services.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Molly Holt, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, 301–713–2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.)

Dated: November 16, 1999.

Craig O'Connor,

General Counsel.

[FR Doc. 99–32250 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120199B]

Atlantic Highly Migratory Species (HMS) Fishery Management Plan; Errata Sheet

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

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of an errata sheet for the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) published in April, 1999.

ADDRESSES: Copies of the HMS FMP, the errata sheet, the final rule, and supporting documents can be obtained from Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz, (301) 713–2347.

SUPPLEMENTARY INFORMATION: In a September 1997 Report to Congress, NMFS identified north Atlantic swordfish, west Atlantic Bluefin tuna, and large coastal sharks as overfished. The HMS FMP, including a final environmental impact statement, was published in April, 1999, to comply with provisions of the Magnuson-Stevens Fishery Conservation and Management Act for fisheries identified as overfished, and the final rule implementing actions included in the HMS FMP and Amendment 1 to the Atlantic Billfish Fishery Management Plan was published on May 28, 1999 (64 FR 29090). Since the publication of the HMS FMP, a number of typographical mistakes and other errors have been noted throughout its three volumes. The errata sheet corrects those errors that were noted as of November 19, 1999.

Dated: December 9, 1999.

Gary C. Matlock,

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

[FR Doc. 99–32322 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of the Export Visa Arrangement to Include the New Certification Stamp for Outward Processed Goods for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

December 9, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending the export visa and certification requirements.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On September 17, 1999, the Governments of the United States and the Former Yugoslav Republic of Macedonia agreed to amend the Export Visa Arrangement for certain wool textile products exported under the Outward Processing Program in Categories 433, 434, 435, 443 and 448 (see related notice concerning implementation of the Outward Processing Program published elsewhere in this issue of the **Federal Register**), produced or manufactured in the Former Yugoslav Republic of Macedonia and exported from the Former Yugoslav Republic of Macedonia on and after January 1, 2000. All products exported on and after January 1, 2000 must be accompanied by an appropriate export visa or certification. This directive amends, but does not cancel the directive published in the **Federal Register** on April 8, 1998 (see 63 FR 17156).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa and certification requirements set forth in the letter published below to the Commissioner of Customs.

The visa stamp has not been changed; a facsimile of the new certification stamp for the Outward Processing Program is on file at the U.S. Department of Commerce, 14th and Constitution Avenue, NW, room 3104, Washington, DC.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of November 7, 1997, this directive amends, but does not cancel, the directive dated April 2, 1998 (63 FR 17156, published on April 8, 1998) which established the Export Visa Arrangement between the Governments of the United States and the Former Yugoslav Republic of Macedonia.

Visa Requirements

Pursuant to the Visa Arrangement signed on September 17, 1999, effective on January 1, 2000, you are directed to prohibit entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 433, 434, 435, 443 and 448, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported from the Former Yugoslav Republic of Macedonia on and after January 1, 2000 for which the Government of the Former Yugoslav Republic of Macedonia has not issued an appropriate export visa described below unless they are subject to the Outward Processing Program described below. Should additional categories, merged categories or part categories become subject to import quota, the merged or part category(s) automatically shall be included in the coverage of this visa arrangement. Merchandise in the category(s) exported on or after the date the category(s) becomes subject to import quotas shall require a visa.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice or successor document. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (the code for the Former Yugoslav Republic of Macedonia is ''MK''). these two codes shall be followed by the number''1'' and a five digit serial number identifying the shipment, (e.g., 0MK112345).

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature and the printed name of the issuing official authorized by the Government of the Former Yugoslav Republic of Macedonia.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States. Annotated or successor documents shall be reported in the spaces provided within the visa stamp (e.g., ''Cat. 340—510 DOZ'').

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Visaed quantities are rounded to the closest whole number if the quantity exported exceeds one whole unit, but is less than the next whole unit. Half units are rounded up. If the quantity visaed is less than one unit, the shipment is rounded upwards to one unit. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment. For example, quota Category 347/348 may be visaed as ''Category 347/348'' or if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as ''Category 347'' but not as ''Category 348.'' If, however, a merged quota category such as 340/640 has a quota sublimit on Category 340, then there must be ''Category 340'' visa for the shipment if it includes Category 340 merchandise.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect, illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company(s) actually involved in the

manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new correct visa or a visa waiver must be presented to the U.S. Customs Service before any portion of the shipment will be released. A visa waiver may be issued by the U.S. Department of Commerce at the request of the Embassy of the Former Yugoslav Republic of Macedonia in Washington, DC. The waiver, if used, only waives the requirement to present a visa with the shipment at entry. It does not waive the quota requirements. Visa waivers will only be issued for classification purposes or for one-time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from the Former Yugoslav Republic of Macedonia has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided.

Certification Requirements for Outward Processing Program

Each shipment of wool apparel products in Categories 433, 434, 435, 442, 443, 444, 447 and 448 which has been either assembled in the Former Yugoslav Republic of Macedonia from components cut in the United States from U.S. formed fabric or cut and assembled in the Former Yugoslav Republic of Macedonia from U.S. formed fabric and is eligible for the Outward Processing Program, shall be so certified by the Government of the Former Yugoslav Republic of Macedonia in order to qualify under this program. This certification shall be presented to the U.S. Customs Service before qualifying goods may enter or be withdrawn from warehouse for consumption, into the customs territory of the United States (the 50 states, the District of Columbia and Puerto Rico).

A certification must accompany each commercial shipment of qualifying goods. A square stamped marking in blue ink will appear on the front of the original commercial invoice. The original certification shall not be stamped on duplicate copies of the invoice. The original invoice with the original certification stamp will be required to enter the shipment into the United States as qualifying goods. Duplicates of the invoice and/or certification may not be used for this purpose.

Each certification shall include the following information:

1. The certification number. The certification number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO)(the code for the Former Yugoslav Republic of Macedonia is ''MK''). These two codes shall be followed by the number ''2'' and a five-digit serial number identifying the shipment, (e.g., 0MK212345).

2. The date of issuance. The date of issuance shall be the day, month and year on which the certification was issued.

3. The original signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation and the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as amended.

U.S. Customs shall not permit entry as qualifying goods if the shipment does not have a valid certification including certification number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the certification is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the certification is more than that of the shipment, entry shall be permitted. The categories and quantities shall be those determined by the U.S. Customs Service.

If the certification is not acceptable, then a new certification must be obtained and presented to the U.S. Customs Service before any portion of the shipment will be released.

Any shipment which is not accompanied by a valid and correct certification in accordance with the foregoing provisions shall be denied entry by the Government of the United States as qualifying goods unless the Government of the Former Yugoslav Republic of Macedonia authorizes, by the issuance of a visa, the entry and any changes to the appropriate agreement levels. If U.S. Customs determines that the certification is invalid because of an error, and the remaining documentation fulfills requirement for entry under the Outward Processing Program, then a new certification from the Government of the Former Yugoslav Republic of Macedonia must be obtained or a visa waiver issued by the U.S. Department of Commerce at the request of the Embassy of the Former Yugoslav Republic of Macedonia in Washington, DC must be obtained and presented to the U.S. Customs Service before any portion of the shipment will be released.

General Provisions

The date of export is the actual date the merchandise finally leaves the country of origin. For merchandise exported by carrier, this is the day on which the carrier last departs the country of origin.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. $800 or less do not require an export visa for entry and shall not be charged to existing quota levels.

The visa stamp has not been changed; a facsimile of the new certification stamp is enclosed with this letter.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–32424 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa Arrangement and New Certification Stamp for Outward Processed Goods for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

December 9, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing new export visa and certification requirements.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On October 10, 1999, the Governments of the United States and Romania agreed to establish a new Export Visa Arrangement for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, and for products exported under the Outward Processing Program (see related notice concerning implementation of the Outward Processing Program published elsewhere in this issue of the **Federal Register**), produced or manufactured in Romania and exported from Romania on and after January 1, 2000. All products exported on and after January 1, 2000 must be accompanied by an appropriate export visa or certification. This directive supersedes the directive published in the **Federal Register** on January 4, 1984 (see 49 FR 493).

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa and certification requirements set forth in the letter published below to the Commissioner of Customs.

The visa stamp has not been changed; a facsimile of the new certification stamp for the Outward Processing Program is on file at the U.S. Department of Commerce, 14th and Constitution Avenue, NW, room 3104, Washington, DC.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Export Visa Arrangement, signed on October 10, 1999, this directive supersedes the directive dated December 29, 1983 (49 FR 493, published on January 4, 1984) which concerned the Export Visa Arrangement, effected by exchange of notes dated October 31, 1982 and March 25, 1983, between the Governments of the United States and Romania.

Visa Requirements

Effective on January 1, 2000, you are directed to prohibit entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, produced or manufactured in Romania and exported from Romania on and after January 1, 2000 for which the Government of Romania has not issued an appropriate export visa fully described below unless they are subject to the Outward Processing Program. Should additional categories, merged categories or part categories become subject to import quota, the merged or part category(s) automatically shall be included in the coverage of this visa arrangement. Merchandise in the category(s) exported on or after the date the category(s) becomes subject to import quotas shall require a visa.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice or successor document. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (the code for the Romania is ''RO''). These two codes shall be followed by the number''1'' and a five digit serial number identifying the shipment, (e.g., 0RO112345).

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature and the printed name of the issuing official authorized by the Government of Romania.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States. Annotated or successor documents shall be reported in the spaces provided within the visa stamp (e.g., ''Cat. 340—510 DOZ'').

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Visaed quantities are rounded to the closest whole number if the quantity exported exceeds one whole unit, but is less than the next whole unit. Half units are rounded up. If the quantity visaed is less than one unit, the shipment is rounded upwards to one unit. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment. For example, quota Category 347/348 may be visaed as ''Category 347/348'' or if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as ''Category 347'' but not as ''Category 348.'' If, however, a merged quota category such as 340/640 has a quota sublimit on Category 340, then there must be ''Category 340'' visa for the shipment if it includes Category 340 merchandise.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect, illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company(s) actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new correct visa or a visa waiver must be presented to the U.S. Customs Service before any portion of the shipment will be released. A visa waiver may be issued by the U.S. Department of Commerce at the request of the Romanian Embassy in Washington, DC. The waiver, if used, only waives the requirement to present a visa with the shipment at entry. It does not waive the quota requirements. Visa waivers will only be issued for classification purposes or for one-time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from Romania has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided.

Certification Requirements for Outward Processing Program

Each shipment of wool apparel products in Categories 433, 434, 435, 442, 443, 444, 447 and 448 which has been either assembled in Romania from components cut in the United States from U.S. formed fabric or manufactured in Romania from U.S. formed fabric and is eligible for the Outward Processing Program, shall be so certified by the Government of Romania. This certification shall be presented to the U.S. Customs Service before entry, or withdrawal from warehouse for consumption, into the customs territory of the United States (the 50 states, the District of Columbia and Puerto Rico). Properly certified shipments of wool apparel products do not require a visa.

A certification must accompany each commercial shipment of the aforementioned textile products. A square stamped marking in blue ink will appear on the front of the original commercial invoice. The original certification shall not be stamped on duplicate copies of the invoice. The original invoice with the original certification stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or certification may not be used for this purpose.

Each certification shall include the following information:

1. The certification number. The certification number shall be in the standard nine digit letter format, beginning with one numerical digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO)(the code for Romania is ''RO''). These two codes shall be followed by the number ''2'' and a five-digit serial

number identifying the shipment, (e.g., 0RO212345).

2. The date of issuance. The date of issuance shall be the day, month and year on which the certification was issued.

3. The original signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation and the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), as amended.

U.S. Customs shall not permit entry if the shipment does not have a valid certification including certification number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the certification is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the certification is more than that of the shipment, entry shall be permitted. The categories and quantities shall be those determined by the U.S. Customs Service.

If the certification is not acceptable, then a new certification must be obtained and presented to the U.S. Customs Service before any portion of the shipment will be released.

Any shipment which is not accompanied by a valid and correct certification in accordance with the foregoing provisions shall be denied entry by the Government of the United States unless the Government of Romania authorizes, by the issuance of a visa, the entry and any changes to the appropriate agreement levels. If U.S. Customs determines that the certification is invalid because of an error, and the remaining documentation fulfills requirement for entry under the Outward Processing Program, then a new certification from the Government of Romania must be obtained or a visa waiver issued by the U.S. Department of Commerce at the request of the Romanian Embassy in Washington, DC must be obtained and presented to the U.S. Customs Service before any portion of the shipment will be released.

General Provisions

The date of export is the actual date the merchandise finally leaves the country of origin. For merchandise exported by carrier, this is the day on which the carrier last departs the country of origin.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S. $800 or less do not require an export visa for entry and shall not be charged to existing quota levels.

The visa stamp has not been changed; a facsimile of the new certification stamp is enclosed with this letter.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–32424 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Extension of Temporary Amendment to the Requirements for Participating in the Special Access Program to Include the Outward Processing Program

December 9, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending extension of amendment of requirements for participation in the Special Access Program to include the Outward Processing Program.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

A notice published in the **Federal Register** on December 18, 1998 (63 FR 70112), amended on December 24, 1998 (64 FR 149, published on January 4, 1999), extended the exemption period for women's and girls' and men's and boys' chest type plate, ''hymo'' piece or ''sleeve header'' of woven or welf-inserted warp knit construction of coarse animal hair or man-made filaments used in the manufacture of tailored suit jackets and suit-type jackets in Categories 433, 435, 443, 444, 633, 635, 643 and 644, which are entered under the Special Access Program, for the periods December 23, 1998 through December 31, 2000 for women's and girls'; and September 23, 1998 through December 31, 2000 for men's and boys'. See also 61 FR 49439, published on September 20, 1996, as amended.

Effective on January 1, 2000, that directive is being amended to include goods covered under the Outward Processing Program (see related notice concerning implementation of the Outward Processing Program published elsewhere in this issue of the **Federal Register**).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998).

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on December 14, 1998 and December 24, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. Those directives concern the foreign origin exception for findings and trimmings in Categories 433, 435, 443, 444, 633, 635, 643 and 644 under the Special Access Program and extend the amendment for the periods December 23, 1998 through December 31, 2000 for women's and girls' ''hymo'' type interlinings and September 23, 1998 through December 31, 2000 for men's and boys' ''hymo'' type interlinings. See also directive dated September 16, 1996 (61 FR 49439), as amended.

Effective on January 1, 2000, you are directed to include goods covered under the Outward Processing Program detailed in the directive concerning implementation of the Outward Processing Program published elsewhere in this issue of the **Federal Register** in the exceptions detailed in the aforementioned directives.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–32422 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Implementation and Enforcement of the Outward Processing Program for Textiles and Apparel

December 8, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs setting forth the requirements for participation in the Outward Processing Program.

SUMMARY: This notice sets forth the requirements for participating in the Outward Processing Program for textiles and apparel. Under the Outward Processing Program, textile products will not be subject to quantitative restrictions upon importation into the United States if they either (a) are assembled in a participating country of fabrics formed and cut in the United States or (b) are cut and assembled in a participating country of fabric formed in the United States. Products exported on or after January 1, 2000 may be imported pursuant to the Outward Processing Program.

EFFECTIVE DATE: January 1, 2000

FOR FURTHER INFORMATION CONTACT: Brian F. Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce. (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 2, 1972, as amended.

On September 10, 1999 the Government of the United States and the Government of Romania signed a Memorandum of Understanding providing for an Outward Processing Program for certain wool apparel products. On September 17, 1999, the Government of the U.S. and the Government of the Former Yugoslav Republic of Macedonia signed a Memorandum of Understanding providing for an Outward Processing Program for certain wool apparel products.

Pursuant to these agreements, products that qualify for Outward Processing Program treatment will not be subject to quantitative restrictions. However, products that qualify for Outward Processing Program treatment must be certified by the participating government and will be monitored by the U.S. Customs Service. Each shipment must be certified by the placing of the original square-shaped stamped marking in blue ink on the front of the commercial invoice.

Outward Processing Program treatment is available for qualifying wool apparel products exported on or after January 1, 2000. Future **Federal Register** notices will indicate qualifying products eligible for the Outward Processing Program.

General Requirements; Qualifying Products

In order to qualify for Outward Processing Program treatment, qualifying wool apparel products must meet the following requirements:

(1) the product must be either manufactured from fabric that is both cut and assembled in a participating country, or from fabric which is cut in the United States and assembled in a participating country. The product may be partially cut or partially assembled in either country, but all assembly and cutting operations must be performed in either the participating country or the United States. A participating country is a country with which the United States has entered into a bilateral agreement regarding the Outward Processing Program;

(2) the product must be assembled or manufactured (that is, both cut and assembled) from fabric which is formed in the United States; i.e., all fabric components of the product must be U.S. formed. This requirement applies to all textile components of the product, including linings and pocketing, except as provided in (4) below. Greige goods imported into, and then finished in, the United States are not considered fabric formed in the United States. Fabric that is woven or knitted in the United States from yarn is considered U.S. formed;

(3) the importer of the qualifying wool apparel product and the exporter of the U.S. formed fabric or the component parts must be the same entity or person;

(4) findings and trimmings of non-U.S. origin may be incorporated into the product, provided they do not exceed 25 percent of the cost of the fabric in the product. Findings and trimmings include sewing thread, hooks and eyes, snaps, buttons, ''bow buds,'' decorative lace trim, zippers, including zipper tapes, and labels;

(5) upon entry into the United States, the product must be classified under a subheading of heading 9802 of the Harmonized Tariff Schedule of the United States (HTS) created to capture such trade (9802.00.8016) or qualify for the special ''S'' prefix indicating the item was produced with U.S. formed fabric.

Nothing in these requirements precludes performing any operation in the United States.

Record keeping Requirements

The following documents shall be maintained and made available for review by the U.S. Customs Service and CITA:

(1) entry documents made during the quarter;

(2) design style costing sheets or similar documents providing a complete description of the assembled products;

(3) cutting tickets (if the fabric is cut in the United States), including the name and location of the cutting facility for those entries;

(4) mill invoices, including the name of the mill where the fabric was formed. If the fabric was purchased from a third party, the participant is responsible for obtaining the mill invoice. The participant must also obtain a signed statement from a principal at the mill that the fabric is of U.S. origin. This can be stated directly on the invoice or on a separate document that relates to each specific shipment of fabric. Vertically integrated participants, i.e., participants that both form and cut fabric, must retain an internal transfer document or other documentary proof that they formed the fabric in the United States;

(5) transportation documents if fabric is cut in the United States (mill to cutting facility; cutting facility to border/assembler); and

(6) export documentation.

The above documents shall be maintained by calendar quarter, by country, and by category; and shall be retained for three years from the date of the exportation of the U.S. formed fabric or U.S. formed and cut fabric. The documents shall be organized and filed (preferably in a single location) to facilitate U.S. Customs' review.

Enforcement Procedures and Penalties

The U.S. Customs Service shall monitor all shipments entered pursuant to the Outward Processing Program.

In order to ensure that participants in the Outward Processing Program comply fully with the requirements set forth in this notice, Customs will conduct Post Entry Compliance reviews. These reviews will be conducted for entries made for the first quarter of 2000 and shall continue for each successive quarter. During the course of such review, the participant must provide Customs officials with evidence, through the documents described above, that all products entered under the Outward Processing Program qualify for Outward Processing Program treatment.

False or inaccurate representations made in the context of the Outward Processing Program may result in liability under U.S. laws prohibiting false or misleading statements, including 18 U.S.C. 1001 and 19 U.S.C. 1592. Moreover, participants may be suspended from participation in the Outward Processing Program for such representations, for failing to abide by the Outward Processing Program's record keeping requirements, or for otherwise violating the terms of the Program.

In the event of credible evidence that a participant has violated the terms of the Outward Processing Program, the Chairman of CITA will notify the participant in writing of the alleged violation. The participant will have 30 days to respond and/or request a

meeting with CITA representatives to discuss the alleged violation. After reviewing the evidence and the participant's response, CITA will determine whether a violation occurred and what penalty, if any, is appropriate. Penalties may include temporary or permanent suspension from participation in the Outward Processing Program. In determining the appropriate penalty, CITA will consider all relevant factors, including the seriousness of the violation, previous violations by the participant, the experience of the participant with the Outward Processing Program, and the steps taken by the participant to prevent future violations.

CITA has determined that this action falls within the foreign affairs exception to the rulemaking provisionsof 5 U.S.C. 553(a)(1).

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 8, 1999.

Commissioner of Customs
Department of Treasury, Washington, DC 20229

Dear Commissioner: This directive sets forth the requirements for participation in the Outward Processing Program for textiles and apparel and provides for enforcement procedures to ensure that these requirements are met.

Effective on January 1, 2000, no quantitative restrictions shall apply to qualifying textile products which are exported from a participating country to the United States under the Outward Processing Program for textiles and apparel. However, products that qualify for Outward Processing Program treatment must be certified by the participating government and shall be monitored by the U.S. Customs Service. Each shipment must be certified by the placement of the original square-shaped stamped marking in blue ink on the front of the commercial invoice. Qualifying products must be either manufactured (that is, both cut and assembled) in a participating country or cut in the United States and assembled in a participating country and must be assembled or manufactured (that is, both cut and assembled) from fabric formed in the United States.

General Requirements; Qualifying Products

In order to qualify for Outward Processing Program treatment, qualifying wool apparel products must meet the following requirements:

(1) the product must be either manufactured from fabric that is both cut and assembled in a participating country, or from fabric which is cut in the United States and assembled in a participating country. A participating country is a country with which the United States has entered into a bilateral agreement regarding the Outward Processing Program;

(2) the product must be assembled or manufactured (that is, both cut and assembled) from fabric which is formed in the United States; i.e., all fabric components of the product must be U.S. formed. This requirement applies to all textile components of the product, including linings and pocketing except as provided in (4) below. Greige goods imported into, and then finished in, the United States are not considered fabric formed in the United States. Fabric that is woven or knitted in the United States from yarn is considered U.S. formed;

(3) the importer of the qualifying wool apparel product and the exporter of the U.S. formed fabric or its component parts must be the same entity or person;

(4) findings and trimmings of non-U.S. origin may be incorporated into the product provided they do not exceed 25 percent of the cost of the fabric in the product. Findings and trimmings include sewing thread, hooks and eyes, snaps, buttons, ''bow buds,'' decorative lace trim, zippers, including zipper tapes, and labels;

(5) upon entry into the United States, the product must be classified under a subheading of heading 9802 of the Harmonized Tariff Schedule of the United States (HTS) created to capture such trade (9802.00.8016) or qualify for the special ''S'' prefix indicating the item was produced with U.S. formed fabric.

Nothing in these requirements precludes performing any operation in the United States.

Record keeping Requirements

Participants are required to retain the following documents for review by Customs:

(1) entry documents made during the quarter;

(2) design style costing sheets or similar documents providing a complete description of the assembled products;

(3) cutting tickets (if the fabric is cut in the United States) including the name and location of the cutting facility for those entries;

(4) mill invoices, including the name of the mill where the fabric was formed. If the fabric was purchased from a third party, the participant is responsible for obtaining the mill invoice. The participant must also obtain a signed statement from a principal at the mill that the fabric is of U.S. origin. This can be stated directly on the invoice or on a separate document that relates to each specific shipment of fabric. Vertically integrated participants, i.e., participants that both for and cut fabric must retain an internal transfer document or other documentary proof that they formed the fabric in the United States;

(5) transportation documents if fabric is cut in the United States (mill to cutting facility; cutting facility to border/assembler); and

(6) export documentation.

The participant is obligated to maintain the above documents by calendar quarter, by country, and by category, and must retain them for three years from the date of the exportation of the U.S. formed fabric or U.S. formed and cut fabric. The documents must be organized and filed (preferably in a single location) to facilitate U.S. customs review.

Enforcement Procedures and Penalties

All shipments entered pursuant to the Outward Processing Program shall be monitored. To facilitate the implementation and enforcement of the Outward Processing Program, Customs is directed to require entry/entry-summary procedures for all imports for consumption and withdrawals from warehouse for consumption under the Outward Processing Program.

In order to determine that participants in the Outward Processing Program comply fully with the requirements set forth in this notice, Customs will conduct Post Entry Compliance reviews. These reviews will be conducted for entries made for the first quarter of 2000 and shall continue for each successive quarter. During the course of such review, the participant must provide Customs officials with evidence, through the documents described above, that all products entered under the Outward Processing Program qualify for Outward Processing Program treatment. Customs shall inform CITA of any violations of the program.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisionsof 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 99–32421 Filed 12–13–99; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Application Guidelines and Pre-application Conference Calls for Potential Applicants for AmeriCorps*National Direct Program Funds

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of application guidelines and pre-application technical assistance conference calls.

SUMMARY: We have scheduled two conference calls to provide technical assistance to national non-profits and multi-state organizations interested in applying for AmeriCorps*National Direct program funds.

FOR FURTHER INFORMATION CONTACT: To register for either of the two conference calls contact Marlene Zakai, (202) 606–5000, ext. 536. T.D.D. (202) 565–2799. For individuals with disabilities, we will make information available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: AmeriCorps is the national service

program that engages Americans of all ages and backgrounds in meeting critical education, public safety, environmental, and other human needs. Each year, we provide funds to programs operated by national non-profits to support projects such as tutoring children, restoring streams and parks, building playgrounds and housing, assisting elders, and serving in health clinics. For more information about the activities we support and to access a copy of the National Direct Guidelines, visit our web site: http://www.nationalservice.org.

We have scheduled two conference calls regarding the application processes for AmeriCorps*National Direct grants. The conference calls will assist participants in understanding funding opportunities at the Corporation, tips on preparing a successful application for the 2000 AmeriCorps*National Direct grant competitions, and the framework objectives for an AmeriCorps program.

Conference Calls

Dates: February 4, 2000 or February 11, 2000.

Time: 11 a.m.–1 p.m. Eastern time.

Phone Number: (800) 662–0816 (toll-free) or (202) 260–7915.

Dated: December 7, 1999.

Peter Heinaru,

*Director, AmeriCorps*State/National, Corporation for National and Community Service.*

[FR Doc. 99–32270 Filed 12–13–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB review; comment request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Candidate Application Procedures for the United States Naval Academy; USNA GRE 1531/34 USNA GRB 1110/11, 1110/12, 1110/14, 1110/15, 1110/17, 1110/18, 1110/22, Form T325; OMB Number 0703–0036.

Type of Request: Reinstatement.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 4 hours.

Annual Burden Hours: 40,000.

Needs and Uses: This collection of information is necessary to determine the eligibility and evaluate overall competitive standing of candidates for appointment to the United States Naval Academy. An analysis of the information collected is made by the Admissions Board during the process in order to gauge the qualifications of individual candidates.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: December 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–32304 Filed 12–13–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 13, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

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.

Dated: December 8, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Regional Technology in Education Consortia.

Frequency: Semi-annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 50; Burden Hours: 8,000.

Abstract: Applications are required to receive grants under the Regional Technology in Education Consortia Program (CFDA #84.302A), and recipients are selected competitively. This package provides potential applicants with guidance as to the program's requirements and the manner in which to prepare and submit their application for funding.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grants Information Collections (1890–0001). Therefore, this 30-day public comment notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request should be

addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or should be faxed to 202–708–9346.

Questions regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (703) 426–9692 or via her internet address Kathy__Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–32285 Filed 12–13–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: This notice announces a meeting of the Secretary of Energy Advisory Board's National Ignition Facility Laser System Task Force. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation.

Name: Secretary of Energy Advisory Board—National Ignition Facility Laser System Task Force

DATES: Monday, December 13, 1999, 1:45 PM–5:30 PM.

ADDRESSES: Lawrence Livermore National Laboratory (LLNL), Conference Room A, Building 123, 7000 East Avenue, Livermore, California 94551–0808. Note: For their convenience, members of the public who plan to attend this open meeting are requested to contact Ms. Kathleen Moody of the LLNL Protocol Office in advance of the meeting in order to facilitate access to the meeting site. Ms. Moody may be reached at (925) 423–5948 or via e-mail at moody2@llnl.gov.

FOR FURTHER INFORMATION CONTACT: Betsy Mullins, Executive Director, or Richard Burrow, Deputy Director, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–7092 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the NIF Task Force is to provide independent external advice and recommendations to the Secretary of Energy Advisory Board on the options to complete the National Ignition Facility (NIF) Project; to recommend the best technical course of action; and to review and assess the risks of successfully completing the NIF Project. The NIF Task Force will focus on the engineering and management aspects of the proposed method for accomplishing the assembly and installation of the NIF laser system. The Task Force's review will cover the full scope of assembly and installation and the ability, within the proposed approach, to achieve the cleanliness requirements established for the operation of the laser. The review will also address: (1) the engineering viability of the proposed assembly and activation method; (2) the assembly and installation cleanliness protocols; (3) the management structure; and (4) the adequacy of the cost estimating methodology.

Tentative Agenda

Monday, December 13, 1999

1:45–2:15 PM
Opening Remarks—Dr. John McTague, Task Force Chairman
2:15–2:30 PM
Briefing & Discussion: NIF Re-baselining Plan, Scheduling and Budget Impacts
2:30–3:00 PM
Briefing & Discussion: Target Fabrication & Target Operations
3:00–3:15 PM
Break
3:15–4:00 PM
Briefing & Discussion: Management and Oversight of the NIF Project—Relationship between DOE, UC, LLNL, and the NIF Project Office
4:00–4:30 PM
Briefing & Discussion: Management and Oversight of the NIF Project—Previous Reviews of the NIF
4:30–5:00 PM
Briefing & Discussion: Management and Oversight of the NIF Project—NIF Council
5:00–5:15 PM
Briefing & Discussion: Management and Oversight of the NIF Project—Outside Consultants & Independent Advice
5:15–5:30 PM
Public Comment Period
5:30 PM
Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the NIF Task Force and submit written comments or comment during the scheduled public comment periods. The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Livermore, California, the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. You may submit written comments to Betsy Mullins, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes: A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 A.M. and 4:00 P.M., Monday through Friday except Federal holidays. Further information on the Secretary of Energy Advisory Board and its subcommittees may be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on December 8, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–32246 Filed 12–13–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–123–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 8, 1999.

Take notice that on December 1, 1999, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to become effective January 1, 2000:

Second Revised Volume No. 1–A

Seventeenth Revised Sheet No. 20
Eleventh Revised Sheet No. 22
Seventeenth Revised Sheet No. 23
Twenty-First Revised Sheet No. 24
Seventeenth Revised Sheet No. 26
Seventeenth Revised Sheet No. 27

Third Revised Volume No. 2

Forty-Sixth Revised Sheet No. 1–D.2
Fortieth Revised Sheet No. 1–D.3

El Paso states that the above tariff sheets are being filed to adjust its rates for inflation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. 99–32269 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–322–000 and RP96–45–000]

Northern Border Pipeline Company; Notice of Informal Settlement Conference

December 8, 1999.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, December 20, 1999, at 1:00 p.m., and continue through Tuesday, December 21, 1999, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of exploring the possible settlement in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact William J. Collins at (202) 208–0248, or Joel M. Cockrell at (202) 208–1184.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–32258 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–120–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 8. 1999.

Take notice that on December 1, 1999, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective January 1, 2000:

50 Revised Sheet No. 50
50 Revised Sheet No. 51
46 Revised Sheet No. 53

Northern states that this filing establishes the System Balancing Agreement (SBA) cost recovery surcharge to be effective January 1, 2000 for the period January 1 through December 31, 2000.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. 99–32266 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–121–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 8, 1999.

Take notice that on December 1, 1999, Northern Natural Gas Company (Northern), tendered for filing in its FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets proposed to be effective date of January 1, 2000:

Fifth Revised Volume No. 1

51 Revised Sheet No. 50
51 Revised Sheet No. 51
20 Revised Sheet No. 52
47 Revised Sheet No. 53

Original Volume No. 2

159 Revised Sheet No. 1C
36 Revised Sheet No. 1C.a

Northern states that the purpose of this filing is to set forth the approved 2000 Gas Research Institute (GRI) surcharges for the 2000 calendar year to be effective January 1, 2000 in accordance with the Commission's Order Approving The Gas Research Institute's Year 2000 Research, Development and Demonstration Program and 2000–2004 Five-Year Plan issued on September 29, 1999 in Docket No. RP99–323–000.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protest swill be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. Waston, Jr.,

Acting Secretary.

[FR Doc. 99–32267 Filed 12–13–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–42–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

December 8, 1999.

Take notice that on December 3, 1999, Northwest Pipeline Corporation (Northwest) 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP00–42–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate the new Basin Frozen Foods Meter Station, in Grant County, Washington, to provide deliveries to Basin Frozen Foods (Basin), a new end-user, under Northwest's Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, Northwest proposes to construct and operate the new Basin Frozen Foods Meter Station adjacent to its existing Warden Meter Station at Milepost 24.49 on the Moses Lake Lateral in Grant County, Washington. Northwest states that the new meter station will consist of a 3-inch lateral tap, a 3-inch turbine meter and appurtenances with a design capacity of 3,567 Dth per day at 300 psig. Northwest states that Basin's estimated requirements for natural gas are up to 2,700 Dth per day. Northwest further states that the estimated cost to construct the Basin Frozen Foods Meter Station is approximately $215,500, and that the actual cost associated with construction plus applicable income tax gross-up will be reimbursed by Basin.

Any questions regarding this application should be directed to Gary K. Kotter, Manager, Certificates at (801) 584–7117, P.O. Box 58900, Salt Lake City, Utah 84158.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest of the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–32261 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–115–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

December 8, 1999.

Take notice that on December 1, 1999, Panhandle Eastern Pipeline Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective January 1, 2000.

Panhandle also states that this filing removes from its currently effective rates the Second Carryover GSR Settlement Interruptible Rae Component applicable to interruptible transportation service provided under Rate Schedules IT and EIT (Section 18.7). The Second Carryover GSR Settlement Interruptible Rate Component, which was established in Docket No. RP99–175–000, was approved by Commission letter order issued December 30, 1998, the Second GSR Settlement Carryover Period will terminate on December 31, 1999. Accordingly, as set forth in Appendix B herein, Panhandle proposes to remove the 1.11¢ per Dt. Second Carryover GSR Settlement Interruptible Rate Component applicable to Rate Schedules IT and EIT.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. 99–32260 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–3531–000 and ER99–4384–000]

Southern Company Services, Inc.; Notice of Informal Settlement Conference

December 8, 1999.

Take notice that an informal conference will be convened in this proceeding on Wednesday, December 15, 1999 at 11:00 a.m. and Thursday, December 16, 1999 at 10:00 a.m., for the purpose of exploring the possible settlement of the above-referenced docket. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Hollis J. Alpert at (202) 208–0783 or Theresa J. Burns at (202) 208–2160.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–32259 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–496–000 and RP99–496–001]

Southern Natural Gas Company; Notice of Informal Settlement Conference

December 8, 1999.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 11:00 a.m. on Thursday, December 16, 1999, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any part, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Sandra J. Delude at (202) 208–0583, Joel Cockrell (202) 208–1184, or Theresa J. Burns (202) 208–2160.

Linwood A. Waston, Jr.,

Acting Secretary.

[FR Doc. 99–32263 Filed 12–13–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–122–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 8, 1999.

Take notice that on December 1, 1999 Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective January 1, 2000.

1. Revised 122 Revised Sheet No. 5
1. Revised 27 Revised Sheet No. 5A
1. Revised 19 Revised Sheet No. 5A.02
1. Revised 19 Revised Sheet No. 5A.03
1. Revised 24 Revised Sheet No. 5B

Transwestern states that the purpose of this filing is to set forth the approved 2000 Gas Research Institute (GRI) surcharges for the 2000 calendar year to be effective January 1, 2000 in accordance with the Commission's Order approving The Gas Research Institute's Year 2000 Research, Development and Demonstration Program and 2000–2004 Five-Year Plan issued on September 29, 1999 in Docket No. RP99–323–000.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. 99–32268 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–116–000]

Trunkline Gas Company; Notice of Tariff Filing

December 8, 1999.

Take notice that on December 1, 1999, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective January 1, 2000:

Thirty-Second Revised Sheet No. 6
Thirty-First Revised Sheet No. 7
Thirty-Second Revised Sheet No. 8
Thirty-Second Revised Sheet No. 9
Fourteenth Revised Sheet No. 9A
Fourth Revised Sheet No. 9B
Thirty-First Revised Sheet No. 10
Seventeenth Revised Sheet No. 10A

Trunkline states that the purpose of this filing is to revise the Gas Research Institute (GRI) surcharges to be effective January 1, 2000 in compliance with the January 21, 1998, Stipulation and Agreement Concerning GRI Funding approved by the Commission in Gas Research Institute, 83 FERC ¶ 61,093 (1998), order on reh'g, 83 FERC ¶ 61,331 (1998). Specifically, Trunkline's filing complies with the surcharges set forth in Appendix A to the Stipulation and Agreement as follows: (1) a reservation surcharge of 20.0¢ per dekatherm per month will be charged on non-discounted firm high load factor customers, i.e., greater than 50% load factor; (2) a reservation surcharge of 12.3¢ per dekatherm per month will be charged on non-discounted firm low load factor customers, i.e., less than or equal to 50% load factor, (3) a GRI volumetric surcharge of 0.72¢ per dekatherm surcharge will be charged on all non-discounted firm commodity and interruptible transportation services; and (4) a 1.6¢ per dekatherm surcharge will be charged on all non-discounted firm commodity units delivered to customers qualifying for service under Trunkline's Rate Schedule SST.

Trunkline states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motion or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. 99–32264 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–119–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

December 8, 1999.

Take notice that on December 1, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets listed on Appendix A to the filing, to become effective January 1, 2000.

Williston Basin states that the revised tariff sheets are being filed to incorporate the Gas Research Institute (GRI) General Research, Development and Demonstration Funding Unit Adjustment Provision, and associated references to such, in the Rate Schedules, General Terms and Conditions and Forms of Service Agreements, and to add the GRI Funding Unit rates to the applicable rate sheets of Williston Basin's Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. 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. 99–32265 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 8, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Project, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 11830–000.[1]

c. *Date filed:* October 1, 1999.

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Peavy Falls Hydroelectric Project.

f. *Location:* The project is located on the Michigamme River, near Crystal Falls, Iron Mountain, and Kingsford, in Iron County, Michigan. The project would not utilize any Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address patricia.leppertslack@ferc.fed.us, or telephone (202) 219–2767.

j. Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969 as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) a 200-foot-long, 73-foot-high, multiple-arch dam; (2) an 89-foot-high concrete gated spillway; (3) 80-foot-long, 20-foat-high right concrete gravity dam; (4) a 42-foot-wide concrete intake section; (5) a 194-foot-long, 40-foot-high left concrete gravity dam; (6) an impoundment (Peavy Pond) with a surface area of 2,900 acres and a 40,800 acre-feet storage capacity at summer pool elevation of 1,283.8 feet National Geodetic Vertical Datum (NGVD), and a surface area of 490 acres and a 6,840 acre-feet storage capacity at minimum spring pool elevation of 1,268.8 feet NGVD; (7) a 94-foot-long, 48-foot-wide powerhouse, containing two generating units, each rated at 7,500 kilowatts; (8) a 749-foot-long, 17-foot-diameter concrete-lined tunnel; (9) a 46-foot-diameter concrete surge tank; (10) a substation; and (11) appurtenant facilities.

m. Locations of the application: A copy of the application is available for

[1] Project No. 1759 currently consists of three developments, Way Dam, Twin Falls, and Peavy Falls Hydroelectric Projects. Wisconsin Electric requests that the Commission issue separate licenses for these three developments. The Commission has designated these three developments as P–1759–036 (Way Dam), P–11830–000 (Peavy Falls), and P–11831–000 (Twin Falls).

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. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

o. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. all filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' ''PRESCRIPTIONS,'' or ''REPLY COMMENTS;'' (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth the evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–32262 Filed 12–13–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6508–9]

Agency Information Collection Activities Associated With ''Standards for the Use or Disposal of Sewage Sludge'; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Standards for The Use or Disposal of Sewage Sludge EPA ICR #0229.13 OMB Control #2040–0004

Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 14, 2000.

ADDRESSES: Send written comments to Comment Clerk; Proposed Information Collection and Reporting Request for Compliance with Phase 1 Amendments to the Round 1 Sewage Sludge Regulation; Water Docket MC–4101; U. S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Respondents are requested to submit an original and three copies of their written comments. Respondents who want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All submissions must be postmarked or delivered by hand, no facsimiles (faxes) will be accepted.

Copies of the Supporting Statement for this information collection request and the Phase 1 Amendments to Round 1 of the Part 503 rule are available for review at EPA's Water Docket; 401 M Street, SW; Washington, DC 20460. The Docket is located in room EB57. For access to the Docket materials call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Alan B. Rubin, Ph.D., Senior Scientist, Health and Ecological Criteria Division (4304), Office of Science and Technology, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–7589.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which generate and subsequently dispose of their sewage sludge by incineration and sewage sludge incinerator owner/operators (SSIOOs).

Title: ''Standards for the Use or Disposal of Sewage Sludge'' EPA ICR #0229.13 OMB Control #2040–0004

Abstract: This ICR estimates the total burden hours for sewage sludge incinerator owners/operators (SSIOOs) to comply with self-implementing requirements for sewage sludge incinerators under Subpart E of 40 CFR Part 503, Standards for the Use or Disposal of Sewage Sludge. On February 19, 1993, EPA published the final 40 CFR Part 503 Rule at 58 FR 9248. For the most part, this rule was designed to be self-implementing with the exception of certain provisions of the sewage sludge incineration Subpart E of the Rule. In order to make the entire Part 503 Rule self-implementing, the Agency on August 4, 1999 at 64 FR 42551 published Phase 1 Amendments to Round 1 of Part 503. Included in these amendments were requirements for SSIOOs to provide the permitting authority certain information as specified in the above-captioned ICR title that would allow the permitting authority to determine whether SSIOOs are in compliance with the numerical standards section of Subpart E of the Part 503 Rule. The specific sections of the Part 503 rule that were amended to effect these requirements are § 503.43(e)(2), 503.43(e)(3)(ii), and 503.43(e)(4). The requirement for SSIOOs to perform air dispersion

modeling and run performance tests to comply with Subpart E numerical standards have always been in the base Part 503 Rule and burden hours for these activities were included in the base Part 503 Rule ICR. However, the base Part 503 Rule required the permitting authority to specify to the SSIOOs the air dispersion model and model parameters to use as well as specify the protocol for running the incinerator performance test. The Phase 1 Amendments now require SSIOOs to select this information from EPA-published guidance documents and to submit this information to the permitting authority. This ICR estimates the burden hours for this activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. Reference is made to Section VII D (*Paper Work Reduction Act*) of the preamble discussion for additional background on this statutory requirement.

The following is a description of the information collection and reporting requirements of this proposed ICR that is needed to satisfy certain sections of these amendments to the Standards for the Use or Disposal of Sewage Sludge published on August 4, 1999 at 64 FR 42551:

(A) Information Collection and Reporting: Description of Air Dispersion Model Selected by the SSIOO, the Values Used for the Model Parameters, and the Results of the Air Dispersion Modeling (§ 503.43(e)(2))

The above-captioned information shall be submitted to the permitting authority within 30 days after completion of the modeling.

(B) Notification of the Permitting Authority: Scheduled Date of the Incinerator Performance Test (§ 503.43(e)(3)(ii))

The above-captioned notification shall be given to the permitting authority at least 30 days prior to the performance test to allow the permitting authority to observe the test. The notice shall include a test protocol with incinerator operating conditions and a list of test methods to be used.

(C) Information Collection and Reporting: Submission of Numerical Pollutant Limits to the Permitting Authority (§ 503.43(e)(4))

The above-captioned information developed to satisfy §§ 503.43(c) and (d) shall be submitted to the permitting authority no later than 30 days after completion of the air dispersion modeling and incinerator performance test.

Burden Statement: EPA estimates that annually 30 SSIOOs will expend a total of 150 hours at a total cost of $2734.50 to comply with the information collection and reporting provisions of the Phase 1 Amendments to the Part 503 Standards for the use or Disposal of Sewage Sludge. There are no State costs associated with these requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: December 6, 1999.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 99–32377 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6507–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Oral and Written Purchase Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Oral and Written Purchase Orders, EPA ICR Number 1037.06, OMB Control Number 2030–0007, expiration date March 31, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 13, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1037.06. For technical information about the collection contact Leigh Pomponio at (202) 564–4364.

SUPPLEMENTARY INFORMATION: *Title:* Oral and Written Purchase Orders (OMB Control No. 2030–0007; EPA ICR No. 1037.06) expiring 03/31/2000. This is a request for extension of a currently approved collection.

Abstract: When EPA has a requirement for supplies or services and the value of same is under the simplified acquisition threshold, the Agency solicits verbal or written quotes from potential vendors. Vendor responses are voluntary and generally consist of item name, unit cost, delivery terms, company name, small business status, address, phone number, and point of contact. The Agency uses the collected information to make award decisions and obtain needed supplies and services.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d),

soliciting comments on this collection of information was published on 6/30/99 (64 FR 35150); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: large and small businesses who wish to provide supplies and services to EPA.

Estimated Number of Respondents: 37,492.

Frequency of Response: 1 per year.

Estimated Total Annual Hour Burden: 9373 hours.

Estimated Total Annualized Capital, Operating/ Maintenance Cost Burden: $0 (zero).

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1037.06 and OMB Control No. 2030–0007 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 401 M Street, SW., Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: December 10, 1999.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 99–32381 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6508–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Standards of Performance for Fossil-Fuel-Fired Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generating Units, OMB Control Number 2060–0026, expires 1/31/00. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 13, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1052.06. For technical questions about the ICR contact Seth Heminway at (202) 564–7017.

SUPPLEMENTARY INFORMATION: *Title:* NSPS Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generating Units (OMB No. 2060–0026; EPA ICR No. 1052.06, expiration date 1/31/00). This is a request for extension of a currently approved collection.

Abstract: Owners or operators of steam generating units subject to subpart D must make one-time-only notifications of construction/reconstruction, anticipated and actual startup, initial performance test, physical or operational changes, and demonstration of a continuous monitoring system. They must also submit reports on initial performance test results, monitoring system performance, and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, and periods when the continuous monitoring system is inoperative.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which compliance was achieved. The monitoring and excess emissions reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The information collected from recordkeeping and reporting requirements are used for targeting inspections, and for other uses in compliance and enforcement programs.

Responses to this information collection are deemed to be mandatory, per section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 4, 1999 (64 FR 30011); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 24 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of Fossil Fuel Fired Steam Generating Units.

Estimated Number of Respondents: 660.

Frequency of Response: Quarterly.

Estimated Total Annual Hour Burden: 62,865 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $9,900,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1052.06 and OMB Control No. 2060–0026 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 401 M Street, SW., Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: December 8, 1999.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 99–32382 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6508–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, National Emission Standard for Mercury

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standard for Mercury, OMB 2060–0097, expiration date January 31, 2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 13, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0113.07. For technical questions about the ICR contact Melissa Raack at (202) 564–7039.

SUPPLEMENTARY INFORMATION: *Title:* National Emission Standard for Mercury, (OMB Control No. 2060–0097; EPA ICR No. 0113.07) expiring January 31, 2000. This is a request for extension of a currently approved collection.

Abstract: Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Mercury emissions (40 CFR part 61, subpart E) were proposed on December 7, 1971, promulgated on April 6, 1973, and amended on October 14, 1975 and March 19, 1987. These standards apply to all stationary sources which process mercury ore to recover mercury, use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and incinerate or dry wastewater treatment plant sludge. Approximately 142 sources (133 sludge incineration and drying plants and 12 mercury-cell chlor-alkali plants) are currently subject to the standard; and no additional sources are expected to become subject to the standard in the next three years. Mercury is the pollutant regulated under this standard. Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. A written report of each period for which hourly monitored parameters fall outside their established limits is required semi-annually for mercury-cell chlor-alkali plants. These notifications, reports and records are required, in general, of all sources subject to NESHAP.

In the Administrator's judgment, mercury emissions from mercury ore processing facilities, mercury chlor-alkali plants, including the cell room ventilation system, and sludge incineration and drying plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

In order to ensure compliance with the standards promulgated to protect public health, adequate recordkeeping and reporting is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. Recordkeeping and reporting are mandatory under this regulation. Records of emission test results and other data needed to determine total emissions shall be maintained at the source and made available for inspection for a minimum of two years.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 22, 1999 (64 FR 33284); one comment was received; however, there was no comment received on adjusting the burden figures.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,104 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of sources which process mercury.

Estimated Number of Respondents: 142.

Frequency of Response: semiannual for existing sources (chlor-alkali facilities).

Estimated Total Annual Hour Burden: 26,504 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0113.07 and OMB Control No. 2060–0097 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 99–32383 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6508–8]

Science Advisory Board; Notification of Public Advisory Committee Meeting; Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the public teleconference meeting of the Science Advisory Board's (SAB) Integrated Risk Project Subcommittee of the Executive Committee scheduled for Monday, December 20, 1999 between the hours of 1:00 pm–3:00 pm has been canceled and will likely be rescheduled during January 2000. Any member of the public wishing further information concerning the cancellation of the meeting should contact John R. Fowle III, Designated Federal Officer for the Integrated Risk Project Subcommittee, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; telephone (202) 564–4547; FAX (202) 501–0323; or via e-mail at <*fowle.jack@epa.gov*>

Dated: December 3, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–32378 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6508–6]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Louisville and Jefferson County Metropolitan Sewer District (MSD) Pretreatment Project XL Draft Phase I Project Agreement (PPA).

SUMMARY: EPA is today requesting comments on a draft Project XL Phase I Project Agreement for MSD. The Phase I PA is a voluntary agreement developed collaboratively by MSD, stakeholders, the state of Kentucky, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated sources the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits than would have been achieved without the flexibility. This Phase 1 Project XL Agreement is the first phase of a two-part agreement between EPA and MSD. It spells out the intentions of MSD and EPA related to data collection and development of pretreatment performance measures and program redevelopment. Due to the phased approach of the project and the data collection and analyses that need to be accomplished by MSD prior to determination of any requested regulatory flexibility, EPA and MSD have adopted a phased approach to the Project XL Agreement. This Phase 1 Agreement contains as much detail as possible at this time regarding the project and the intentions of each party. The Final Project Agreement between EPA and MSD will be signed in the future to implement Pretreatment Program reinvention.

MSD plans to redesign its pretreatment program at the Jeffersontown WWTP, establishing links between wastewater programs (such as collection system, storm water, sludge), and move towards a more holistic watershed protection strategy (Chenoweth Run watershed). Information gathering and sharing are important aspects of this proposal. Resources will be shifted from the pretreatment program and applied towards other environmental programs for greater environmental gain within the watershed. Before redesigning its pretreatment program, MSD will expend extensive resources collecting data in the watershed and developing performance measures. MSD's requested flexibility will be finalized once data is analyzed and performance measures identified. The Final Project Agreement will include details of MSD's requested flexibility and commensurate superior environmental performance. A notice of availability and request for comment on the Final Project Agreement will be published in the **Federal Register** at a later date.

MSD has proposed this project for a watershed which is not currently meeting its use designation. In an effort to reduce pollutant loadings and reach use designation, MSD will identify desirable loading patterns within the watershed, including loadings to the collection system and treatment plants, stormwater facilities, and from plants and facilities to receiving waters. MSD plans to use pretreatment program requirement alternatives to encourage industry's aid in funding non-traditional water quality controls such as creating riparian zones and planting trees.

The current MSD XL proposal defers any request for Agency consideration of regulatory flexibility until the completion of data collection in the first phase of the project. Therefore MSD's Phase I Agreement describes a process to conduct data collection and development of pretreatment performance measures, program redevelopment, and program implementation. The proposal, and supplemental information provided to EPA, does set forth the following regulatory areas as potentially requiring regulatory flexibility in the next phases of the project: significant noncompliance; monitoring and inspections; reporting; and definition of significant industrial user (SIU). Upon the completion of the data gathering activities, EPA will work with MSD to develop and articulate more specifically the environmental benefits associated with the flexibility considered in MSD's proposal (e.g., pollution prevention measures or other environmental improvements). An FPA will be negotiated upon receipt of sufficient data for the Agency to evaluate the proposed SEP and associated regulatory flexibility. The site specific rulemaking setting forth the specific regulatory flexibility to be implemented will be developed and will ensure that the project will fully comply with applicable federal requirements under the Clean Water Act. Opportunities for public comment will be provided once the rule has been drafted.

DATES: The period for submission of comments ends on December 28, 1999.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Melinda Greene, USEPA REGION 4, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. Comments may also be faxed to Ms. Greene at (404) 562–9728. Comments will also be received via electronic mail sent to: mallard.melinda@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the draft Phase I Project Agreement, contact: Melinda Greene, USEPA REGION 4, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. The document is also available via the Internet at the following location: ''http://www.epa.gov/ProjectXL''. In addition, public files on the Project are located at EPA Region 4 in Atlanta. Questions to EPA regarding the documents can be directed to Melinda Greene at (404) 562–9771, or Chad Carbone at (202) 260–4296. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL''.

Dated: December 6, 1999.

Lisa Lund,

Deputy Associate Administrator for Reinvention Programs, Office of Reinvention.

[FR Doc. 99–32380 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–PR; FRL–6383–8]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Commonwealth of Puerto Rico Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On August 6, 1999, the Commonwealth of Puerto Rico submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Puerto Rico's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application. Puerto Rico has provided a certification that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will take effect in Puerto Rico.

DATES: Comments, identified by docket control number PB–402404–PR, must be received on or before January 28, 2000. In addition, a public hearing request may be submitted on or before January 28, 2000.

ADDRESSES: Comments and the public hearing request 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 PB–402404–PR in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Louis Bevilacqua, Regional Lead Coordinator, Pesticides and Toxic Substances Branch, Environmental Protection Agency, Region II, 2890 Woodbridge Avenue, MS-225, Edison, NJ 08837–3679. telephone: (732) 321–6671; e-mail address: bevilacqua.louis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to firms and individuals engaged in lead-based paint activities in Puerto Rico. 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 under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document or 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 PB–402404–PR. The official record consists of the documents specifically referenced in this action, this notice, the Commonwealth of Puerto Rico's authorization application, 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 from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA Region II Office, Environmental Protection Agency, Pesticides and Toxic Substances Branch, Building 209, Bay B, Lead Team Office, 2890 Woodbridge Avenue, Edison, NJ.

C. How and to Whom Do I Submit Comments and Hearing Requests?

You may submit comments and hearing requests through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PB–402404–PR in the subject line on the first page of your response.

1. *By mail*. Submit your comments and hearing requests to: Environmental Protection Agency, Region II, Pesticides and Toxic Substances Branch, 2890 Woodbridge Avenue, MS-225, Edison, NJ 08837–3679.

2. *In person or by courier*. Deliver your comments and hearing requests to: Environmental Protection Agency, Pesticides and Toxic Substances Branch, Building 209, Bay B, Lead Team Office, 2890 Woodbridge Avenue, Edison, NJ. The regional office is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

3. *Electronically*. You may submit your comments and hearing requests electronically by e-mail to: ''bevilacqua.louis@epamail.epa.gov'' or mail your computer disk to the address identified above. Do not submit any information electronically that you

consider to be CBI. Electronic comments and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data and hearing requests will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and hearing requests in electronic form must be identified by docket control number PB–402404–PR. Electronic comments and hearing requests may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information 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.''

II. Background

A. What Action is the Agency Taking?

The Commonwealth of Puerto Rico has provided a certification letter stating that its lead-based paint training and certification program meets the requirements for authorization of a State program under section 404 of TSCA and has requested approval of the Puerto Rico lead-based paint training and certification program. Therefore, pursuant to section 404 of TSCA, the program is deemed authorized as of the date of submission (i.e., August 6, 1999). If EPA subsequently finds that the program does not meet all the requirements for approval of a State program, EPA will work with the State to correct any deficiencies in order to approve the program. If the deficiencies are not corrected, a notice of disapproval will be issued in the **Federal Register** and a Federal program will be implemented in the State.

Pursuant to section 404(b) of TSCA (15 U.S.C. 2684(b)), EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before approving the application. Therefore, by this notice EPA is soliciting public comment on whether the Commonwealth of Puerto Rico's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

B. What is the Agency's Authority for Taking this Action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–2692), entitled ''Lead Exposure Reduction.''

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404 of TSCA, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application or withdraws the program authorization.

III. State Program Description Summary

The following summary of the Commonwealth of Puerto Rico's proposed program has been provided by the applicant.

The Commonwealth of Puerto Rico, through the Environmental Quality Board, has implemented its Lead-Based Paint Program based on the following outlined structure.

In December 1997 and June 1998, the Legislature passed an amendment to the Environmental Public Policy Act (Law No. 9) of June 18, 1970, as amended, 12 L.P.R.A. 1121, *et. seq.*, which authorizes the Puerto Rico Environmental Quality Board to be the government agency responsible for the implementation, administration, and enforcement of the Puerto Rico Lead Permit and Certification Program.

The Environmental Quality Board adopted the Regulations for the Control of Lead-Based Paint Abatement Activities, Chapter 1500 on May 26, 1999. These rules were approved by the Secretary of State and became effective on June 28, 1999.

Law No. 9, as amended, and the Regulations for the Control of Lead-Based Paint Abatement Activities establish the following:

Legal Authority, 1502

These rules are promulgated pursuant to the authority conferred to the Environmental Board by Act Number 9 of June 18, 1970, 12 L.P.R.A. 1121, *et. seq.*, as amended.

Definitions, 1503

These rules contain definitions for the clarification of content.

Purpose, 1510

These rules contain background information on the purpose for

establishing lead-based paint regulations.

Scope and Applicability, 1511

These rules contain procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and standards for performing such activities. These rules also contain requirements that all lead-based paint activities in target housing and child-occupied facilities shall be performed by certified individuals and firms. These rules do not require the mandatory abatement of lead-based paint.

Compliance Inspections; Authority to Enter, 1512

These rules contain authority for Environmental Quality Board members, agents, or employees to enter and examine a facility periodically and unannounced for compliance with lead regulation requirements.

Generic Provisions, 1513, 1514, 1515

These rules contain requirements for generic provisions.

Generic Prohibitions, 1520

These rules contain requirements for generic prohibitions.

Failure to Comply, 1521

These rules contain authority for the Environmental Quality Board to execute penalties for violating the regulations.

Accreditation of Training Programs for Target Housing and Child-Occupied Facilities, 1530–1539

These rules contain procedures and requirements for the accreditation of training programs which include, but are not limited to, minimum requirements for the approval of training program's application, curriculum requirements, training hour requirements, hands-on training requirements, examinations of competency and proficiency, assessment of fees, on-site audits requirements, quality control, notification and recordkeeping, and reasons for suspension, revocation, and/or modification of a training program.

Certification Requirements and Application Procedures for Individuals and Firms, 1540–1549

These rules contain procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, which include, but are not limited to, educational and experience requirements, completion of an approved training program, and third party exam. It also includes fees, renewal requirements, reciprocity, grandfathering, compliance with work practice standards, and suspension, revocation, and modifications of certification.

Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities, 1550–1569

These rules contain procedures and requirements for conducting lead-based paint activities which include, but are not limited to, inspections, lead hazard screens, risk assessments, notification, abatement, project approval, fee assessment, composite sampling, laboratory analysis, notification, permit conditions, manifest and recordkeeping requirements.

Lead Clearance Levels, 1570

Clearance procedures shall be conducted on all abatement projects by a certified risk assessor or lead inspector after appropriate cleaning has been completed. Compliance levels are designated in this section.

IV. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

V. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this document in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: November 1, 1999.

William J. Muszynski,

Acting Administrator, Region II.

[FR Doc. 99–32386 Filed 12–13–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Interagency Notice of Change in Control.

OMB Number: 3064–0019.

Annual Burden:

Estimated annual number of respondents:—50

Estimated time per response:—30 hours

Average annual burden hours:—1,500 hours

Expiration Date of OMB Clearance: January 31, 2000.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before January 13, 2000 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Interagency Notice of Change in Control is submitted regarding any person proposing to acquire ownership control of an insured state nonmember bank. The information is used by the FDIC to determine whether the competence, experience, or integrity of any acquiring person, indicates that it would not be in the interest of the depositors of the bank

or in the interest of the public, to permit such persons to control the bank.

Dated: December 8, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–32314 Filed 12–13–99; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Subcommission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Interagency Biographical and Financial Report.

OMB Number: 3064–0006.

Annual Burden:

Estimated annual number of respondents: 2,200

Estimated time per response: 4 hours

Average annual burden hours: 8,800 hours

Expiration Date of OMB Clearance: January 31, 2000.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before January 13, 2000 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Interagency Biographical and Financial Report is submitted to the FDIC by each individual director or officer of a proposed or operating financial institution applying for federal deposit insurance as a state nonmember bank. The information is used by the FDIC to evaluate the general character of bank management as required by the Federal Deposit Insurance Act.

Dated: December 8, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–32315 Filed 12–13–99; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, December 14, 1999, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)—of Title 5, United States Code, to consider (1) matters relating to the Corporation's corporate and supervisory activities, (2) reports of the Office of Inspector General, and (3) personnel matters.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: December 10, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–32483 Filed 12–10–99; 12:48 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Thursday, December 16, 1999 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

The following item has been added to the agenda: Patrick J. Buchanan and Buchanan Reform, Inc—Impact of Party Change on Eligibility (LRA #569).

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone (202) 694–1220.

Mary W. Dove,

Acting Secretary.

[FR Doc. 99–32523 Filed 12–10–99; 3:18 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3140–EM]

California; Amendment No. 7 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of California (FEMA–3140–EM), dated September 1, 1999, and related determinations.

EFFECTIVE DATE: November 29, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective November 29, 1999.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–32350 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3153–EM]

Massachusetts; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an

emergency for the Commonwealth of Massachusetts (FEMA–3153–EM), dated December 6, 1999, and related determinations.

EFFECTIVE DATE: December 6, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 6, 1999, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the emergency conditions in certain areas of the Commonwealth of Massachusetts, resulting from a fire beginning on December 3, 1999, and continuing, is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such an emergency exists in the Commonwealth of Massachusetts.

You are authorized to provide emergency protective measures (Category B) under the Public Assistance Program. You are specifically authorized to provide for the activation and deployment of search and rescue teams in Worcester County.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sharon Lee Stoffel of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the Commonwealth of Massachusetts to have been affected adversely by this declared emergency:

FEMA intends to provide emergency protective measures (Category B) under the Public Assistance program. Specifically, FEMA is authorized to provide for the activation and deployment of search and rescue teams in Worcester County. This assistance will be funded at 75 percent Federal funding.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 99–32352 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3153–EM]

Massachusetts; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the Commonwealth of Massachusetts, (FEMA–3153–EM), dated December 6, 1999, and related determinations.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of an emergency for the Commonwealth of Massachusetts is hereby amended to include reimbursement for the overtime costs of police and fire personnel.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–32353 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness (REP) Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: In accordance with 44 CFR Part 354 and consistent with FEMA Rule, CFR Part 354, published in the **Federal Register** on March 24, 1995, 60 FR 15628, FEMA has established a fiscal year (FY) 2000 hourly rate of $34.64 for assessing and collecting fees from Nuclear Regulatory Commission (NRC) licensees for services provided by FEMA personnel for FEMA's REP Program.

DATES: This user fee hourly rate is effective for FY 2000 (October 1, 1999, to September 30, 2000).

FOR FURTHER INFORMATION CONTACT: Mr. Russell Salter, Division Director, Chemical and Radiological Preparedness Division, Preparedness, Training and Exercises Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3030, or (email) russ.salter@fema.gov.

SUPPLEMENTARY INFORMATION: As authorized by Public Law 105–276, 112 Stat. 2461, we will charge an hourly user fee rate of $34.64 to NRC licensees of commercial nuclear power plants for all site-specific biennial exercise related services provided by FEMA personnel for FEMA's REP Program under 44 CFR Part 354. We will deposit funds that we collect under this rule in the REP Program Fund to offset the actual costs by FEMA for its REP Program.

We established the hourly rate on the basis of the methodology set forth in 44 CFR 354.4(b), ''Determination of site-specific biennial exercise related component for FEMA personnel,'' and will use the rate to assess and collect fees for site-specific biennial exercise related services rendered by FEMA personnel. This hourly rate only addresses charges to NRC licensees for services that FEMA personnel provide under the site-specific component, not charges for services FEMA personnel provide under the flat fee component referenced at 44 CFR 354.4(d), nor for services that FEMA contractors provide. We will charge for FEMA contractors' services in accordance with 44 CFR 354.4(c) and (d) for the recovery of appropriated funds obligated for the Emergency Management Planning and Assistance (EMPA) portion of FEMA's REP Program budget.

Dated: December 6, 1999.

Kay C. Goss,

Associate Director for Preparedness, Training, and Exercises.

[FR Doc. 99–32351 Filed 12–13–99; 8:45 am]

BILLING CODE 6718–06–P

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 January 7, 2000.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Port Financial Corp., Cambridge, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Cambridgeport Bank, Cambridge, Massachusetts.

Board of Governors of the Federal Reserve System, December 9, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–32406 Filed 12–13–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, December 20, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: December 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–32482 Filed 12–10–99; 12:42 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (FTC) has submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (PRA) information collection requirements associated with six current rules enforced by the Commission. Current clearances for this information collection expire on December 31, 1999. The FTC is requesting that OMB extend the paperwork clearances through December 31, 2002.

DATES: Comments must be filed by January 13, 2000.

ADDRESSES: Send written comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503, ATTN.: Desk Officer for the Federal Trade Commission, and to Gary M. Greenfield, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, 202–326–2753. All comments should be identified as responding to this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Gary M. Greenfield at the address listed above.

SUPPLEMENTARY INFORMATION: The FTC has submitted a request to OMB to extend the existing clearances to collect information associated with the six rules described below. A Federal Register Notice with a 60-day comment period soliciting comments on this collection of information was published on October 6, 1999 (64 FR 54324). No comments were received.

The relevant information collection requirements are as follows.

1. The Fuel Rating Rule, 16 CFR Part 306 (Control Number: 3084–0068)

The Fuel Rating Rule establishes standard procedures for determining, certifying, and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuel, as required by the Petroleum Marketing Practices Act. 15 U.S.C. 2822(a)–(c). The Rule also requires refiners, producers, importers, distributors, and retailers to retain records showing how the ratings were determined, including delivery tickets or letters of certification.

Estimated annual hours burden: 46,500 total burden hours (20,500 recordkeeping hours + 26,000 disclosure hours).

Recordkeeping: Based on industry sources, staff estimates that 205,000 fuel industry members incur an average annual burden of approximately one-tenth of an hour to ensure retention of relevant business records for the period required by the Rule, resulting in a total of 20,500 hours.

Disclosure: Staff estimates that affected industry members incur an average burden of approximately one hour to produce, distribute, and post octane rating labels. Because the labels are durable, only about one of every eight industry members (i.e., approximately 26,000 of 205,000 industry members) incur this burden each year, resulting in a total annual burden of 26,000 hours.

Estimated annual cost burden: $749,000, rounded ($697,500 in labor costs and $51,300 in non-labor costs).

Labor costs: Staff estimates that the work associated with the Rule's

recordkeeping and disclosure requirements is performed by skilled clerical employees at an average rate of $15.00 per hour. Thus, the annual labor cost to respondents of complying with the recordkeeping and disclosure requirements of the Fuel Rating Rule is estimated to be $697,500 ((20,500 hours + 26,000 hours) × $15.00 per hour).

Capital or other non-labor costs: Staff believes that there are no current start-up costs associated with the Rule. Because the Rule has been effective since 1979 for gasoline, and since 1993 for liquid alternative automtive fuels, industry members should already have in place the capital equipment and other means necessary to comply with the Rule. Industry members do, however, incur the cost of procuring fuel dispenser labels to comply with the Rule. Based on estimates of 1,080,000 fuel dispensers (180,000 retailers × an average of six dispensers per retailer) and a cost of thirty-eight cents each (per industry sources) for labels that last for eight years, the total annual labeling cost is estimated to be $51,300.

2. Regulations Under the Fur Products Labeling Act, 15 U.S.C. 69 et seq. (''Fur Act'') (Control Number: 3084–0099)

The Fur Act prohibits misbranding and false advertising of fur products. The Fur Products Regulations, 16 CFR 301 (''Fur Regulations''), establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing these regulations. The Fur Regulations also provide a procedure for exemption from certain disclosure provisions under the Act.

Estimated annual hours burden: 150,000 hours, rounded (70,200 hours for recordkeeping +79,450 hours for disclosure).

Recordkeeping: The Fur Regulations require that retailers, manufacturers and processors, and importers keep records in addition to those they may keep in the ordinary course of business. Staff estimates that 1,500 retailers incur an average recordkeeping burden of about 13 hours per year (19,500 hours total); 225 manufacturers and fur processors incur an average recordkeeping burden of about 52 hours per year (11,700 total); and 1,500 importers of furs and fur products incur an average recordkeeping burden of 26 hours per year (39,000 hours total).[1] The combined recordkeeping burden for the industry is approximately 70,200 hours annually.

Disclosure: Staff estimates that 1,710 respondents (210 manufacturers +1,500 retail sellers of fur garments) each require an average of 20 hours per year to determine label content (34,200 hours total), and an average of five hours per year to draft and order labels (8,550 hours total). Staff estimates that manually attaching a label to an estimated 785,000 fur garments requires approximately two minutes per garment for an approximately total of 26,200 hours annually. Thus, the total burden for labeling garments is 68,950 hours per year.

Staff estimates that the incremental burden associated with the Fur Regulations' invoice disclosure requirement, beyond the time that would be devoted to preparing invoices in the absence of the Fur Regulations, is approximately 30 seconds per invoice.[2] The invoice disclosure requirement applies to fur garments, which are generally sold individually, and fur pelts, which are generally sold in groups of at least 50, on average. Assuming invoices are prepared for sales of 785,000 garments, 150,000 groups of imported pelts (7.5 million pelts ÷50) and 150,000 groups of domestic pelts, the invoice disclosure requirement entails a total burden of approximately 9,000 hours, rounded.

Staff estimates that the Fur Regulations' advertising disclosure requirements impose an average burden of one hour per year for each of the approximately 1,500 domestic fur retailers, or a total of 1,500 hours.

Thus, staff estimates the total disclosure burden to be approximately 79,450 hours (68,950 hours for labeling + 9,000 hours for invoices +1,500 hours for advertising).

Estimated annual cost burden: $1,611,000, rounded (solely relating to labor costs).

Staff estimates the annual labor cost burden based on the following computations using labor cost rates based on information from the Department of Labor and the American Appeal Manufacturers Association:

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$15.00	34,200	$513,000
Draft and order labels	9.00	8,550	76,950
Attach labels	8.00	26,200	209,600
Invoice disclosures	10.00	9,000	90,000
Prepare advertising disclosures	15.00	1,500	22,500
Recordkeeping	10.00	70,200	702,000
Total			1,614,050

Staff believes that there are no current start-up costs or other capital costs associated with the Fur Regulations. Because the labeling of fur products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Fur Regulations. Industry sources indicates that much of the information required by the Fur Act and its implementing rules would be included on the product label even absent the Fur Regulations. Similarly, invoicing, recordkeeping, and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Act.

3. Regulations under the Wool Products Labeling Act, 5 U.S.C. 68 et seq. (''Wool Act'') (Control Number: 3084–0100)

The Wool Act prohibits misbranding of wool products. The Wool Act Regulations, 16 C.F.R. 300 (''Wool Regulations''), establish disclosure requirements that assist consumers in making informed purchasing decisions and recordkeeping requirements that

[1] For many of these importers, fur products probably would constitute only a small portion of their import business.

[2] The invoicing burden for PRA purposes excludes the time that, absent the Fur Act regulations, respondents would still spend for invoicing in the ordinary course of business. *See* 5 C.F.R. § 1320.3(b)(2).

assist the Commission in enforcing the Regulations.

Estimated annual hours burden: 1,236,000 hours (375,000 recordkeeping hours + 861,000 disclosure hours).

Recordkeeping: Based on Bureau of Census data and other information, staff estimates that approximately 15,000 wool firms are subject to the Wool Regulations' recordkeeping requirements. Based on an average burden of 25 hours per firm, the total recordkeeping burden is 375,000 hours.

Disclosure: Approximately 20,000 wool firms, producing or importing about one billion wool products annually, are subject to the Wool Regulations' disclosure requirements. Staff estimates the burden of determining label content to be 20 hours per year per respondent, or a total of 400,000 hours, and the burden of drafting and ordering labels to be 5 hours per respondent per year, or a total of 100,000 hours. Staff estimates that the process of attaching labels is now fully automated and integrated into other production steps for about 35 percent of all affected garments. For the remaining 650,000,000 items (65 percent of one billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 361,111 hours per year. Thus, the total estimated annual burden for all respondents is 861,000 hours, rounded.

Estimated annual cost burden: $13,539,000, rounded (solely relating to labor costs).

Staff estimates the annual labor cost burden based on the following computations using labor cost rates based on information from the Department of Labor and the American Apparel Manufacturers Association:

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$15.00	400,000	$6,000,000
Draft and order labels	9.00	100,000	900,000
Attach labels	8.00	361,111	2,888,888
Recordkeeping	10.00	375,000	3,750,00
Total			13,538,888

Staff believes that there are no current start-up costs or other capital costs associated with the Wool Regulations. Because the labeling of wool products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Wool Regulations. Based on knowledge of the industry, staff believes that much of the information required by the Wool Act and its implementing rules would be included on the product label even absent the Wool Regulations. Similarly, recordkeeping and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Wool Regulations.

4. Regulations Under The Textile Fiber Products Identification Act, 15 U.S.C. 70 et seq. (''Textile Act'') (Control Number: 3084–0101)

The Textile Act prohibits misbranding and false advertising of textile fiber products. The Textile Act Regulations, 16 CFR 303 (''Textile Regulations''), establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Regulations. The Regulations also contain a petition procedure for requesting the establishment of generic names for textile fibers.

Estimated annual hours burden: approximately 6,433,000 hours (725,000 recordkeeping hours + 5,708,000 disclosure hours).

Recordkeeping: Based on Bureau of Census data and other information, staff estimates that approximately 29,000 textile firms are subject to the Textile Regulations' recordkeeping requirements. Based on an average burden of 25 hours per firm, the total recordkeeping burden is 725,000 hours.

Disclosure: Approximately 39,000 textile firms, producing or importing about 13.1 billion textile fiber products annually, are subject to the Textile Regulations' disclosure requirements. Staff estimates the burden of determining label content to be 20 hours per year per respondent, or a total of 780,000 hours and the burden of drafting and ordering labels to be 5 hours per respondent per year, or a total of 195,000 hours. Staff estimates that the process of attaching labels is now fully automated and integrated into other production steps for about 35 percent of all affected garments. For the remaining 8.52 billion items (65 percent of 13.1 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 4,732,860 hours per year. Thus, the total estimated annual burden for all respondents is 5,708,000 hours, rounded.

Estimated annual cost burden: $58,568,000, rounded (solely relating to labor costs).

Staff estimates the annual labor cost burden based on the following computations using labor cost rates based on information from the Department of Labor and the American Apparel Manufacturers Association:

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$15.00	780,000	$11,700,000
Draft and order labels	9.00	195,000	1,755,000
Attach labels	8.00	4,732,860	37,862,880
Recordkeeping	10.00	725,000	7,250,000
Total			58,567,880

Staff believes that there are no current start-up costs or other capital costs associated with the Textile Regulations. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Textile Regulations. Industry sources

indicate that much of the information required by the Textile Act and its implementing rules would be included on the product label even absent the Textile Regulations. Similarly, invoicing, recordkeeping, and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Textile Regulations.

5. The Care Labeling Rule, 16 CFR Part 423 (Control Number: 3084–0103)

The Care Labeling Rule, 16 CFR part 423, requires manufacturers and importers to attach a permanent care label to all covered textile clothing in order to assist consumers in making purchase decisions and in determining what method to use to clean their apparel. Also, manufacturers and importers of piece goods used to make textile clothing must provide the same care information on the end of each bolt or roll of fabric.

Estimated annual hours burden: 5,449,000 hours, rounded (solely relating to disclosure [3])

Based on Bureau of Census data and other information, staff estimates that approximately 24,000 manufacturers of textile apparel, producing about 12.1 billion textile garments annually, are subject to the Care Labeling Rule disclosure requirements. The burden of developing proper care instructions may vary greatly among firms, primarily based on the number of different lines of textile garments introduced per year that require new or revised care instructions. Staff estimates the burden of determining label content to be 43 hours per year per respondent, or a total of 1,032,000 hours and the burden of drafting and ordering labels to be 2 hours per respondent per year, or a total of 48,000 hours. Staff estimates that the process of attaching labels is now fully automated and integrated into other production steps for about 35 percent of all affected garments. For the remaining 7.865 billion items (65 percent of 12.1 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 4,369,444 hours per year. Thus, the total estimated annual burden for all respondents is 5,449,000 hours, rounded.

Estimated annual cost burden: $51,000,000 (solely relating to labor costs).

Staff estimates the annual labor cost burden based on the following computations using labor cost rates based on information from the Department of Labor and the American Apparel Manufacturers Association:

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$15.00	1,032,000	$15,480,000
Draft and order labels	9.00	48,000	432,000
Attach labels	8.00	4,369,444	34,955,552
Total			50,867,552

Staff believes that there are no current start-up costs or other capital costs associated with the Care Labeling Rule. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Care Labeling Rule. Based on knowledge of the industry, staff believes that much of the information required by the Care Labeling Rule would be included on the product label even absent those requirements. Similarly, invoicing, recordkeeping, and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Care Labeling Rule.

6. Regulations Under The Fair Packaging and Labeling Act, 15 U.S.C. 1450 (''FPLA'') (Control Number: 3084–0110)

The FPLA was enacted to eliminate consumer deception concerning product size representations and package content information. The Regulations that implement the FPLA, 16 CFR 500, establish requirements for the manner and form of labeling applicable to manufacturers, packagers, and distributors of consumer commodities. Section 4 of the FPLA specifically requires packages or labels to be marked with: (1) A statement of identity; (2) a net quantity of contents disclosure; and (3) the name and place of business of a company that is responsible for the product.

Estimated annual hours burden: 12,000,000 total burden hours (solely relating to disclosure.[4]

Staff conservatively estimates that approximately 1,200,000 manufacturers, packagers, distributors, and retailers of consumer commodities make disclosures at an average burden of ten hours per company, for a total disclosure burden of 12,000,000 hours.

Estimated annual cost burden: $168,000,000 (solely relating to labor costs).

The estimated annual labor cost burden associated with the FLPA disclosure requirements consists of the cost of one hour of managerial or professional time per covered entity (at an average cost of $50 per hour) and nine hours of clerical time per covered entity (at an average cost of $10), for a total of $168,000,000 ($140 per covered entity times 1.2 million entities).

Total capital and start-up costs are de minimis. The packaging and labeling activities that require capital and start-up costs are independent of the FPLA, and would be performed by covered entities in the ordinary course of business regardless of the statute. Because FPLA requires that the information be placed on packages and labels, which firms provide in the ordinary course of business, there appear to be no additional operation, maintenance, or purchase of service costs.

Debra A. Valentine,

General Counsel.

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BILLING CODE 6750–01–M

[3] The Care Labeling Rule imposes no specific recordkeeping requirements. Although the Rule requires manufacturers and importers to have reliable evidence that their products were successfully tested, companies may provide as support current technical literature or rely on past experience.

[4] To the extent that the FPLA implementing regulations require sellers to keep records that substantiate ''cents off,'' ''introductory offer,'' and/or ''economy size'' claims, staff believes that most, if not all, of the records that sellers maintain would be kept in the ordinary course of business, regardless of the legal mandates.

FEDERAL TRADE COMMISSION

Charges for Certain Disclosures

AGENCY: Federal Trade Commission.

ACTION: Notice Regarding Charges for Certain Disclosures.

SUMMARY: The Federal Trade Commission announces that the current ceiling on allowable charges under section 612(a) of the Fair Credit Reporting Act (''FCRA'') will increase from $8.00 to $8.50 on January 1, 2000. Under 1996 amendments to the FCRA, the Federal Trade Commission is required to increase the $8.00 amount referred to in paragraph (1)(a)(i) of section 612(a) on January 1 of each year, based proportionally on changes in the Consumer Price Index (''CPI''), with fractional changes rounded to the nearest fifty cents. The CPI increased 4.16 percent between September 1997, the date the FCRA amendments took effect, and September 1999. This increase in the CPI and the requirement that any increase be rounded to the nearest fifty cents results in an increase in the maximum allowable charge to $8.50.

EFFECTIVE DATE: January 1, 2000.

ADDRESSES: Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Keith B. Anderson, Bureau of Economics, Federal Trade Commission, Washington, DC 20580, 202–326–3428.

SUPPLEMENTARY INFORMATION: Section 612(a)(1)(A) of the Fair Credit Reporting Act, as amended in 1996, states that, where a consumer reporting agency is permitted to impose a reasonable charge on a consumer for making a disclosure to the consumer pursuant to section 609, the charge shall not exceed $8 and shall be indicated to the consumer before making the disclosure. Section 612(a)(2) goes on to state that the Federal Trade Commission (''the Commision'') shall increase the $8.00 maximum amount on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.

The Commission considers the $8 amount referred to in paragraph (1)(A)(i) of section 612(a) to be the baseline for the effective ceiling on reasonable charges dating from the effective date of the amended FCRA, i.e., September 30, 1997. In November of each year, the Commission calculates the proportional increase in the Consumer Price Index (using the most general CPI, which is for all urban consumers, all items) from September 1997 to September of the current year. The Commission then determines what modification, if any, from the original base of $8 should be made effective on January 1 of each subsequent year, given the requirement that fractional changes be rounded to the nearest fifty cents.

Between September 1997 and September 1999, the Consumer Price Index for all urban consumers and all items increased by 4.16 percent—from an index value of 161.2 in September 1997 to a value of 167.9 in September 1999. An increase of 4.16 percent in the $8.00 base figure would lead to a new figure of $8.33. However, because the statute directs that the resulting figure be rounded to the nearest $0.50, the allowable charge should be increased to $8.50.

The Commission therefore determines that the allowable charge for the year 2000 will be $8.50.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–32391 Filed 12–13–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00028]

Cooperative Agreement Program to Increase Knowledge and Skills of Under-Represented Minority Students in the Areas of Biostatistics, Epidemiology, and Occupational Safety and Health; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program to increase knowledge, skills and research training of under-represented minority students in the areas of biostatistics, epidemiology and occupational health and safety. For the purposes of this agreement, under-represented minority students are African American/Black American, Hispanic/Latino, or American Indian/Alaska Native students. This program addresses the ''Healthy People 2000'' priority area of Educational and Community-based Programs, Clinical Preventive Services, and Surveillance and Data (Objective 21.8), which proposes to increase the proportion of all persons with degrees in health professions, including allied and associated health fields, and the number of degrees awarded to members of under-represented racial and ethnic minority groups. In addition, the program addresses the performance of executive agency actions under Executive Order 12876, to advance the development of human potential, to strengthen the capacity of Historically Black Colleges and Universities (HBCUs), to provide quality education, and to increase opportunities to participate in and benefit from Federal programs.

The purpose of the program is to provide under-represented minority undergraduate students with training in two categories of specialization: Category I—biostatistics and epidemiology in Atlanta, GA, and Category II—occupational safety and health in Cincinnati, OH, Morgantown, WV, Pittsburgh, PA and Spokane, WA. Specifically, the program is intended to assist an HBCU to:

(1) Develop an undergraduate research training and internship program for African American and other under-represented minority students.

(2) Increase the knowledge and skills of African American and other under-represented undergraduate minority students in both categories of specialization, (i.e., epidemiology, biostatistics and occupational safety and health);

(3) Expand the educational and applied public health research training and skills development opportunities and experiences in the two fields of specialization (epidemiology, biostatistics, and occupational safety and health) for under-represented minority students who are interested in pursuing public health careers;

(4) Develop and implement a public health science curriculum at an HBCU,

(5) Foster linkages and collaboration among students and faculty in developing epidemiological and analytical knowledge bases for the health status of minority and under-served populations in America;

(6) Increase the number of African Americans and other under-represented minority populations with advanced degrees in epidemiology, biostatistics, and occupational safety and health.

B. Eligible Applicants

Eligible applicants are institutions of higher education that are designated as HBCUs. Only HBCUs which meet the following criteria are eligible to apply under this announcement: (1) have a predominantly black and other minority student enrollment of at least 51 percent, and (2) offer undergraduate courses in community/allied health,

computer sciences, mathematics, and/or biostatistics and epidemiology in their curriculum. Competition is limited to HBCUs under this program announcement because there is a critical shortage of both minority students and minority professionals to plan, monitor, and evaluate the public health policies and programs that target the heterogeneous minority population groups in the U.S.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

It is anticipated that a minimum of $200,000 will be available in FY 2000, to fund one award. It is expected that the award will begin on or about January 28, 2000, and will be made for a 12-month budget period within a project period of up to five years for Category I specialization, epidemiology and biostatistics, and for Category II specialization, occupational safety and health. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to develop and achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Educational Support and Curriculum Development: The recipient should develop and implement an educational support curriculum that includes, at a minimum, a Public Health Sciences Curriculum that emphasizes epidemiology, biostatistics, occupational safety and health, and related academic courses, including practicum. The public health sciences curriculum should be consistent with the institutional policies and procedures of the grantee, and include at least one semester (or equivalent) of biostatistics and epidemiology. In implementing the public health sciences curriculum developed under this agreement, the grantee should:

(1) Collaborate among, and across the recipient institution's educational departments to demonstrate the cross-disciplinary advantages of public health practice, and the importance of integrative and multi-disciplinary approaches to improving the health status and quality of life of African Americans and other minorities.

(2) Demonstrate how the public health sciences curriculum and educational support will enhance opportunities for minority students to obtain advanced degrees in epidemiology, biostatistics, and occupational safety and health from graduate programs housed within schools of public health or medicine.

(3) Develop, plan and provide other educational support for encouraging the pro-active recruitment of undergraduate students majoring in disciplines other than biology, chemistry, community health, or pre-medicine to increase their knowledge of public health practice.

(4) Establish a mechanism to award three (3) semester (or equivalent) credit hours to students who enroll and complete each of the public health sciences curriculum courses.

b. Internship Programs: The recipient should plan and manage an undergraduate summer internship program for African Americans and other under-represented minorities that emphasizes the two categories of specialization: Category I—training in biostatistics and epidemiology where plans will be developed to train students at CDC laboratories in Atlanta, GA; and Category II—occupational safety and health where plans will be developed to train students in National Institute of Occupational Safety and Health (NIOSH) laboratories in Cincinnati, OH, Morgantown, WV, Pittsburgh, PA or Spokane, WA. Examples of activities that may be undertaken, include, but are not limited to the following:

1. Establish a criteria for competitive selection of prospective students for both categories of specialization for the summer internship program that is consistent with the goals and objectives of the cooperative agreement. For example, a criteria for competitive selection might include the requirement for completion of one or more courses in biostatistics, epidemiology, or occupational safety and health; grade of B or above in overall course work; likelihood of the student to pursue a career in public health, research experience, other academic performance; and performance on personal interviews.

2. Identify and recruit undergraduate students who have successfully completed at least the sophomore year in college and who have expressed an interest in pursuing a career in the health sciences, occupational safety and health, industrial hygiene, environmental sciences, engineering, physics, social and behavioral sciences, or mathematics.

3. Provide mechanisms for supporting the participation of students in the summer internship program with the requirement that students should be available to participate fully in the program activities.

4. Provide adequate technical assistance and consultants, (e.g., computer, biostatistics, epidemiology, occupational safety and health), to assist the students in successfully completing the requirements of the internship program.

5. Establish and maintain a data base with demographic information on previous years' interns for the purposes of evaluation.

6. Establish a mechanism to award three (3) semester (or equivalent) credit hours to research interns upon successful completion of research projects that is consistent with grantee academic policies and procedures.

7. Maintain a liaison with the category II specialization, occupational safety and health.

c. Public Health Sciences Advisory Group: The recipient should establish a Public Health Sciences Advisory Group to advise on the implementation of the cooperative agreement program. Examples of activities which the Public Health Advisory Group might perform include the following:

1. Serve as liaison between the grantee institution and the public health education, training and research program.

2. Review applications and/or interview prospective interns.

3. Review proposals or research project descriptions submitted by the CDC to be analyzed by the students during the summer internship, and

4. Evaluate the public health sciences program on operating aspects, such as education, training and research components, and make suggestions for overall program improvement.

d. Research Training and Skills Development: The grantee should develop plans and approaches to make applied public health research projects (e.g., community assessments, programs and materials evaluation, etc.) an integral part of the public health sciences curriculum. The grantee should describe its existing and/or anticipated resources, (e.g., computer resources, and faculty members with applicable research experiences) which will ensure hands-on analytic research training and participation for the undergraduate students.

e. Staffing and Management: The grantee should provide adequate staffing

and management resources for the successful implementation of the cooperative agreement. For example, the following positions might be identified as key staff: Principal Investigator (PI), Executive Director (ED), Educational Program Coordinator, Occupational Safety and Health Coordinator, and Research Coordinator. The grantee should ensure that qualifications of key personnel are consistent with personnel policies and practices of the institution.

f. Evaluation Plan: The grantee is required to evaluate the management and performance of the students, including specific measures of a successful program and the frequency/time-frame for the evaluations (i.e., process and outcome evaluations). The recipient shall develop a computerized tracking system used as an evaluation tool for following-up the future professional activities of the students who have participated in this cooperative education program.

2. CDC Activities

The CDC is responsible for the following activities:

a. As requested, collaborate with the recipient, and provide consultation, assistance and support in planning, implementing and evaluating all aspects of the cooperative agreement.

b. As requested, collaborate with the grantee to establish criteria for evaluating both short-and long-term success of the public health sciences education, training, and research programs.

c. As requested, provide consultation and advice to the key program staff regarding administrative planning and program evaluation for program development in future years.

d. As needed, provide computer equipment (hardware and requisite software) to the computer, statistical, biostatistic, and the occupational safety and health consultants, interns and Public Health Science Institute faculty.

e. As needed, provide access to data sets, CDC mainframe computer, personal computers, word processors, research activities and other facilities that would be beneficial to program participants.

f. As needed, provide on-site office space and mentors to instruct the summer interns in the analysis of data sets.

g. As needed, provide meeting and office space at CDC for the summer participants, the coordinators, and the consultants for activities to be carried out during the summer internship program.

h. As needed, provide staff to give seminars to students who are selected for the internship program.

i. As needed or requested, provide technical support to assist the recipient in curriculum development and implementation of public health-related courses.

j. Collaborate in program planning and consultation with participants in the summer research program.

k. As needed or requested, provide applied public health research opportunities to allow students hands-on research experience and skills development training.

l. As needed, provide clerical support, necessary equipment, supplies, and other resources required for student recruitment and administration of the summer internship program by the Occupational Safety and Health Coordinator located at one of the NIOSH facilities.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 40 double-spaced pages, printed on one side, with one inch margins, and unreduced font. Attachments should be limited to essential documentation.

The requirements under this cooperative agreement are consistent with the purpose/activities as enumerated above. It is anticipated, therefore, that each applicant will submit a proposal that addresses each of the following areas:

1. Executive Summary

The applicant should provide a concise, 1–3 page executive summary that clearly describes:

a. Eligibility, including: (a) Status as a Historically Black College and University, (b) Percent of students enrollment of African American and other minority students, (c) Description of undergraduate courses in community/allied health, computer sciences, mathematics, and/or biostatistics and epidemiology, and (d) Experience and capacity as an HBCU to provide knowledge, skills, and research training in the two categories of specialization, (i.e., category I—epidemiology and biostatistics, and category II—occupational safety and health.)

b. The needs for implementing a program to increase the knowledge, skills and research training in category I—epidemiology and biostatistics, and category II—occupational safety and health among African American and other minority students.

c. The major proposed goals, objectives and activities for implementing the program as well as total requested amount of Federal funding for each category of specialization.

d. Applicant's capability to implement the program.

2. Capacity (not more than 12 pages)

a. Describe ability to address the identified need.

b. Describe efforts and relevant experience that support the activities proposed to accomplish the objective for which the applicant is applying, including:

(1) current and previous experience related to the proposed program activities,

(2) activities related to operating internship programs;

(3) activities related to curriculum development,

(4) current and previous experience related to fostering linkages and collaboration among students and faculty, fostering integrative and multi-disciplinary approaches to improving health status, and

(5) current and previous experience with increasing the participation of minority students in public health careers.

c. Submit a copy of the project's management hierarchy, and describe how that structure supports the proposed program activities.

3. Operational Plan (Not more than 20 pages)

a. Goals. List goals that specifically relate to program requirements that indicate where the program will be at the end of the projected five-year period.

b. Objectives. List objectives that are specific, measurable, and feasible to be accomplished during the projected 12-month period. The objectives should directly relate to the project goals and recipient activities.

c. Describe in narrative form and display on a timetable, specific activities that are related to each objective. Indicate when each activity will occur as well as when preparations for activities will occur. Also, indicate who will be responsible for each activity and identify staff who will work on each activity. The applicant's proposal should include multiple subparts detailing its approach to fulfill the following program requirements:

(1) Educational Support and Curriculum Development

The applicant's application must describe a plan to develop and implement a public health sciences curriculum that emphasizes the category I specialization—epidemiology and biostatistics, and category II specialization—occupational safety and health, as well as related academic courses. However, consistent with the educational and administrative policies of the grantee, the application should also describe how the grantee will accomplish the following: (a) encourage undergraduate students majoring in disciplines other than biology, chemistry, community health, and pre-medicine to increase their knowledge of public health practice; (b) demonstrate how the curriculum and educational support will enhance opportunities for minority students to obtain advanced degrees in epidemiology, biostatistics, and occupational safety and health; (c) encourage interdepartmental activities that provides integrative and multi-disciplinary approaches, knowledge and skills to improve health status; (d) describe how the grantee will incorporate a practicum to give students hands-on research experience in each category of specialization, i.e., category I—biostatistics and epidemiology, and category II—occupational safety and health; (d) describe parameters for establishing a mechanism to award three (3) semester credit hours to students who enroll and complete each of the public health science curriculum courses and internship programs.

(2) Internship Program

The applicant must describe a methodology for planning and managing summer internship activities (for example: recruitment strategies, program operations, and program and course scheduling in each category of specialization, i.e., category I—biostatistics and epidemiology, and category II—occupational safety and health, and establishing a data base of previous years' interns);

(3) Research Training and Skills Development

The applicant must describe their plans and approaches to make applied public health research projects an integral part of the public health sciences curriculum. Each applicant must describe its existing and/or anticipated resources (e.g., computer resources and faculty members with applicable research experiences) which will ensure hands-on-analytic research training for the undergraduate students.

(4) Public Health Advisory Group

The applicant must include a description of plans to establish a Public Health Advisory Group to advise on the implementation of the cooperative agreement program.

(5) Staffing and Management

The applicant must describe the proposed staffing for the project and provide job descriptions for existing and proposed positions. See proposed definition of key personnel in the section on program requirements.

(a) Submit curriculum vitae (limited to 2 pages per person) for each professional staff member named in the application.

(b) Submit job descriptions illustrating the level of organizational responsibility for professional staff who will be assigned to the project.

(c) Submit an outline of the hierarchy of a management plan which shall assure fiscal and programmatic accountability in accordance with the terms of this cooperative agreement. The management plan should clearly identify the officials who will manage this program and their specific responsibilities.

(6) Evaluation Plan (Not more than 5 pages)

The applicant must describe a plan that evaluates the program's effectiveness in meeting its objectives. For each of the types of evaluation listed below, specify the evaluation question to be answered, data to be obtained, the type of analysis, to whom it will be reported, and how data will be used to improve the program. Indicate in the plan the projected staff and time lines to be used.

a. Process evaluation. Evaluate the program's progress in meeting objectives and conducting activities during the budget period.

b. Outcome evaluation. Assess the effectiveness of proposed activities, including training sessions and documents developed in attaining goal(s) at the completion of the one year budget period and the five year project period.

c. Computerized Tracking System. Applicants are required to develop a computerized tracking system to evaluate the effectiveness of the program in achieving its goals and objectives.

(7) Budget and Accompanying Justification

The applicant must provide a detailed budget and line-item justification of all operating expenses for each category of academic specialization, (i.e., category I—epidemiology and biostatistics, and category II—occupational safety and health.) The budget should be consistent with the stated objectives and planned activities of the project.

F. Submission and Deadline

Submit the original and two copies of the application (PHS Form 5161–1). Forms are available at the following Internet address: www.cdc.gov/. . . Forms, or in the application kit. Pages must be numbered clearly, and a complete table of contents of the application and its appendices must be included. Applicant should begin each separate section on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All materials must be typewritten, single spaced, using an unreduced type not less than 12 point (10 characters per inch) on 8½'' x 11'' paper, with at least a 1'' margin, including headers and footers, and printed on one side only.

On or before January 14, 2000, the application should be submitted to: Brenda D. Hayes, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, (Program Announcement: 00028), Centers for Disease Control and Prevention, (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. Telephone: 770–488–2741. Email: bkh4cdc.gov.

Deadline: Applications shall be considered as meeting the deadline if they are either: (a) received on or before the deadline date; or (b) sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered in the current competition and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

a. Educational Support and Curriculum Development (20 points)

The extent to which the applicant submits a plan which explains how it will develop and implement an educational support curriculum at an HBCU that does the following:

(1) Includes at a minimum a public health sciences curriculum emphasizing two categories of specialization, i.e., category I—epidemiology and biostatistics, and category II—occupational safety and health, as well as related public academic courses, including practicum.

(2) Explains how the recipient will collaborate among and across educational departments to demonstrate the cross-disciplinary advantages of public health practice, and the importance of integrative and multi-disciplinary approaches to improving the health status and quality of life of African Americans and other minorities.

(3) Explains how the recipient will develop, plan and provide other educational support for encouraging the proactive recruitment of undergraduate students majoring in disciplines other than biology, chemistry, community health, or pre-medicine to increase their knowledge of public health practice.

(4) Explains how the recipient will award students three semester and/or credit hours for completing public health course work.

b. Internship Programs (25 Points)

The extent to which the recipient explains how it will develop and implement a competitive undergraduate summer internship program that emphasizes two categories of specialization:

(1) Category I—training in biostatistics, epidemiology, and category II—training in occupational safety and health.

(2) Identifies recruitment strategies for undergraduate students who have successfully completed at least the sophomore year in college and expressed an interest in pursuing a career in the health sciences, occupational safety and health, industrial hygiene, environmental sciences, engineering, physics or mathematics.

(3) Provides mechanisms for supporting students during the summer internship program.

(4) Provides adequate technical assistance (e.g., computer, biostatistics, epidemiology, occupational safety and health) to ensure student's success in the internship program.

(5) Establishes a data base of the interns.

(6) Establishes a mechanism to award the students three credit hours for successful completion of research projects.

C. Public Health Sciences Advisory Group (10 Points)

The extent to which the applicant explains a process for establishing a Public Health Sciences Advisory Group to help guide the implementation of the public health curriculum, the internship program, and activities related to research training and skills development.

d. Research Training and Skills Development (15 Points)

The extent to which the applicant describes a plan and approaches to make applied health research projects (*e.g.*, community assessments, programs, and materials evaluation, etc.) an integral part of the public health sciences curriculum, including existing and/or anticipated resource needs, (e.g., computer resources and faculty with applicable research experiences.)

e. Staffing and Management (20 points)

The extent to which the applicant submits an adequate staffing and management plan for the successful implementation of the cooperative agreement.

f. Evaluation Plan (10 Points)

The extent to which the applicant submits a plan (*i.e.*, process and outcome evaluations) for evaluating the management and performance of the students who participate in the summer internship programs, presents a reasonable plan for obtaining data, reporting results, and includes a description of how a computerized tracking system will be developed and used as an evaluation tool for tracking and using programmatic results to enhance professional development of African American and other under-represented minorities in public health.

g. Budget (not scored)

The extent to which the applicant provides a detailed and clear budget narrative consistent with the stated objectives, planned activities and goals of the project. The proposed budget must address the two categories of specialization. The proposed budget should include provisions for inflation adjustments for each subsequent year following year one of the award.

H. Other Requirements

Technical Reporting Requirements Provide CDC with original plus two copies of annual progress reports not more than 60 days at the end of the project year, and a financial status report, no more than 90 days after the end of the budget period. Send all reports to: Brenda D. Hayes, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. Telephone: 770–488–2741. Email: bkh4@cdc.gov.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

(AR–12) Lobbying Restrictions
(AR–1) Human Subjects Requirements
(AR98–2) Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
(AR–7) Executive Order 12372 Review
(AR–9) Paperwork Reduction Act Requirements
(AR–10) Smoke-Free Workplace Requirements
(AR–11) Healthy People 2000
(AR–15) Proof of Non-Profit Status
(AR–16) Security Clearance Requirement

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301(a) and 317 (k) (2) [42 U.S.C. 241 (a) and 247b (k) (2) of the Public Health Service Act, as amended. In addition, the program is authorized under Presidential Executive Orders related to under-represented minority students: Historically Black Colleges and Universities Executive Order 12876 of November 1993. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where to Obtain Additional Information

Please refer to Program Announcement 00028 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Brenda D. Hayes, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Program Announcement 00028, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146. Telephone: 770–488–2741. Email address bkh4@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

For program technical assistance, contact: Yvonne H. Lewis, Minority Health Program Specialist, Office of the Associate Director for Minority Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, M/S D–39, Atlanta, GA 30333. Telephone: 404–639–7220. Email address: yal0@cdc.gov.

See also the CDC home page on the Internet: http://www.cdc.gov.

Dated: December 8, 1999.

John L. Williams,

Director, Procurement and Grants Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–32289 Filed 12–13–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1200]

Avecia, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 7B4526) proposing that the food additive regulations be amended to provide for the safe use of 2-methyl-4,5-trimethylene-4-isothiazolin-3-one as a preservative for paper coatings intended for use in contact with fatty food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 28, 1998 (63 FR 71493), FDA announced that a food additive petition (FAP 7B4526) had been filed by Zeneca Biocides, Foulkstone 1405, 2d, 1800 Concord Pike, P.O. Box 15457, Wilmington, DE 19850–5457. The petition proposed to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of 2-methyl-4,5-trimethylene-4-isothiazolin-3-one as a preservative for paper coatings intended for use in contact with fatty foods. Since publication of the filing notice, Zeneca Biocide's specialty chemicals group has been spun-off as Avecia, Inc., 1405 Foulk Rd., P.O. Box 15457, Wilmington, DE 19850–5457. Avecia, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: November 29, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–32243 Filed 12–13–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic 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: Ophthalmic 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 January 13, 2000, 9:30 a.m. to 5 p.m., and January 14, 2000, 9:30 a.m. to 2 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact: Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053, SMT@CDRH.FDA.GOV, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12396. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 13, 2000, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for a holmium laser for the correction of hyperopia using laser thermal keratomileusis. On January 14, 2000, the committee will discuss and make recommendations on: (1) The reclassification of an artificial eye lubricating solution, and (2) the classification status for currently unclassified eyelid weight devices.

Procedure: On January 13, 2000, from 9:30 a.m. to 3 p.m., and on January 14, 2000, from 9:30 to 2 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 January 6, 2000. On January 13, 2000, formal oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m. Near the end of the committee deliberations on the PMA, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. On January 14, 2000, oral presentations from the public regarding the reclassification of the artificial eye lubricating solution and the classification of the eyelid weight devices will be scheduled between approximately 9:45 a.m. to 10:45 a.m. Those desiring to make formal oral presentations should notify the contact person by January 6, 2000, 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 January 13, 2000, from 3 p.m. to 5 p.m., the meeting will be closed to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding pending issues and applications.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 7, 1999.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 99–32242 Filed 12–13–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Technology Assessment Conference on Improving Medical Implant Performance Through Retrieval Information: Challenges and Opportunities

Notice is hereby given of the NIH Technology Assessment Conference on ''Improving Medical Implant Performance Through Retrieval Information: Challenges and Opportunities,'' which will be held January 10–12, 2000, in the Natcher Conference Center of the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. The conference begins at 8:00 a.m. on January 10, at 8:00 a.m. on January 11, and at 9:00 a.m. on January 12.

Various medical implant devices have been widely used since the 1960s, and it is estimated that eight to ten percent of the American population currently has a permanent medical implant. Yet, there has not been any systematic effort developed in the United States for

implant retrieval analysis or data banking, even though medical implant retrieval research provides the only true long-term data on the host response to and the final condition of the implant. Thorough reporting on the performance of implants would allow physicians to evaluate devices, understand the clinical benefit and risks associated with medical implant treatment and prevention of disease, and advance the development of better devices and materials. This will ultimately benefit patients through superior implant technology.

While most medical implants function very well, significant challenges remain associated especially with their intended long-term duration of use. The advance of medical implant science is hampered by a lack of study of implants retrieved after surgery or at autopsy. Much can be learned of clinical end points, implant performance, and design theory, and this information will again lead to superior medical implants that benefit U.S. patients.

The objective of the conference is to assess the opportunities and challenges to developing a framework for independent research of explanted natural and synthetic implants, with the ultimate objective to provide benefits to patients through implant retrieval and analysis. For the purpose of this conference, implants are defined as having a minimum life span of three months; as penetrating living tissue; as having a physiologic interaction; and of being retrievable. This conference will bring together specialists in surgery, pathology, engineering, biomaterials, information systems, and other related disciplines, as well as representatives from the public, legal, ethical, and industrial communities.

After 1½ days of presentations and audience discussion, an independent, non-Federal technology assessment panel will weigh the scientific evidence and write a draft statement that it will present to the audience on the third day. The technology assessment panel's statement will address the following key questions:

- What are the patient, health care provider, and societal expectations of the lifetime costs, risks, and benefits of medical implants?
- What can the role of information data systems be in educating the public, medical community, and policymakers about medical implants and retrieval?
- What are the legal, ethical, religious, cultural, public policy, and economic barriers to implant retrieval and reporting, and how can they be overcome?
- What information is necessary to evaluate and improve implant and material performance and device design?
- What future research and institutional support is necessary to ensure continuing advances in implantable devices?

The primary sponsors of this conference are the National Heart, Lung, and Blood Institute (NHLBI) and the NIH Office of Medical Applications of Research (OMAR). Additional sponsors are the NIH Biomaterials and Medical Implant Science Coordinating Committee, which represents all of the NIH Institutes and Centers, the National Institute of Arthritis and Musculoskeletal and Skin Diseases; the National Institute of Dental and Craniofacial Research; the National Institute of Neurological Disorders and Stroke; the National Library of Medicine; and the National Institute of Standards and Technology. This is the 19th Technology Assessment Conference held by the NIH in the 23-year history of the Consensus Development Program.

Advance information on the conference program and conference registration materials may be obtained from Louise Harkavy, Prospect Associates, 10720 Columbia Pike, Suite 500, Silver Spring, Maryland 20901–4437, (301) 592–3320, mirr@prospectassoc.com. The consensus statement will be submitted for publication in professional journals and other publications. In addition, the statement will be available beginning January 12, 2000 from the NIH Consensus Program Information Center, P. O. Box 2577, Kensington, Maryland 20891, phone 1–888–644–2667 and from the NIH Consensus Program site on the World Wide Web at *http://consensus.nih.gov.*

Dated: December 7, 1999.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 99–32284 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 discuss 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 Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7, J2 P.

Date: December 15–17, 1999.

Time: 7:30 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Omni Charlottesville Hotel, 235 W. Main St., Charlottesville, VA 22902.

Contact Person: Lakshmanan Sankaran, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS25F, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32277 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 meetings of the National Advisory Allergy and Infectious Diseases Council.

The meetings 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 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/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 Allergy and Infectious Diseases Council

Date: February 17–18, 2000.

Open: February 17, 2000, 1:00 p.m. to 3:30 p.m.

Agenda: The meeting of the full Council will be open to the public for general discussion and program presentations.

Place: Building 31C, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Closed: February 17, 2000, 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Building 31C, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Microbiology and Infectious Diseases Subcommittee.

Date: February 17–18, 2000.

Closed: February 17, 2000, 8:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Building 31C, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Open: February 18, 2000, 8:30 a.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Building 31C, Conference Room 6, National Institutes of Health, 3100 Center Drive, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Allergy, Immunology and Transplantation Subcommittee.

Date: February 17–18, 2000.

Closed: February 17, 2000, 8:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Conference Room F1/F2, 45 Center Drive, Bethesda, MD 20892.

Open: February 18, 2000, 8:30 a.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, Conference Room F1/F2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Acquired Immunodeficiency Syndrome Subcommittee.

Date: February 17–18, 2000.

Closed: February 17, 2000, 8:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: February 18, 2000, 8:30 a.m. to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: John J. McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32278 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

Date: December 14, 1999.

Time: 2:30 p.m. to 4:30 p.m.

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: Mark Swieter, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547 (301) 435–1389.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32279 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–4–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 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 contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: January 13, 2000.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6000 Executive Blvd., Suite 409, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ronald Suddendorf, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32281 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of 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 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 contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Environmental Justice: Validation of a Flow Cytometric Method to Analyze Micronuclei.

Date: December 14, 1999.

Time: 10:00 am to 12:30 pm.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: David P. Brown, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32282 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of 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 Institute of Environmental Health Sciences Special Emphasis Panel Conference Grants (R13).

Date: January 19, 2000.

Time: 10:00 am to 11:00 am.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 TW Alexander Drive, Building 4401, Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: J. Patrick Mastin, Scientific Review Administrator, NIEHS, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 27709, (919) 541–1446.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32283 Filed 12–13–99; 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 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: Center for Scientific Review Special Emphasis Panel.

Date: December 14, 1999.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga V. Srinivas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Driver, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@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.

(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: December 7, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32280 Filed 12–13–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment and Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for Construction of Two Residential Home Sites on the Leonard Farm, Hygiene, Colorado

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice advises the public that Tracy Leonard, has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The proposed permit would authorize the incidental take of the Preble's meadow jumping mouse (*Zapus hudsonius preblei*), federally listed as threatened, and loss and modification of its habitat associated with construction and occupation of 2 residential home sites and a future orchard on the Leonard family farm. The duration of the permit would be 50 years from the date of issuance.

We announce the receipt of the applicant's incidental take permit application that includes a combined proposed Habitat Conservation Plan (HCP) and Environmental Assessment (EA) for the Preble's meadow jumping mouse for the Leonard farm. The proposed HCP/EA is available for public comment. It fully describes the proposed project and the measures the applicant would undertake to minimize and mitigate project impacts of the Preble's meadow jumping mouse. All comments on the EA/HCP and permit application will become part of the administrative record and will be available to the public.

DATES: Written comments on the permit application, Habitat Conservation Plan, and Environmental Assessment should be received on or before January 13, 2000.

ADDRESSES: Comments regarding the permit application and HCP/EA should be addressed to LeRoy Carlson, Field Supervisor, U.S. Fish and Wildlife Service, Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Kathleen Linder, Fish and Wildlife Biologist, Colorado Field Office, telephone (303) 275–2370. Individuals wishing copies of the HCP/EA and associated documents for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal regulation prohibit the ''take'' of a species listed as endangered or threatened. Take is defined under the Act, in part, as to kill, harm, or harass a federally listed species. However, the Service may issue permits to authorize ''incidental take'' of listed species under limited circumstances. Incidental Take is defined under the Act as take of a listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity under limited circumstances. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32.

The applicants plans to construct and occupy two residential home sites and a future orchard on their family farm. The Leonard family farm is located near the Town of Hygiene, in Boulder, Colorado. The projects will impact a maximum of 3.2 acres that may result in incidental take of the Preble's meadow jumping mouse. This includes 1.7 acres for the residential sites and 1.5 acres for the future orchard. Both sites will impact upland areas only.

Alternatives considered in addition to the Proposed Action, were an alternate site location, alternate site design, and no action. None of these alternatives eliminated potential take of Preble's. The onsite, offsite, and cumulative impacts of the Projects and all associated development and construction activities and mitigation activities proposed by the HCP will have no significant impact on the Preble's mouse, other threatened or endangered species, vegetation, wildlife, wetlands, geology/soils, land use, water resources, air and water quality, or cultural resources. None of the proposed impacts occur within the riparsan corridor. All of the proposed impacts are in upland areas outside of the 100 year floodplain. Of the 3.2 acres proposed for residential development, 1.7 acres falls within 300 linear feet of the 100 year floodplain (the building sites have been raised out of the floodplain). Utilizing the most extensive mouse protective habitat definition, the proposed development could impact up to 1.7 acres of potential mouse habit for the residential lots. In addition, the proposed orchard next to the St. Vrain Creek could potentially impact up to 1.5 acres of mouse habitat. The mitigation will likely provide a net benefit to the Preble's mouse and other wildlife by improving or creating new riparian areas and wetlands, planting of native grasses, and protecting existing mouse habitat along the St. Vrain Creek from any future development through a conservation easement.

Only one federally listed species, the threatened Preble's meadow jumping mouse, occurs on site and has the potential to be adversely affected by the project. To mitigate impacts that may result from the residential sites and the future orchard, the HCP provides protection of the St. Vrain Creek corridor and its associated riparian areas, irrigated pastures, and grasslands from all future development through the conservation easement with Boulder County, creation of 3.1 acres of wetlands, and enhancement of 3.0 acres through native grass planting. The creation of 3.1 acres of wetland and riparian zone at a 3:1 ratio will provide 1.03 acres of compensation. The enhancement of 3.0 acres through native grass planting at a 2:1 mitigation will provide 1.5 acres of compensation. The St. Vrain Creek corridor and its associated riparian areas, irrigated pastures, and grasslands will be protected from all future development through the conversation easement with Boulder County. This action preserves 8.4 acres of mouse habitat and will be applied to the conservation of the mouse which at a 10:1 mitigation ratio provides 0.84 acres of compensation. Total mitigation for the 3.2 acres impacted is conservation of 8.4 acres of usable mouse habitat, 3.1 acres of created wetlands, and 3.0 acres of enhanced habitat. All of the proposed mitigation area is within the boundaries of the Leonard farm property, all of which is included in the drainage basin of S. Vrain Creek. The mitigation also includes planting of willows and grasses, livestock grazing management to protect Preble's meadow jumping mouse habitat and relocation of Crane Hollow Road and the proposed building sites farther away from mouse habitat than originally planned.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the Plan, and comments submitted therein to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, a permit will be issued for the incidental take of the Prebles meadow jumping mouse in conjunction with the construction and occupation of two residential lots on the Leonard farm and creation of a future orchard. The final permit decision will be made no sooner than January 13, 2000.

Dated: December 8, 1999.

Ralph O. Morgenweck,

Regional Director, Region 6, Denver, Colorado.

[FR Doc. 99–32290 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Jackson Band of Miwuk Indians of the Jackson Rancheria

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM8, and in accordance with the Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. § 1161), as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983). This notice certifies that Ordinance No. 99–04, the JACKSON BAND OF MIWUK INDIANS OF THE JACKSON RANCHERIA, was duly adopted by the Jackson Rancheria Tribal Council on October 26, 1997. The Ordinance provides for the regulation of the activities of the manufacture, distribution, sale, and consumption of liquor in the area of Jackson Rancheria lands under the jurisdiction of the Jackson Rancheria.

DATES: This Ordinance is effective as of December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Jim James, Branch of Judicial Services, Division of Tribal Government Services, Office of Tribal Services, 1849 C Street NW, MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The JACKSON BAND OF MIWUK INDIANS OF THE JACKSON RANCHERIA Ordinance No. 99–04 is to read as follows:

Jackson Band of Miwuk Indians of the Jackson Rancheria Amador County, California Tribal Council Ordinance No. 99–04

Sale and Consumption of Alcoholic Beverages

The Tribal Council of the Jackson Band of Miwuk Indians of the Jackson Rancheria (hereinafter ''Council''), governing body of the Jackson Band of Miwuk Indians of the Jackson Rancheria (hereinafter ''Tribe''), hereby enacts this Ordinance to govern the sale and consumption of alcoholic beverages on Rancheria lands.

Preamble

1. Title 18, United States Code, Section 1161, provides Indian tribes with authority to enact ordinances governing the consumption and sale of alcoholic beverages on their Reservations, provided such ordinance is certified by the Secretary of the Interior, published in the **Federal Register** and such activities are in conformity with state law.

2. Pursuant to Article III Section 1 and Article VI of the Tribe's Constitution, the Tribal Council is the governing body of the Tribe with the power to enact ordinances to promote the general welfare and economic advancement of the Tribe and its members.

3. The Tribe is the owner and operator of a Conference Center located on the Rancheria known as the Jackson Rancheria Conference Center (hereinafter ''Conference Center''), at which events will be held during which certain food items are provided to the Tribe and the general public.

4. Said Conference Center, located on trust land, is an integral and indispensable part of the Tribe's economy, providing income to the Tribe and training and employment to its members.

5. The Tribal Council has determined that it is now in its best interest to offer for sale at events held at the Conference Center, for on-premises consumption only, alcoholic beverages.

6. It is the purpose of this Ordinance to set out the terms and conditions under which the sale of said alcoholic beverages may take place.

General Terms

1. The sale of alcohol at the Conference Center, for on-premises consumption only, is hereby authorized.

2. No alcoholic beverages may be sold at any location on the Rancheria other than the Conference Center. For the purpose of this section, the term ''premises'' shall include the Conference Center and an area of 50 yards around its perimeter.

3. The sale of said alcoholic beverages authorized by this Ordinance shall be in conformity with all applicable laws of the State of California, and the sale of said beverages shall be subject to state sales tax, federal excise tax and any fees required by the Federal Bureau of Alcohol, Tobacco & Firearms. This includes but is not limited to the following examples:

A. No person under the age of 21 years shall consume, acquire or have in his or her possession at the Conference Center any alcoholic beverage.

B. No person shall sell alcohol to any person under the age of 21 at the Conference Center.

C. No person shall sell alcohol to a person apparently under the influence of liquor.

4. Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following types of identification which shows his or her correct age and bears his or her signature and photograph: (1) Driver's license or identification card issued by any state Department of Motor Vehicles; (2) United States Active Duty Military card; (3) passport.

5. All liquor sales at the Conference Center shall be on a cash only basis and no credit shall be extended to any person, organization or entity, except that this provision does not prevent the use of major credit cards.

Posting

This Ordinance shall be conspicuously posted at the Conference Center at all times it is open to the public.

Enforcement

1. This Ordinance may be enforced by the Tribal Council by implementation of monetary fines not to exceed $500 and/or withdrawal of authorization to sell alcohol at the Conference Center. Prior to any enforcement action, the Tribal Council shall provide the alleged offender of this ordinance with at least three (3) days notice of an opportunity to be heard during a specially-called Tribal Council meeting. The decision of the Tribal Council shall be final.

2. This Ordinance also may be enforced by the Amador County Sheriff's Office at the request of the Tribal Council.

3. In the exercise of its powers and duties under this ordinance, the Tribal Council and its individual members shall not accept any gratuity or compensation from any liquor wholesaler, retailer, or distributor for the Conference Center.

Severability

If any provision or application of this ordinance is determined by review to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this title or to render such provisions inapplicable to other persons or circumstances.

Amendment

This ordinance may only be amended by a majority vote of the Tribal Council.

Sovereign Immunity

Nothing in this ordinance in any way limits, alters, restricts or waives the Tribe's sovereign immunity from unconsented suit or action.

Effective Date

This ordinance shall be effective as a matter of tribal law as of the date of the adoption by the Tribal Council, and effective as a matter of Federal law on such date as the Assistant Secretary—Indian Affairs certifies and publishes the same in the **Federal Register**.

Dated: November 24, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31394 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Little Traverse Bay Bands of Odawa Indians Alcoholic Beverage Control Law

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM8, and in accordance with the Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161). This notice certifies that Waganakising Odawak Statute No. 1999008 was duly adopted by the LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS on June 27, 1999. The Statute provides for the regulation of the activities of the manufacture, distribution, sale, and consumption of liquor in the area of LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS under the jurisdiction of the LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS.

DATES: This Statute is effective as of December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Jim D. James, Branch of Judicial Services, Division of Tribal Government Services, Office of Tribal Services, 1849 C Street NW, MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS Statute No. 1999008 is to read as follows:

Waganakising Odawak Statute No. 1999008 Liquor Control Statute of the Little Traverse Bay Bands of Odawa Indians

Section I: Title

This Statute shall be known as the ''Liquor Control Statute.'' This Statute repeals and replaces the Liquor Control Statute enacted on October 26, 1997 (Waganakising Odawak Statute No. 1997021).

Section II: Authority

This statute is enacted pursuant to the Act of August 15, 1953. (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161) and Article VII, Section 1 (g) and (m) of the Constitution and Bylaws of the Little Traverse Bay Bands of Odawa Indians.

Section III: Purpose

This statute regulates the consumption, delivery and/or sale of alcoholic beverages within the Indian country lands of the Little Traverse Bay Bands of Odawa Indians, for the purpose of protecting the health, safety and welfare of the Tribe and its members as well as the general public.

Section IV: Interpretation

This statute shall be deemed an exercise of the police and regulatory powers of the Little Traverse Bay Bands of Odawa Indians to promote tribal self-determination and to protect the public welfare, and all provisions of this statute shall be liberally construed for the accomplishment of these purposes.

Section V: Definitions

The following definitions apply in this statute, unless the context otherwise requires:

A. *Alcoholic beverage* means any spirituous, vinous, malt or fermented liquor, liquors and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half of one percent (½ of 1%) or more alcohol by volume, which are fit for use for beverage purposes.

B. *Liquor* means any alcoholic drink.

C. *Person* means a natural person, firm, association, corporation or other legal entity.

D. Tribe or Bands means the Little Traverse Bay Bands of Odawa Indians.

E. *Tribal Council* means the governing body of the Little Traverse Bay Bands of Odawa Indians, which body is also referred to as the Board of Directors in the Tribe's Constitution and Bylaws.

F. *Secretary* means the Secretary of the United States Department of the Interior.

G. *Indian Country of the Tribe* means, for purposes of this Statute, all lands within Emmet and Charlevoix Counties, Michigan which are now or hereafter owned by the Bands or held in trust for the Bands by the United States.

H. *State* means the State of Michigan.

I. *Tribal representatives* means the Tribal administrator, a program director or manager of a subsidiary or commercial enterprise of the Tribe.

J. *Tribal license* means an official action by the Tribal Council which authorizes the sale of alcoholic beverages for consumption either on the premises and/or away from the premises.

K. *Premises* means specified locations within the Indian Country of the Tribe, as described in a license issued by the Tribal Council.

Section VI: General Provisions

A. Policy.

It is the policy of the Tribe that only the Tribe and its subsidiary enterprises may engage in the sale of alcoholic beverages within the Indian Country of the Tribe. Therefore, no person other than the tribal government or its subsidiary enterprises may deliver for profit, sell or trade for profit any alcoholic beverages within the Indian Country of the Tribe.

B. On-Premises Consumption

No person shall sell, trade, transport, manufacture, use, or possess any alcoholic beverage, nor any other substance whatsoever capable of producing alcoholic intoxication, intended for consumption on the premises, nor aid nor abet any Indian or non-Indian person in any of the foregoing, except in compliance with the terms and conditions of this Statute as well as applicable federal Indian liquor laws, and applicable provisions of the laws of the State of Michigan and regulations administered by its Liquor Control Commission.

C. Off-Premises Consumption

No person shall sell, trade, transport, manufacture, use, or possess any alcoholic beverage, nor any other substance whatsoever capable of producing alcoholic intoxication, intended for consumption away from the premises, nor aid nor abet any Indian or non-Indian person in any of the foregoing, except in compliance with the terms of this statute, applicable federal Indian liquor laws, and applicable provisions of the laws of the State of Michigan and regulations administered by its Liquor Control Commission.

D. Application of State Law

Unless otherwise contradicted by this Statute or other Tribal law, laws of the State and regulations of its Liquor Control Commission shall pertain to sale, trade, manufacture, use or possession of alcoholic beverages within the Indian Country of the Tribe. Provided that in no event shall any laws of the Tribe pertaining to liquor regulation be construed to be less stringent than the laws and regulations of the State. Nothing in this section or Statute is intended to allow the State to exercise any jurisdiction over the Tribe, its members, or any persons or transactions within the Indian Country of the Tribe that the State would not otherwise have. Nothing in this section or statute is intended to in any way waive or limit the sovereign immunity of the Tribe.

E. Condition of Tribal License

Any tribal enterprise having a license for the sale of alcoholic beverages issued by the Tribal Council shall be required to comply, as a condition of retaining such license, with any applicable tribal laws and ordinances and shall further observe the laws of the State regarding times of sale and minimum ages of persons to whom sales may be made.

Section VII: Tribal Licenses for the Sale of Alcoholic Beverages

A. Upon application submitted in writing by tribal representatives, the Tribal Council may issue a license authorizing (1) sale of alcoholic beverages (or specific types thereof) solely for consumption on the premises, and/or (2) sale of alcoholic beverages (or specific types thereof) intended for consumption away from the premises.

B. All applications for such licenses must be submitted to the Tribal Council in writing, setting forth the purpose for the license together with the description of the premises upon which such sale is proposed to take place.

C. The Tribal Council shall have the power and authority to determine, in its sole discretion, the number and type of licenses for the sale of alcoholic beverages that may from time-to-time be issued pursuant to this ordinance.

D. Fees. The Tribal Council may set reasonable fees for the issuance of licenses under this Statute.

E. Duration of License. Unless sooner canceled, every license issued by the Tribal Council shall expire at midnight on the 31st day of December. Applications for renewal must be submitted to the Tribal Council on or before November 15 of the preceding year. The Tribal Council will act on all renewal applications on or before December 15.

Section VIII: Violations

A. Any Indian person found to be in violation of the provisions of this Statute shall be deemed guilty of a criminal offense and may be prosecuted in Tribal Court in an action brought by the Tribal Prosecutor. Any such criminal proceeding against an Indian person shall comply with all due process and equal protection requirements of the Indian Civil Rights Act, which shall include at a minimum adequate notice, a full and fair hearing, and the right to call and cross examine witnesses. Upon conviction, the Tribal Court may impose a sentence of a fine not greater than $1,000.00 and/or a jail term not exceeding sixty (60) days.

B. Nothing in this statute shall be construed to require or authorize the criminal trial and punishment by the Tribal Court of any non-Indian except to the extent allowed under Federal law. In general, when any provision of this Statute is violated by a non-Indian, her or she shall be referred to state and/or Federal authorities for prosecution under applicable law. However, violations of this Statue by a non-Indian shall also be deemed a civil offense against the Tribe and a civil action against non-Indian violators may proceed in Tribal Court to the extent allowed under Federal law. In such civil action brought in Tribal Court by the Tribal Prosecutor, the Tribal Court may impose a fine not greater than $1,000.00 and/or exclusion from the Tribe's reservation, as authorized in Article VII, Section 1(h) of the Tribe's Constitution. Any such civil proceeding against a non-Indian shall comply with all due process and equal protection requirements of the Indian Civil Rights Act, which shall include at a minimum adequate notice, a full and fair hearing, and the right to call and cross examine witnesses.

C. Revocation of License. The Chairperson of the Tribal Council, or the Tribal Prosecutor may, for alleged violation of this Statute, institute and maintain an action in the Tribal Court in the name of the Tribe to revoke or suspend a license issued under this Statute. Such proceeding against the holder of the license in question shall comply with all due process and equal protection requirements of the Indian Civil Rights Act, which shall include at a minimum adequate notice, a full and fair hearing, and the right to call and cross examine witnesses. Upon final judgment issued against the defendant, the Tribal Court may order the forfeiture of any license issued pursuant to this Statute, and all rights of the licensee to keep or sell alcoholic beverages under this Statute shall be suspended or terminated as the case may be. Pending final judgment the Tribal Court may issue orders for preliminary injunction if the plaintiff can demonstrate a likelihood of success and irreparable injury to the Tribe or its members if such orders are not issued.

Section IX: Effective Date

This ordinance shall be effective as a matter of tribal law as of the date of the adoption by the Tribal Council, and effective as a matter of Federal law on such date as the Assistant Secretary—Indian Affairs certifies and publishes the same in the **Federal Register**.

Section X: Savings Clause

In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians or applicable Federal law, such phrase, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

Dated: November 24, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31393 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–010–07–1020–00–241A]

Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Northwest Colorado Resource Advisory Council will be held on Saturday January 15, 2000, at the Garfield County Courthouse in Glenwood Springs, Colorado.

DATES: Saturday, January 15, 2000.

ADDRESSES: For further information, contact Lynn Barclay, Bureau of Land Management (BLM), 455 Emerson Street, Craig, Colorado 81625; Telephone (970) 826–5096.

SUPPLEMENTARY INFORMATION: The Northwest Resource Advisory Council will meet on Saturday January 15, 2000,

at the Garfield County Courthouse, Suite 302, 109 8th Street, Glenwood Springs, Colorado. The meeting will start at 9 a.m. and include election of officials and goal setting for the Northwest Colorado Resource Advisory Council, discussion of the proposed statewide recreation guidelines, and discussion of protection alternatives for the Ruby Canyon/Black Ridge area in the Grand Junction Field Office.

The meeting is open to the public. Interested persons may make oral statements at the meetings or submit written statements at the meeting. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of council meetings are maintained at the Bureau of Land Management Offices in Grand Junction and Craig, Colorado. They are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: December 8, 1999.

Richard Arcand,

Acting Center Manager, Northwest Center.

[FR Doc. 99–32291 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–1020–DE; G–0038]

Meeting; Southeast Oregon Resource Advisory Council

AGENCY: Bureau of Land Management (BLM), Burns District.

ACTION: Meeting notice for the Southeast Oregon Resource Advisory Council.

SUMMARY: The Southeast Oregon Resource Advisory Council will meet at the Best Western Vista inn, 2645 Airport Way, Boise, Idaho, from 8:00 a.m. to 4:15 p.m., Mountain Standard Time (MST), on Monday, January 24, 2000, from 8:00 a.m. to 12:00 p.m. on Tuesday, January 25, 2000. Topics to be discussed by the Council include Sage Grouse Listing, Bully Creek Landscape Management Project, Great Basin Restoration Initiative, Updates on Steens Legislation, Steens Wilderness, Southeastern Oregon Resource Management Plan, Lakeview Resource Management Plan, Interior Columbia Management Plan, Prescribed Fire, and such other matters as may reasonably come before the Council. The entire meeting is open to the public. Public comment is scheduled for 11:30 a.m. to 12:00 p.m. MST on Monday, January 24, 2000.

The Southeast Oregon Resource Advisory Council will meet on the following dates in the year 2000:

Date	Place	Location
01/24–25/2000	Best Western Vista Inn	Boise, Idaho.
04/13–14/2000	Treasure Valley Community College	Ontario, Oregon.
07/20–21/2000	Burns District Office, BLM	Hines, Oregon.
10/19–20/2000	Lakeview District Office, BLM	Lakeview, Oregon.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Southeast Oregon Resource Advisory Council may be obtained from Holly LaChapelle, Resource Assistant, Burns District Office, HC 74–12533 Highway 20 West, Hines, Oregon, 97738, (541) 573–4501, or *Holly LaChappell@or.blm.gov* or our web sites at

http://www.or.blm.gov/Lakeview/seorac/seorac.htm

http://www.or.blm.gov/Vale/SEORAC/sorac.htm

http://www.or.blm.gov/Burns/rac.html

Dated: December 7, 1999.

Thomas H. Dyer,

District Manager.

[FR Doc. 99–32367 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Submission of Study Package to Office of Management and Budget; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service is conducting a Comprehensive Survey of the American Public to assess opinions and attitudes of a representative sample of the American public regarding the National Park System. Data will be generalizable at the regional and national level. Visitor and Non-visitor survey instruments will be utilized to reach the following objectives:

(1) Improve National Park Service understanding of the general public;

(2) Describe public views about parks and park management;

(3) Develop a baseline to monitor changes in public opinion over time.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on the proposed information collection request (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The purpose of the proposed ICR is to survey opinions and attitudes of the general public. This information will be used to help the staff at NPS develop appropriate policies.

There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for this survey.

DATES: Public comments will be accepted on or before January 13, 2000.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530. Please also send comments to Frederic I. Solop, Ph.D., Principal Investigator, Social Research Laboratory, Northern Arizona University, P.O. Box 15301, Flagstaff, AZ 86011.

Public comments, including names and addresses of respondents, may be made available for public review. Individual respondents may request that their address be withheld from the public comment record. This will be honored to the extent allowable by law. There also may be circumstances in which a respondent's identity would be withheld from the public comment record, as allowable by law. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comment.

Anonymous comments will not be considered. Comments from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses may be made available for public inspection in their entirety.

Copies of the proposed ICR can be obtained from Frederic I. Solop, Ph.D., Principal Investigator, Social Research Laboratory, Northern Arizona University, PO Box 15301, Flagstaff, AZ 86011.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments on or before thirty days from date of publication in the **Federal Register**.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGE SUBMITTED FOR OMB REVIEW, CONTACT: Frederic I. Solop, phone: 520–523–3135.

SUPPLEMENTARY INFORMATION:

Title: Comprehensive Survey of the American Public.

Form Number: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information about the attitudes and opinions of the general public for planning and management purposes.

The proposed information to be collected from the general public is not available from existing records, sources, or observations.

Automated Data Collection: At the present time, there is no automated way to gather this information, since it includes asking a representative sample of the American public questions related to National Park System management.

Description of Respondents: A general public sample will be randomly selected.

Estimated Average Number of Respondents: 3500.

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Response: 13 minutes.

Frequency of Response: One time per respondent.

Estimated Annual Reporting Burden: 758 hours.

Dated: December 9, 1999.

Betsy Chittenden,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 99–32344 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Boundary Revision, Fort Moultrie Unit of Fort Sumter National Monument, South Carolina

SUMMARY: Public Law 80–504 (62 Stat. 204) dated April 28, 1948, authorized the establishment of Fort Sumter National Monument. Fort Moultrie was added as a unit of Fort Sumter National Monument in 1960 under the authority of the Historic Sites Act of 1935 (49 Stat. 666). Sections 7(c)(I) and 7(ii) of the Land and Water Conservation Fund Act, as amended by the Act of June 10, 1977 (Pub. L. 95–42, 91 Stat. 210), and the Act of November 12, 1996 (Pub. L. 104–333, 110 Stat. 4194) further authorized the Secretary to make minor revision in the boundaries whenever the Secretary of the Interior determines that it is necessary for the preservation, protection, interpretation or management of an area.

Notice is given that the boundary of the Fort Moultrie Unit of Fort Sumter National Monument has been revised pursuant to the above Acts to encompass lands described as follows:

A tract of land located in the Town of Sullivans Island, Charleston County, South Carolina, more particularly described as follows:

Beginning at an iron monument set at the Southeast corner of the intersection of Middle Street and Station 12 Street;

Thence with the southern right-of-way of Middle Street S 83° 31′ 22″ E, 92.57 feet to a concrete bound marking lands of the United States of America;

Thence with lands of said United States of America S 16° 46′ 50″ W, 125.35 feet to a concrete bound;

Thence continuing N 76° 33′ 09″ W, 82.39 feet to a concrete bound on the eastern right-of-way of said Station 12 Street;

Thence with the right-of-way of said Station 12 Street N 12° 20′ E, 113.93 feet to the point beginning.

Containing 0.24 acres, more or less.

Being all of the same property conveyed by Judson C. Spence and Mary T. Spence to Osceola & Company, by deed dated June 1, 1998, Recorded in Deed Book S304, Page 693, RMS Office, Charleston County, South Carolina.

Reference is made to survey done by Charles F. Dawley, Licensed Surveyor dated September 1, 1999.

A map of the area (drawing 392/92002A) is on file and available for inspection in the Land Resources Program Center, Southeast Regional Office, 100 Alabama Street, S.W., Atlanta, Georgia 30303, and in the Offices of the National Park Service, Department of the Interior, Washington, DC 20240.

Dated: December 8, 1999.

Robert Stanton,

Director, National Park Service.

[FR Doc. 99–32343 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Northeast Region/Boston Support Office

In accordance with Public Law 103–332, the National Park Service announces that the draft special resource study of the Lake Champlain Valley, including an environmental assessment, is available for public review and comment.

A special resource study is used by the National Park Service to evaluate a resource for national significance and to assess its suitability and feasibility for possible federal designation and further National Park Service involvement. Based on the results of this assessment, the study presents a range of possible management alternatives.

The draft special resource study of the Lake Champlain Valley is available for review at most local libraries throughout the Lake Champlain region of New York and Vermont. Copies are also available from W. Douglas Lindsay, Superintendent, Saratoga National Historical Park, 648 Route 32, Stillwater, NY, 12170; or from Philip B. Huffman, a National Park Service contractor, 82 Church Street, Burlington, VT, 05401. For further information, call Saratoga National Historical Park at 518/664–9821, ext. 206; or Mr. Huffman at 802/865–4523. Written comments will be accepted through March 1, 2000 at Boston Support Office, National Park Service, 15 State Street, Boston, MA 02109, Attn: Larry Lowenthal.

Sandra Corbett,

Acting Superintendent, Boston Suppport Office.

[FR Doc. 99–32342 Filed 12–13–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed consent Decree in *United States* v. *BP Amoco PLC,* et al., Civil Action No. 4–99–CV–10671, was lodged on November 29, 1999, with the United States District Court for the Southern District of Iowa.

The Consent Decree settles an action brought under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607, to recover costs incurred in connection with Operable Units 2 and 4 at the Site. The Defendants are BP Amoco PLC, Chevron Chemical Company, Bayer Corporation, Monsanto Company, and Shell Oil Company. The Consent Decree provides that the Defendants will pay the United States $2,513,808 for response costs incurred in conducting response activities at the Des Moines TCE Site, Operable Units 2 and 4, located in Des Moines, Iowa.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *BP Amoco PLC, et al.,* DOJ Ref. #90–11–3–1138A.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Iowa U.S. Courthouse Annex, 2nd Fl., 110 East Court, Des Moines, Iowa 50309; and the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66202. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy, please enclose a check in the amount of $8.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–32326 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *HPS&R, Inc,* Case No. 7:99–CV–222–BR(1) (E.D.N.C.), was lodged with the United States District Court for the Eastern District of North Carolina on November 22, 1999. The proposed Consent Decree concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344, resulting from Defendant's unauthorized discharge of dredged and/or fill material into waters of the United States at the Phillips-Sabiston Estate in Onslow County, North Carolina.

The proposed Consent Decree would require the payment of a civil penalty of $85,000 and preservation of 100 acres of wetlands as a supplemental environmental project.

The United States Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to S. Randall Humm, Attorney, United States Department of Justice, environmental Defense Section, PO Box 23986, Washington, D.C. 20026–3986, and should refer to *United States* v. *HPS&R, Inc,* Case No. 7:99–CV–222–BR(1) (E.D.N.C.).

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Eastern District of North Carolina, 310 New Bern Avenue, Federal Building, 5th Floor, Raleigh, North Carolina.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 99–32327 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. AlliedSignal Inc. and Honeywell Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia, Washington, DC, in *United States* v. *AlliedSignal Inc. and Honeywell Inc.*, Case No. 1:99 CV 02959 (PLF).

On November 8, 1999, the United States filed a Complaint, which alleged that AlliedSignal's proposed merger with Honeywell would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in the traffic alert and collision avoidance systems (''TCAS'') market, the search and surveillance weather radar (''SSWR'') market, the reaction and momentum wheel market, and the inertial systems market. The proposed Final Judgment, filed on November 8, 1999, requires AlliedSignal and Honeywell to divest the TCAS business of Honeywell located in Glendale, Arizona; the SSWR business of AlliedSignal located in Olathe, Kansas; the space and navigation business of AlliedSignal located in Teterboro, New Jersey; the mechanical rate gyroscope business of Allied Signal located in Cheshire, Connecticut, and a related repair business in Newark Ohio; the microSCIRAS technology business of AlliedSignal located in Redmond, Washington, or, in the alternative, the micro-electro-mechanical system inertial sensor business of Honeywell located in Minneapolis and Plymouth, Minnesota; and the AlliedSignal micromachined silicon accelerator and micromachined accelerometer gyroscope technology business.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereof 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, U.S. 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. ''United States'' means plaintiff United States of America.

B. ''DoD'' means the United States Department of Defense.

C. ''AlliedSignal'' means defendant AlliedSignal Inc., a Delaware corporation with its headquarters in Morristown, New Jersey, and its successors, assigns, subsidiaries,

divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

D. ''Honeywell'' means defendant Honeywell Inc., a Delaware corporation with its headquarters in Minneapolis, Minnesota, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

E. ''TCAS Business'' means the traffic alert and collision avoidance systems (''TCAS'') business of Honeywell, as defined in the proposed Final Judgment filed in this case.

F. ''SSWR Business'' means the search and surveillance weather radar (''SSWR'') business of AlliedSignal, as defined in the proposed Final Judgment filed in this case.

G. ''Teterboro Business'' means AlliedSignal's entire Space and Navigation business in Teterboro, New Jersey, as defined in the proposed Final Judgment filed in this case.

H. ''Cheshire Business'' means the entire business of AlliedSignal in Cheshire, Connecticut that produces mechanical inertial measurement units and components, as defined in the proposed Final Judgment filed in this case.

I. ''AlliedSignal Micro SCIRAS Business'' means the micro SCIRAS business of AlliedSignal, as defined in the proposed Final Judgment filed in this case.

J. ''Honeywell MEMS Business'' means the micro-electro-mechanical systems (''MEMS'') business of Honeywell, as defined in the proposed Final Judgment filed in this case.

K. ''AlliedSignal MSA and MAG Technology Business'' means the business owned by AlliedSignal and relating directly to the ''Micromachined Silicon Accelerometer ('MSA')'' and the ''Micromachined Accelerometer Gyroscope ('MAG')'', as defined in the proposed Final Judgment filed in this case.

L. ''Divested Businesses'' means the TCAS Business, the SSWR Business, the Teterboro Business, the Cheshire Business, the AlliedSignal Micro SCIRAS Business (or, as provided in the proposed Final Judgment filed in this case, the Honeywell MEMS Business), and the AlliedSignal MSA and MAG Technology Business.

M. ''Post-merger Company'' means that company resulting from the merger of defendants AlliedSignal and Honeywell, in accordance with the terms contained in the proposed Final Judgment in this case.

N. ''Merger Agreement'' means the Agreement and Plan of Merger entered into by AlliedSignal and Honeywell on June 4, 1999, and any subsequent agreement relating to or amending the June 4, 1999 agreement.

II. Objectives

The proposed Final Judgment filed in this case is meant to ensure prompt divestiture by defendants of the Divested Businesses for the purposes of creating viable competitors in the innovation, development, production, marketing and sale of the products of the Divested Businesses and to remedy the effects that the United States alleges would otherwise result from defendants' proposed merger. This Hold Separate Stipulation and Order ensures the timely and complete transfer of the Divested Businesses and maintains each of the Divested Businesses as an independent, viable competitor until the divestitures are 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 Proposed Final Judgment

A. The parties stipulate that a proposed Final Judgment in the form attached hereto as Exhibit A 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 the 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 Hold Separate Stipulation and Order 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. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Hold Separate Stipulation and Order 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.

E. 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 Hold Separate Stipulation and Order, 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 Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Hold Separate Provisions

A. Defendants shall expressly undertake to compete with each of the Divested Businesses in the applicable market in the exercise of their best judgments and without regard to the Merger Agreement, as if the Post-merger Company and the Divested Businesses were in all respects separate and independent business entities.

B. Defendants shall preserve, maintain, and operate each of the Divested Businesses as an independent competitor with management, research, development, production, sales and operations held entirely separate, distinct and apart from the other businesses of defendants. None of the Divested Businesses shall coordinate its innovation, development, production, marketing or sales with that of the Post-merger Company, except to the limited extent provided in V(D) below, or to provide the accounting, management information services or other necessary support functions afforded by AlliedSignal or Honeywell prior to the merger. Within fifteen (15) days of the entering of this Hold Separate Stipulation and Order, defendants shall inform the United States and DoD of the steps taken to comply with this provision.

C. Defendants shall take all steps necessary to ensure that each of the Divested Businesses will be maintained and operated as an independent, ongoing, and economically viable and active competitor in the innovation, research and development, production, and sale of products it develops, produces, and sells; that all planned innovation, research, and product development be continued; that the management of each of the Divested Businesses will not be influenced by defendants; and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with each of the Divested Businesses, including the performance and decision-making functions regarding internal innovation, research and development, sales and pricing, will be kept separate and apart from the business of the Post-merger Company. Defendants' influence over each of the Divested Businesses shall be limited to that necessary to carry out their obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment.

D. Defendants shall provide and maintain sufficient working capital to maintain each of the Divested Businesses as economically viable, ongoing businesses, consistent with current business plans.

E. Defendants shall provide and maintain sufficient lines and sources of credit to maintain each of the Divested Businesses as economically viable, ongoing businesses.

F. Defendants shall maintain on behalf of each of the Divested Businesses in accordance with sound accounting practices, separate, true and complete financial ledgers, books and records reporting the assets, liabilities, expenses, revenues and income of each of the Divested Businesses on a periodic basis, such as the last business day of each month, consistent with past practices.

G. Defendants shall use all reasonable efforts to maintain and increase sales and revenues of each of the Divested Businesses and shall maintain at 1998 or previously approved levels for 1999, whichever are higher, all internal research and development funding, promotional, advertising, sales, technical assistance, marketing, and merchandising support for products produced or under development of each of the Divested Businesses.

H. Defendants 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 proposed Final Judgment filed in this case.

I. Defendants shall preserve the assets that may be required to be divested pursuant to the proposed Final Judgment filed in this case in a state of repair equal to their state of repair as of the date of this Hold Separate Stipulation and Order, ordinary wear and tear excepted, and shall maintain and adhere to normal repair and maintenance schedules for these assets.

J. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not transfer or terminate any employee who, on the date of the filing of the Complaint in this mater, works for any of the Divested Businesses, or alter, to the detriment of any such employee, the employee's current employment, benefits, or salary agreement.

K. Until such time as this Hold Separate Stipulation and Order is terminated, defendants shall not change the management of any of the Divested Businesses, except in the ordinary course of business. The TCAS Business shall be managed by Joseph Hoffman; the SSWR Business shall be managed by Walter Mores; the Teterboro Business shall be managed by Christopher D. Clayton; the Cheshire Business shall be managed by Wayne R. Demmons; the AlliedSignal MicroSCRIRAS Business and the AlliedSignal MSA and MAG Technology Business shall be managed by Randy Sprague; and the Honeywell MEMS Business shall be managed by David S. Willits. Each identified manager shall have complete managerial responsibility for his respective Divested Business, subject to the provisions of this Hold Separate Stipulation and Order and the proposed Final Judgment. In the event that any identified manager of any of the Divested Businesses is unable to perform his duties, defendants shall appoint a replacement within ten (10) days from the current management of the applicable Divested Business, subject to DOJ approval. Should defendants fail to appoint a replacement acceptable to the DOJ within ten (10) working days, the DOJ, after consultation with DoD, shall appoint a replacement.

L. Defendants shall take no action that would interfere with the ability of the trustees appointed pursuant to the proposed Final Judgment filed in this case to complete the divestitures required by that Final Judgment.

M. Defendants shall ensure to the satisfaction of DoD that the operations of each of the Divested Businesses, including its support of DoD programs, not be disrupted during the required divestitures.

N. This Hold Separate Stipulation and order shall remain in effect until all of the divestitures required by the proposed Final Judgment filed in this case are complete or until further Order of the Court.

Dated: November 8, 1999.

For Plaintiff United States of America:

Michael K. Hammaker,

DC Bar #233684, U.S. Department of Justice, Antitrust Division, Litigation II, Suite 3000, Washington, D.C. 20005, (202) 307–0924.

For Defendant AlliedSignal Inc.:

William J. Kolasky,

DC Bar #217539, Wilmer, Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037, 202–663–6357.

For Defendant Honeywell Inc.:

C. Benjamin Crisman, Jr.,

DC Bar #240135, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW, Washington, DC 20005, 202–371–7330.

It Is So Ordered by the Court, this _____ day of November, 1999.

_____

United States District Judge

Parties Entitled to Notice of Entry of Order:

Counsel for Plaintiff United States of America.

Michael K. Hammaker, U.S. Department of Justice, Antitrust Division, Suite 3000, 1401 H Street, NW, Washington, D.C. 20503.

Counsel for Defendant AlliedSignal Inc.

William J. Kolasky,

Wilmer, Cutler & Pickering, 2445 M Street, NW, Washington, DC 20037.

Counsel for Honeywell Inc.

C. Benjamin Crisman, Jr.,

Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW, Washington, DC 20005.

Final Judgment

Whereas, plaintiff, the United States of America (''United States''), and defendants AlliedSignal Inc. and Honeywell Inc., by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, the essence of this Final Judgment is, in the event of a merger between the defendants, the prompt and certain divestiture of the businesses identified below to assure that competition is not substantially lessened;

And Whereas, the United States requires defendants to make the divestitures ordered herein for the purpose of remedying the loss of competition alleged in the Complaint;

And Whereas, defendants have represented to the United States that the divestitures ordered herein can and will be made promptly and that defendants later will raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, Therefore, before taking 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. ''AlliedSignal'' means defendant AlliedSignal Inc., a Delaware corporation with its headquarters in Morristown, New Jersey, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. ''Honeywell'' means defendant Honeywell Inc., a Delaware corporation with its headquarters in Minneapolis, Minnesota, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. ''DoD'' means the United States Department of Defense.

D. ''TCAS Business'' means the traffic alert and collision avoidance systems (''TCAS'') business of Honeywell, which it operates at its Glendale and Phoenix, Arizona facilities. The TCAS Business does not include the building or related fixtures housing the Glendale and Phoenix operations. The TCAS Business includes, but is not limited to, Honeywell's TCAS II computer, TCAS 2000 computer, TCAS 1500 computer (still under development), TCAS directional antenna, dedicated TCAS controller, and the dedicated TCAS display (''TCAS System'') and all employees listed in Confidential Attachment A. Also included, as common to the TCAS System and other systems of Honeywell, are the Vertical Speed Indicator/Traffic Resolution Advisory (''VSI/TRA''), pressure transducer and ARINC Diversity/Mode S transponder used with the basic TCAS System, and the following:

(1) All tangible assets used in the TCAS Business, including, but not limited to, research and development activities; all manufacturing equipment and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in the TCAS Business; all licenses, permits and authorizations issued by any governmental organization for the TCAS Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings of the TCAS Business, including supply agreements; all customer lists and credit records; all other records of the TCAS Business; and, at the purchaser's request, a lease to any real property currently utilized for the TCAS Business;

(2) Any and all intangible assets used in the TCAS Business, including, but not limited to, (a) All intellectual property rights used exclusively in the TCAS Business, (b) With respect to all other intellectual property rights used in both the TCAS Business and other Honeywell businesses, a transferable, paid-up license, exclusive in the TCAS Business field of use;

(c) All existing licenses and sublicenses relating exclusively to the TCAS Business; and (d) A transferable, paid-up sublicense, exclusive in the TCAS Business field of use, to all other existing licenses and sublicenses relating to the TCAS Business. Intellectual property rights comprise, but are not limited to, patents, copyrights, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development efforts relating to the TCAS Business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments (Intellectual property does not include the mark HONEYWELL).

E. ''SSWR Business'' means the search and surveillance weather radar (''SSWR'') business of AlliedSignal, which it operates at its Olathe, Kansas facility. The SSWR Business does not include the building or related fixtures housing the Olathe operations. The SSWR Business includes, not is not limited to, AlliedSignal's RDR–1400 and RDR–1500 product lines, all employees listed in Confidential Attachment A, and the following:

(1) All tangible assets used in the SSWR Business, including, but not limited to, research and development activities; all manufacturing equipment and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in the SSWR Business; all licenses, permits and authorizations issued by any governmental organization for the SSWR Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings of the SSWR Business, including supply agreements; all customer lists and credit records; all other records of the SSWR Business; and, at the purchaser's request, a lease to any real property currently utilized for the SSWR Business;

(2) Any and all intangible assets used in the SSWR Business, including, but not limited to, (a) All intellectual property rights used exclusively in the SSWR Business, (b) With respect to all other intellectual property rights used in both the SSWR Business and other AlliedSignal businesses, a transferable, paid-up license, exclusive in the SSWR Business field of use; (c) All existing licenses and sublicenses relating exclusively to the SSWR Business and (d) A transferable, paid-up sublicense, exclusive in the SSWR Business field of use, to all other existing licenses and sublicenses relating to the SSWR Business. Intellectual property rights comprise, but are not limited to, patents, copyrights, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development efforts relating to the SSWR Business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments (Intellectual property does not include the marks AlliedSignal, Bendix King, or Bendix).

F. ''Teterboro Space and Navigation Business'' means AlliedSignal's entire Space and Navigation Systems business in Teterboro, New Jersey (including an option to buy or lease the facility in

which the business is housed or to lease a portion of the facility, including fixtures and improvements). The Teterboro Space and Navigation Business includes, but is not limited to, ring laser gyroscopes (''RLGs''), fiber optic gyroscopes (''FOGs''), inertial measurement units, reaction and momentum wheels, control moment gyroscopes, star sensors, sun shades, navigation and pointing systems and fire control systems. The Teterboro Space and Navigation Business does not include avionics products, avionics test products, the rate grade mechanical inertial measurement units manufactured in Cheshire, or RLV (''reusable launch vehicle'') integration systems (X–33 and Kistler). The Teterboro Space and Navigation Business includes all employees listed in Confidential Attachment A, and the following:

(1) All tangible assets used in the Teterboro Space and Navigation Business, including, but not limited to, research and development activities; all manufacturing equipment and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in the Teterboro Space and Navigation Business; all licenses, permits and authorizations issued by any governmental organization for the Teterboro Space and Navigation Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings of the Teterboro Space and Navigation Business, including supply agreements, all customer lists and credit records; and all other records of the Teterboro Space and Navigation Business;

(2) Any and all intangible assets used in the Teterboro Space and Navigation Business, including, but not limited to, (a) All intellectual property rights used exclusively in the Teterboro Space and Navigation Business, (b) With respect to all other intellectual property rights used in both the Teterboro Space and Navigation Business and other AlliedSignal businesses, a transferable, paid-up license, exclusive in the Teterboro Space and Navigation Business field of use; (c) All existing licenses and sublicenses relating exclusively to the Teterboro Space and Navigation Business; and (d) A transferable, paid-up sublicense, exclusive in the Teterboro Space and Navigation Business field of use, to all other existing licenses and sublicenses relating to the Teterboro Space and Navigation Business. Intellectual property rights comprise, but are not limited to, patents, copyrights, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, annuals, and all research data concerning historic and current research and development efforts relating to the Teterboro Space and Navigation Business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments (Intellectual property does not include the mark AlliedSignal).

G. ''Cheshire Business'' means the entire business of AlliedSignal in Cheshire, Connecticut that produces rate-grade mechanical inertial measurement units and components. The Cheshire Business includes, but is not limited to, AlliedSignal's Newark, Ohio repair and overhaul business, all employees listed in Confidential Attachment A, and the following:

(1) All tangible assets used in the Cheshire Business, including, but not limited to, research and development activities, all leases for real property housing the Cheshire and Newark operations; all manufacturing equipment and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property or improvements used in the Cheshire Business; all licenses, permits and authorizations issued by any governmental organization for the Cheshire Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings of the Cheshire Business, including supply agreements, all customer lists and credit records; and all other records of the Cheshire Business;

(2) Any and all intangible assets used in the Cheshire Business, including, but not limited to, (a) All intellectual property rights used exclusively in conducting the Cheshire Business, (b) With respect to all other intellectual property rights used in both the Cheshire Business and other AlliedSignal businesses, a transferable, paid-up license, exclusive in the Cheshire Business field of use, (c) All existing licenses and sublicenses relating exclusively to the Cheshire Business, and (d) A transferable, paid-up sublicense, exclusive in the Cheshire Business field of use, to all other existing licenses and sublicenses relating to the Cheshire Business. Intellectual property rights comprise, but are not limited to, patents, copyrights, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development efforts relating to the Cheshire Business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments (Intellectual property does not include the Mark AlliedSignal).

H. ''AlliedSignal MicroSCIRAS Business'' means the MicroSCIRAS business of AlliedSignal, which it operates at its Richmond, Washington facility. The AlliedSignal MicroSCIRAS Business does not include the building or related fixtures housing the Redmond MicroSCIRAS operations. Subject to AlliedSignal's reasonable continued use of the engineering foundry with respect to its remaining businesses, the AlliedSignal MicroSCIRAS Business, but is not limited to, the right to use the existing silicon engineering foundry at the Redmond facility; an option to lease the existing engineering foundry in Redmond, and/or an option to purchase the equipment currently in or authorized for the foundry, on November 1, 2000 or the date that AlliedSignal's separate silicon production foundry is completed, whichever occurs first, all employees listed in Confidential Attachment A; and the following:

(1) All tangible assets used in the AlliedSignal MicroSCIRAS Business, including, but not limited to, research and development activities; all manufacturing equipment and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in the AlliedSignal MicroSCIRAS Business; all licenses, permits and authorizations issued by any governmental organization for the AlliedSignal MicroSCIRAS Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings of the AlliedSignal MicroSCIRAS Business, including supply agreements; all customer lists and credit records; and all other records of the AlliedSignal MicroSCIRAS Business;

(2) Any and all intangible assets used in the AlliedSignal MicroSCIRAS Business, including, but not limited to, (a) all intellectual property rights used exclusively in conducting the AlliedSignal MicroSCIRAS Business, (b)

with respect to all other intellectual property rights used in both the AlliedSignal MicroSCIRAS Business and other AlliedSignal businesses, a transferable, paid-up license, exclusive in the AlliedSignal MicroSCIRAS Business field of use; (c) all existing licenses and sublicenses relating exclusively to the AlliedSignal MicroSCIRAS Business; and (d) a transferable, paid-up sublicense, exclusive in the AlliedSignal MicroSCIRAS Business field of use, to all other existing licenses and sublicenses relating to the AlliedSignal MicroSCIRAS Business. Intellectual property rights comprise, but are not limited to, patents, copyrights, technical information, maskwork rights, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development efforts relating to the AlliedSignal MicroSCIRAS Business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments (Intellectual property does not include the mark AlliedSignal).

1. ''Honeywell MEMS Business'' means the entire micro-electro-mechanical systems (''MEMS'') inertial sensor business of Honeywell, located in Minneapolis and Plymouth, Minnesota. The Honeywell MEMS Business does not include the buildings or related fixtures housing the Minneapolis and Plymouth operations. The Honeywell MEMS Business includes, but is not limited to, all employees listed in Confidential Attachment A and the following:

(1) All tangible assets used in the Honeywell MEMS Business, including, but not limited to, research and development activities, all manufacturing equipment and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property used in the Honeywell MEMS; all licenses, permits and authorizations issued by any governmental organization for the Honeywell MEMS Business; all contracts, teaming arrangements, agreements, leases, commitments and understandings of the Honeywell MEMS Business, including supply agreements, all customer lists and credit records; all other records of the Honeywell MEMS Business; and, at the purchaser's request, a lease to any real property currently utilized for the Honeywell MEMS Business;

(2) Any and all intangible assets used in the Honeywell MEMS Business, including, but not limited to, (a) All intellectual property rights used exclusively in conducting the Honeywell MEMS Business, (b) With respect to all other intellectual property rights used in both the Honeywell MEMS Business and other Honeywell business, a transferable, paid-up license, exclusive in the Honeywell MEMS Business field of use; (c) All existing licenses and sublicenses relating exclusively to the Honeywell MEMS Business; and (d) A transferable, paid-up sublicense, exclusive in the Honeywell MEMS Business field of use, to all other existing licenses and sublicenses relating to the Honeywell MEMS Business. Intellectual property rights comprise, but are not limited to, patents, copyrights, technical information, maskwork rights, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development efforts relating to the Honeywell MEMS Business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments (Intellectual property does not include the mark HONEYWELL).

J. ''AlliedSignal MSA and MAG Technology Business'' means AlliedSignal's business relating directly to the ''Micromachined Silicon Accelerometer (''MSA'') and the ''Micromachined Accelerometer Gyroscope (''MAG'') as defined in the agreements listed below.

Sales and License Agreement For MSA Technology Between Northrop Grumman Precision Products Plant and Endevco Corporation, dated August 4, 1994, as amended; and

Sales and License Agreement for MAG Technology Between Northrop Grumman Precision Products—Norwood and Endevco Corporation, dated April 12, 1995, as amended.

The business includes an assignment of AlliedSignal's interest in all intellectual property identified in one or more of these agreements, as well as the agreements themselves.

K. ''Divested Businesses'' mean the Teterboro Space and Navigation Business, the Cheshire Business, the TCAS Business, the SSWR Business, the AlliedSignal MicroSCIRAS Business (or as described below in Section VI, the Honeywell MEMS business), and the AlliedSignal MSA and MAG Technology Business. To the extent that employees of any of the Divested Businesses are still employed by defendants, the sale of each of the Divested Businesses shall include the purchaser's right to reasonable access to the technical, sales, production and administrative employees of the defendants for a period not to exceed eighteen months from the date of the purchase. The services furnished to each Divested Business will be provided free by defendants for the first six months following the respective closing date applicable to the sale of each of the Divested Businesses. Thereafter, the charges for such services will be set by the defendants at a rate sufficient to cover the service provider's reasonable estimate of its actual costs for providing the services and, if applicable, consistent with the prices the service provider would charge to an affiliate.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale of all or substantially all of their assets, or of lesser business units including AlliedSignal or Honeywell's business of developing and producing traffic alert and collision avoidance systems and Mode S transponders, search and surveillance weather radar systems, reaction and momentum wheels, or inertial system products or assets, that the purchaser or purchasers agree to be bound by the provisions of this Final Judgment.

IV. Divestiture

A. Defendants are hereby ordered and directed in accordance with the terms of this Final Judgment, by February 29, 2000, or within five (5) days of the approval of the proposed merger between defendants by the European Commission, or within five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to sell the Divested Businesses as viable ongoing businesses to one or more purchasers acceptable to the

United States and DoD in their sole discretion.

B. Defendants shall use their best efforts to accomplish the divestitures ordered by this Final Judgment is expeditiously and timely as possible. The United States, in its sole discretion in consultation with DoD, may extend the time period for any divestiture for an additional period of time not to exceed sixty (60) days.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants shall make known promptly, by usual and customary means, the availability of the businesses to be divested pursuant to this Final Judgment. Defendants shall inform all person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants also shall offer to furnish to all prospective purchasers, subject to section IV(I) and customary confidentiality assurances, all information regarding any business to be divested customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to the United States and DoD at the same time that such information is made available to any other person.

D. Subject to Section IV(I), defendants shall permit all prospective purchasers of any business to be divested pursuant to this Final Judgment to have reasonable access to personnel relating to that business and to make such inspection of the physical facilities of that business and all financial, operation, or other documents and information customarily provided as part of a due diligence process.

E. For a period of two years from the filing of the Complaint in this matter, defendants shall not solicit to hire, or hire, any individual listed in Confidential Attachment A who, within six (6) months of the date of sale of the Divested Business that employs the individual, receives a reasonable offer of employment from the approved purchaser of the Divested Business, unless such employee is terminated or laid off by the purchaser. Defendants shall not interfere with any negotiations by the purchaser of a Divested Business to employ an AlliedSignal or Honeywell employee of that Business listed in Confidential Attachment A, including, but no limited to, offering to increase in any way the employee's salary or other benefits (other than company-wide increases in salary or other benefits). In order to foster the employment and retention of employees by the purchasers, AlliedSignal or Honeywell, as the case may be, shall, for each employee of the TCAS Business, the SSWR Business and the AlliedSignal MicroSCIRAS Business (or, as described below in Section VI, the Honeywell MEMS Business) who elects to be employed by the purchaser of the Divested Business, vest all unvested pension and other equity rights of that employee. For each such employee, AlliedSignal or Honeywell shall also provide all benefits to which the employee would have been entitled if terminated without cause, provided the employee is still employed by the purchaser at the end of the time period covered by such benefits.

F. Defendants shall take no action, direct or indirect, to impede in any way the operation of one or more of the businesses to be divested.

G. Defendants shall warrant to each purchaser of a business to be divested that the existing business will be operational on the date of sale.

H. Unless both the United States and DoD consent in writing, the divestiture of each business to be divested pursuant to Section IV of this Final Judgment, whether by defendants or by a trustee appointed pursuant to Section VI of this Final Judgment, shall include the entire business as defined in Section II. Prior to divestiture, each of the Divested Businesses shall be operated in place pursuant to the Hold Separate Stipulation and Order entered by this Court. Each such divestiture shall be accomplished by selling or otherwise conveying the business to be divested to a purchaser in such a way as to satisfy the United States and DoD, in their sole discretion, that the business to be divested can and will be used by the purchaser of the business as part of a viable ongoing business. Each divestiture, whether pursuant to Section IV or Section VI of this Final Judgment shall be made to a purchaser that has satisfied the United States and DoD, in their sole discretion, that it: (1) Has the capability and intent of competing effectively in the development, production and sale of the relevant products; (2) Has the managerial, operational, and financial capability to compete effectively in the development, production and sale of the relevant products; (3) Is eligible to receive applicable DoD security clearances; and (4) Is not hindered by the terms of any agreement between the purchaser and defendants that gives either defendant the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere with the ability to purchaser to compete effectively.

I. Defendants shall comply with all agreements with DoD and all applicable United States laws and regulations, including those regarding the protection of classified information and export control.

J. Defendants shall not charge to DoD any costs directly or indirectly incurred in complying with this Final Judgment.

V. Notice of Proposed Divestitures

A. Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Sections IV or VI of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify the United States and DoD of the proposed divestitures. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the 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 and DoD of such divestiture notice, the United States, in consultation with DoD, may request from defendants, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days, after receipt of the notice or within twenty (20) calendar days after the United States and DoD have been provided the additional information requested from the defendants, the proposed purchaser, and any third party, whichever is later, the United States and DoD shall each provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States and DoD provide written notice to defendants (and the trustee if applicable) that they do not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section VI(B) of this Final Judgment. Absent written notice that the United States and DoD do not object to

the proposed purchaser or upon objection by the United States or DoD, a divestiture proposed under Section IV or Section VI may not be consummated. Upon objection by defendants under the provision in Section VI(B), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

B. Purchasers of the Teterboro Space and Navigation Business and the AlliedSignal MicroSCIRAS Business (or, as described below in Section VI, the Honeywell MEMS Business) must be identified simultaneously by defendants, or by the applicable trustee, in order that the proposed divestitures may be reviewed jointly and approved together by the United States and DoD in accordance with the terms and conditions of the Final Judgment.

VI. Appointment of Trustees

A. Immediately upon the filing of this Final Judgment, the United States may, in its sole discretion, nominate no more than two trustees, which the Court shall appoint. If two trustees are appointed, one trustee shall monitor the divestiture by defendants of the TCAS Business and the SSWR Business, and the other trustee shall monitor the divestiture by the defendants of the Teterboro Space and Navigation Business, the Cheshire Business, the AlliedSignal MicroSCIRAS Business, and the AlliedSignal MSA and MAG Technology Business. This procedure will enable each trustee to be familiar with all applicable divestiture issues in the event the trustee becomes responsible, pursuant to this Final Judgment, to divest all non-divested businesses the trustee is monitoring.

B. In the event that defendants have not divested all of the businesses required to be divested pursuant to this Final Judgment within the time specified in Section IV of this Final Judgment, only the trustee monitoring defendants' attempts to divest the non-divested business shall have the power and authority to accomplish the divestiture of the non-divested businesses. If the AlliedSignal MicroSCIRAS Business has not been divested, the trustee responsible for divesting that business may, in its sole discretion, divest the Honeywell MEMS Business instead. For each non-divested business, the trustee shall seek to attain the best price then obtainable for the non-divested business 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, each trustee shall have the power and authority to hire, after the time period described in section IV(A) and at the cost and expense of the defendants, any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agent shall be accountable solely to the trustee. The trustees shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser acceptable to the United States and DoD and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a divestiture by a trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the appropriate trustee within ten (10) calendar days after the trustee has provided the notice required under Section V of this Final Judgment.

C. The trustees shall serve at the cost and expense of defendants, on customary and reasonable terms and conditions agreed to by the trustees and the United States, unless modified by the Court. Each trustee shall account for all monies derived from the sale of each asset sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustees and of any professionals and agents retained by any trustee shall be reasonable in light of the value of the divested businesses and based on a fee arrangement providing the trustees with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Defendants shall use their best efforts to assist the trustees to monitor carefully defendants' attempts to divest the businesses to be divested pursuant to the Final Judgment and, if necessary, to accomplish the required divestitures, including their best efforts to effect all necessary consents and regulatory approvals. Each trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have, to the extent permitted by law, full and complete access to the personnel, books, records, and facilities of the businesses to be divested by the trustee, and defendants shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances.

E. After its appointment, each trustee shall file monthly reports with the parties and the Court setting forth either the defendants' or the trustee's efforts, whichever is applicable, to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee or the defendants deem confidential, such reports shall not be filed in the public docket of the Court. After the time period described in Section IV(A), such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the businesses to be divested.

F. If a trustee has not accomplished the divestiture of all non-divested businesses within six (6) months after it became responsible for selling the non-divested businesses, the trustee thereupon shall file promptly with the Court a report setting forth (1) The trustee's efforts to accomplish the required divestitures, (2) The reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) The trustees recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed, whether pursuant to Section IV or Section VI of this Final Judgment, defendants shall deliver to the United States and DoD an affidavit as to the fact and manner of compliance with Sections 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 businesses to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit potential purchasers for the businesses to be divested and to provide required information to potential purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States and DoD an affidavit which describes in detail all actions defendants have taken and all steps defendants have implemented on an on-going basis to preserve the businesses to be divested 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, defendants' efforts to maintain and operate each business to be divested as an active competitor, maintain the management, staffing, research and development activities, sales, marketing and pricing of each business to be divested and maintain each such business in operable condition at current capacity configurations. Defendants shall deliver to the United States and DoD an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after each such divestiture has been completed, defendants shall preserve all records of all efforts made to preserve the business to be divested and to effect the ordered divestiture.

VIII. Hold Separate Order

Until the divestitures required by the Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Financing

Defendants are ordered and directed not to finance all or any part of any purchase made pursuant to Sections IV or VI of this Final Judgment.

X. Compliance Inspection

For the purposes of determining or securing compliance with this Final Judgment or of determining whether the Final Judgment should be modified or vacated, 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 Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants' principal offices, defendants 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 VII or X 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 a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States or DoD, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given to defendants by the United States or DoD prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

XI. 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.

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: January ____, 2000.

_____

United States District Judge

Confidential Attachment a to Final Judgment

To be filed under seal.

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.

I. Nature and Purpose of the Proceeding

On November 8, 1999, the United States filed a civil antitrust Complaint alleging that the proposed merger of AlliedSignal Inc. (''AlliedSignal'') and Honeywell Inc. (''Honeywell'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Honeywell and AlliedSignal are two of the leading manufacturers of aerospace products used by the U.S. military and by numerous commercial aviation and

space companies. AlliedSignal competes against Honeywell in the production of traffic alert and collision avoidance systems, search and surveillance weather radar, reaction and momentum wheels, and inertial systems used in a wide range of applications. The proposed merger of Honeywell and AlliedSignal would substantially lessen or eliminate competition in major product areas critical to the national defense and to the commercial aviation and space industries. Unless the merger is blocked, the loss of competition will likely result in higher prices, lower quality and less innovation for each of these products.

The prayer for relief in the Complaint seeks: (1) A judgment that the proposed merger would violate Section 7 of the Clayton Act; (2) A permanent injunction preventing AlliedSignal and Honeywell from merging; (3) An award to the United States of its costs in bringing the lawsuit; and (4) Such other relief as the Court deems proper.

When the Complaint was filed, the United States also filed a proposed settlement that would permit AlliedSignal and Honeywell to merge, but would require divestitures to preserve competition in the relevant markets. This settlement consists of a Hold Separate Stipulation and Order and a proposed Final Judgment.

The proposed Final Judgment orders the defendants to divest, by February 29, 2000, or within five (5) days of the approval of the proposed merger by the European Commission, which has concurrent jurisdiction over the proposed merger, or within (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, certain businesses and associated assets as defined in Section II of the proposed Final Judgment. Specifically, the defendants must divest to a purchaser or purchasers acceptable to the United States and to the U.S. Department of Defense (''DoD'') the Traffic Alert and Collision Avoidance Systems (''TCAS'') Business of Honeywell; the Search and Surveillance Weather Radar (''SSWR'') Business of AlliedSignal; the Teterboro Space and Navigation Business of AlliedSignal; the Cheshire Business of AlliedSignal; the AlliedSignal MicroSCIRAS Business, or, in the alternative, the Honeywell MEMS Business; and the AlliedSignal Micromachined Silicon Accelerator (''MSA'') and Micromachined Accelerometer Gyroscope (''MAG'') Technology Business (collectively, the ''Divested Businesses''). Purchasers of the Teterboro Space and Navigation Business and the AlliedSignal MicroSCIRAS Business (or, as described in Section VI of the proposed Final Judgment, the Honeywell MEMS Business) must be approved simultaneously. The proposed Final Judgment authorizes the United States to nominate for appointment immediately up to two trustees to monitor the defendants' efforts to sell the Divested Businesses, and to sell those businesses if defendants cannot do so in the required time frame.

The terms of the Hold Separate Stipulation and Order ensure that each of the Divested Businesses shall be held separate and apart from the post-merger company and maintained as viable, independent competitors until such time as each business is divested.

The plaintiff and defendants 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

AlliedSignal is a Delaware corporation headquartered in Morristown, New Jersey. The advanced technology and manufacturing company provides aerospace products and services, automotive products, chemicals, fibers, plastics and advanced materials. The company reported 1998 sales of about $15 billion, and sales to the U.S. Government (primarily aerospace-related) of about $1.9 billion. The aerospace business unit generated about half, or about $7.5 billion, of the company's 1998 revenues.

Honeywell, a Delaware corporation headquartered in Minneapolis, Minnesota, develops and supplies advanced technology controls and other products, systems and services to homes and buildings, industry, and space and aviation customers. The company had annual revenues of about $8.4 billion in 1998, approximately one-fourth of which were generated by Honeywell's space and aviation business.

Pursuant to an Agreement and Plan of Merger entered into by defendants on June 4, 1999, AlliedSignal proposes to merge its business with Honeywell.

B. The Relevant Markets

1. TCAS

A traffic alert and collision avoidance system is an avionics safety product that reduces the potential for mid-air collisions between aircraft. TCAS provides pilots with information on surrounding air traffic, alerts them when a nearby aircraft has the potential to be a hazard, and affords a means for coordinating evasive maneuvers for both aircraft. TCAS operates by transmitting to and eliciting replies from communications transponders installed on approaching aircraft. The system tracks aircraft within a specified range and altitude to determine whether they have the potential to become a collision threat.

2. Search and Surveillance Weather Radar

Weather radar uses radio wave reflections from water droplets and ice crystals to locate areas of rain, snow and other precipitation. Search and surveillance weather radar is a special type of weather radar often installed on helicopters and frequently used in rescue missions. The radar employs traditional radio frequency technology, but also has a beaconing capacity which allows the pilot to detect radio transmissions emitted by small objects, such as a boat or an oil drilling rig, during poor weather conditions.

3. Reaction and Momentum Wheels

Reaction and momentum wheels are mechanical devices that move and stabilize satellites by spinning and generating torque. The desired combination of torque and momentum generated by changes in wheel speed repositions the satellite. Satellites typically have one to three reaction and momentum wheels.

4. Inertial Systems

An inertial measurement unit (''IMU'') measures the linear acceleration and angular rate of rotation of a vehicle. A typical IMU includes three accelerometers and three gyroscopes. Accelerometers measure the linear acceleration of a vehicle, which is used to determine vehicle velocity and vehicle position. Gyroscopes measure the angular rate of rotation of a vehicle. From these measurements, a computer can calculate the vehicle's position and heading.

A variety of different types of gyroscopes are used in IMUs, including mechanical rate gyroscopes (''MRGs''), ring laser gyroscopes (''RLGs''), fiber optic gyroscopes (''FOGs''), and micro-electro-mechanical systems (''MEMS'') gyroscopes. Each of these gyroscopes may substitute with the others as an

input into an IMU, depending on performance, cost and size requirements.

MRGs include gas, spinning mass and other comparable mechanical gyroscopes. Based upon technology developed in the 1950s, these gyroscopes (often employing magnets, gases and other masses) are generally larger and more expensive than those produced using newer technologies. Mechanical gyroscopes are utilized in high accuracy space applications, strategic missiles, and tactical munitions.

An RLG uses two laser beams housed in an optical cavity with a set of highly reflective mirrors. One laser beam travels clockwise around the optical cavity while the other moves counter-clockwise. When the gyroscope is rotated, a small difference in the circulation time for each beam occurs because one beam travels less distance than the other. This difference is used to compute the rate of angular rotation. RLGs are commonly used in commercial and military aviation, land applications, satellites, space launch vehicles and high performance tactical missiles.

FOGs employ optical fiber wound on a spool. Each FOG has a light source and control electronics to provide two beams of light, one traveling clockwise and the other counter-clockwise, through the wound coil. A detector on the coil output senses phase shifts between the two light beams and converts the phase shift into an angular rate of rotation. FOGS were developed after RLGs and are beginning to be utilize in commercial and military aviation, land applications, satellites, space launch vehicles and high performance tactical missiles.

MEMS is a developing technology which produces IMUs using silicon wafers made from semiconductor manufacturing processes and sophisticated micro-machining. MEMS technology holds tremendous potential for the next-generation IMU. MEMS IMUs may permit manufacturers to achieve significant size, cost and weight reductions in the product. Depending on the ultimate degree of accuracy that MEMS IMUs provide, they could eventually supplement or replace numerous types of IMUs currently in the marketplace.

C. Harm to Competition as a Consequence of the Merger

AlliedSignal and Honeywell are two of only three manufacturers of TCAS used in U.S. military and commercial aircraft. Post merger, the comined firm would posses more than 60% of the TCAS market.

In addition, the merger of Allied Signal and Honeywell would eliminate competition in the development, production, and sale of search and surveillance weather radar and effectively give the combined firm a monopoly in this market.

AlliedSignal and Honey well are two of only four significant companies that produce reaction and momentum wheels for use in U.S. military and commercial space projects. Post merger, the combined firm would control over 50 percent of the reaction and momentum wheel market.

Finally, AlliedSignal and Honeywell are two of the leading inertial system manufacturers in the world. Each company competes to produce and sell inertial systems for tactical, strategic, navigation and space applications to the U.S. military and to numerous commercial and space customers. Allied Signal and Honeywell each manufacture MRGs, RLGs, and FOGs that are used in inertial systems. In addition, the defendants are leading competitors in the development of a MEMS IMU. The merger of these two inertial manufacturers would substantially limit competition in the production of inertial systems.

Entry by a new company would not be timely, likely or sufficient to prevent harm to competition in any of these markets. In each market, a successful entrant would have to design and develop sophisticated, high technology products, establish complex production processes, and meet rigorous qualification standards. Applicable laws and regulations may make it difficult, if not impossible, for manufacturers of the relevant products located outside the United States to sell their products to the U.S. military, a major purchaser. It is unrealistic to expect sufficient new entry in a timely fashion to protect competition in the relevant markets following the proposed merger.

The Complaint alleges that the effect of AlliedSignal's proposed merger with Honeywell would be to lessen competition substantially and to tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act. The combined firm would have the ability to increase prices for each relevant product, either unilaterally or in coordination with other competitors. In particular, the proposed merger likely would have the following effects, among others: actual and potential competition between AlliedSignal and Honeywell in the development, production, and sale of products in each of the relevant markets would be eliminated; competition in the development, production, and sale of products in each of the relevant markets would be eliminated or substantially lessened; prices for products in each relevant market likely would increase and quality likely would decline; and innovation in each relevant market likely would decrease.

III. Explanation of the Proposed Final Judgment

A. The Divested Businesses

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the merger of Honeywell and AlliedSignal. The divestiture of the businesses required by the proposed Final Judgment, which collectively generate about $250 million in annual revenues, will ensure that competition will continue to flourish in the markets where AlliedSignal and Honeywell compete. Without the divestitures required by the proposed settlement, a broad range of commercial, space, and U.S. defense customers likely would suffer from higher prices for advanced avionics products essential to their businesses and from a decline in product quality and innovation.

Pursuant to the proposed Final Judgment, Honeywell will divest its TCAS Business, which it operates at its Glendale and Phoenix, Arizona facilities. The TCAS Business to be divested includes Honeywell's TCAS II computer, TCAS 2000 computer, TCAS 1500 computer (which is still under development), TCAS directional antenna, dedicated TCAS controller, and the dedicated TCAS display (''TCAS System''). The TCAS divestiture also includes, as common to the TACS System and other systems of Honeywell, the Vertical Speed Indicator/Traffic Resolution Advisory (''VSI/TRA''), pressure transducer and ARINC Diversity/Mode S transponder used with the basic Honeywell TCAS System. The divested TCAS Business will include all relevant tangible and intangible assets used in connection with the business and needed to make it a viable competitor in the TCAS marketplace.

AlliedSignal will, pursuant to the proposed Final Judgment, divest its SSWR Business, which it operates at its Olathe, Kansas facility. The SSWR Business includes AlliedSignal's RDR–1400 and RDR–1500 product lines. The divested SSWR Business will include all relevant tangible and intangible assets used in connection with the business and needed to make it a viable competitor in the SSWR marketplace.

AlliedSignal also will divest its Teterboro Space and Navigation Business located in Teterboro, New

Jersey. The Teterboro Space and Navigation Business produces ring laser gyroscopes, fiber optic gyroscopes, inertial measurement units, reaction and momentum wheels, control moment gyroscopes, star sensors, sun shades, navigation and pointing systems and fire control systems. The divested Teterboro Space and Navigation Business will include all relevant tangible and intangible assets used in connection with the business and needed to make it a viable competitor in both the IMU marketplace and the reaction and momentum wheel marketplace.

AlliedSignal also will divest its IMU business located in Cheshire, Connecticut that produces rate-grade mechanical inertial measurement units and components. The Cheshire Business also includes AlliedSignal's Newark, Ohio repair and overhaul business. The divested Cheshire Business will include all relevant tangible and intangible assets used in connection with the business and needed to make it a viable competitor in the rate-grade mechanical IMU marketplace.

AlliedSignal also will divest its MicroSCIRAS Business, which it operates at its Redmond, Washington facility. MicroSCIRAS is a silicon-based MEMS technology. The divested AlliedSignal MicroSCIRAS Business includes the right to use the existing silicon engineering foundry at the Redmond facility, an option to lease the existing Redmond engineering foundry, and/or an option to purchase the equipment currently in or authorized for the foundry, on November 1, 2000 or the date that AlliedSignal's separate silicon production foundry is completed, whichever occurs first. The divested MicroSCIRAS Business will include all relevant tangible and intangible assets used in connection with the business and needed to make it a viable competitor in the MEMS marketplace.

If AlliedSignal does not divest its MicroSCIRAS Business as required by the proposed Final Judgment, Honeywell's MEMS Business, which is located in Minneapolis and Plymouth, Minnesota, may be divested. The Honeywell MEMS Business will include all relevant tangible and intangible assets used in connection with the business and needed to make it a viable competitor in the MEMS marketplace.

Finally, AlliedSignal will divest its MSA and MAG Technology Business. IMUs to be produced with the technologies controlled by this business, which AlliedSignal acquired pursuant to two agreements identified in the proposed Final Judgment, potentially compete with the MEMS technology AlliedSignal is ordered to divest.

Each of the businesses to be divested is defined in detail in Section II of the proposed Final Judgment. The divestiture of the TCAS Business, the SSWR Business, the Teterboro Space and Navigation Business, and the Cheshire Business each involves the sale of production equipment or facilities which manufacture the identified products on a daily basis. In contrast, the divestiture of the AlliedSignal MicroSCIRAS Business, the Honeywell MEMS Business and the AlliedSignal MSA and MAG Technology Business each involves the sale or transfer of developing IMU technologies. With one exception,[1] these latter three businesses do not yet have the current capability to produce IMU products at production level volumes for sale to the public.

B. Employees

The proposed Final Judgment contains other provisions designed to protect competition in the relevant product markets. The most important of these provisions relate to employees of the Divested Businesses and the firms that purchase the businesses.

Confidential Attachment A to the proposed Final Judgment lists for each business to be divested a group of employees who are important to operating the business. The proposed Final Judgment provides that, for a period of two years from the filing of the Complaint in this matter, defendants shall not solicit to hire, or hire, any individual listed in Confidential Attachment A who, within six months of the date of sale of a Divested Business that employs the individual, receives a reasonable offer of employment from the approved purchaser of the Divested Business, unless such employee is terminated or laid off by the purchaser. Defendants shall not interfere with any negotiations by the purchaser of a Divested Business to employ anyone listed in Confidential Attachment A, including, but not limited to, offering to increase in any way the employee's salary or other benefits (other than company-wide increases in salary or other benefits). In addition, AlliedSignal or Honeywell, as the case may be, shall, for each employee of the TCAS Business, the SSWR Business and the AlliedSignal MicroSCIRAS Business (or, as described in Section VI of the proposed Final Judgment, the Honeywell MEMS Business) who elects to be employed by the purchaser of the Divested Business, vest all unvested pension and other equity rights of that employee. For each such employee, AlliedSignal or Honeywell shall also provide all benefits to which the employee would have been entitled if terminated without cause, provided the employee is still employed by the purchaser at the end of the time period covered by such benefit.

The proposed Final Judgment also directs that to the extent employees of any of the Divested Businesses remain employed by defendants, the sale of each Divested Business shall include the purchaser's right to reasonable access to such employees for up to eighteen (18) months from the date of the purchase. The services furnished will be provided free by defendants for the first six (6) months following the sale of the business. Thereafter, the charges for such services will be set by the defendants at a rate sufficient to cover the service provider's reasonable estimate of its actual costs for providing the services and, if applicable, consistent with the prices the service provider would charge to an affiliate.

C. Approval of Divested Business Purchasers and Appointment of Trustees

Each business divested pursuant to the proposed Final Judgment must be sold to a purchaser that can satisfy the United States and DoD, in their sole discretion, that the business will be a viable ongoing business. The purchaser must satisfy the United States and DoD, in their sole discretion, that it: (1) Has the capability and intent of competing effectively in the development, production, and sale of the relevant products; (2) Has the managerial, operational, and financial capability to compete effectively in the development, production, and sale of the relevant products; (3) Is eligible to receive applicable DoD security clearances; and (4) Is not hindered by the terms of any agreement between the purchaser and defendants that gives either defendant the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere with the ability of the purchaser to compete effectively.

Immediately upon the filing of the proposed Final Judgment, the United States may, in its sole discretion, nominate no more than two trustees for Court appointment. The trustees shall serve at the cost and expense of defendants, on customary and reasonable terms and conditions agreed to by the trustees and the United States,

[1] The AlliedSignal MSA and MAG Technology Business owns, among other assets, patents which are exclusively licensed to Endevco Corporation and permit Endevco to manufacture micromachined silicon accelerometers sold to the public.

unless modified by the Court. If two trustees are appointed, one trustee shall monitor the divestiture by defendants of the TCAS Business and the SSWR Business, and the other trustee shall monitor the divestiture by the defendants of the Teterboro Space and Navigation Business, the Cheshire Business, the AlliedSignal MicroSCIRAS Business, and the AlliedSignal MSA and MAG Technology Business.

In the event that defendants have not sold all of the businesses required to be divested pursuant to the proposed Final Judgment in the specified time frame, only the trustee monitoring defendants' attempts to divest each non-divested business shall have the power and authority to accomplish the divestiture. If the AlliedSignal Micro SCIRAS Business has not been divested, the trustee responsible for divesting that business may, in its sole discretion, divest the Honeywell MEMS Business instead. Defendants may not object to a divestiture by a trustee on any ground other than the trustee's malfeasance.

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 have not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The 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 field 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, D.C. 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 against defendants. The United States could have brought suit and sought preliminary and permanent injunctions against the merger of AlliedSignal and Honeywell.

The United States is satisfied that the divestiture of the described businesses and assets pursuant to the proposed Final Judgment will encourage viable competition in the research, development, production, and sale of TCAS, SSWR, reaction and momentum wheels, and inertial systems. The United States is satisfied that the proposed relief will prevent the merger from having anticompetitive effects in any of these markets.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-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 compliant 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 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, 669 (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 63,046 (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.'' [2] 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.

[2] 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.

United States v. *Mid-America Dairymen, Inc.* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in 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 (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.[3]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties to not hastily and thoughtlessly stipulate to a decree because, in doing so, they

> waive their right to litigate the issues involved in the case the 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 anticompetitive effect of a particular practice or whether it mandates certainty of free completion 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).[4]

VIII. Determinative Documents

No determinative materials or documents within the meaning of the APPA were considered by the United States in formulating the proposed Final Judgment.

Dated: November 22, 1999.

For Plaintiff United States of America:

J. Robert Kramer II,
Chief, Litigation II Section,
PA Bar # 23963.
Michael K. Hammaker,
DC Bar # 233684 and
P. Terry Lubeck,
Janet Adams Nash,
Carolyn Davis,
Denise Cheung,
Paul E. O'Brien,
Trial Attorneys,
U.S. Department of Justice, Antitrust Division, 1401 H St., NW., Suite 3000, Washington DC 20530, 202–307–0924, 202–307–6283 (Facsimile).

[FR Doc. 99–31669 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Lead-Acid Battery Consortium (''ALABC'')

Notice is hereby given that, on July 13, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Lead-Acid Battery Consortium (''ALABC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FIAMM SpA, Montecchio, Italy; and Southern Coalition for Advanced Transportation (SCAT), Atlanta, GA have been added as parties to this venture. Also, Omni Oxide, L.L.C., Indianapolis, IN; and Kyungwon Battery Co., Ltd., Kyungki-do, KOREA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Lead-Acid Battery Consortium (''ALABC'') intends to file additional written notification disclosing all changes in membership.

On June 15, 1992, Advanced Lead-Acid Battery Consortium (''ALABC'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 29, 1992 (57 FR 33522).

The last notification was filed with the Department on January 15, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 27, 1998 (63 FR 10040).

Constance K. Robinson,
Director of Operations, Antitrust Division.

[FR Doc. 99–32334 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Auto Body Consortium: Near Zero Stamping

Notice is hereby given that, on April 20, 1999, pursuant to section 6(a) of the national Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Auto body consortium, Inc. (''the Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DaimlerChrysler Corporation, Auburn Hills, MI has been added as a party to this venture. Also, Chrysler Corporation, Auburn Hills, MI has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

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[3] *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.

[4] *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).

On September 14, 1995, the Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 31, 1996 (61 FR 3463).

The last notification was filed with the Department on January 3, 1996. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on February 15, 1996 (61 FR 6038).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32330 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Biotechnology Research and Development Corporation (''BRDC'')

Notice is hereby given that, on August 2, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Biotechnology Research and Development Corporation (''BRDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Baxter Healthcare Corporation, Round Lake, IL has been added as a party to this venture. Also, Bernard Technologies, Inc., Chicago, IL has been dropped as a party to this venture.

On June 11, 1999, BRDC issued to Baxter Healthcare Corporation (''Baxter'') and Baxter purchased from BRDC, 746⅔ shares of common stock, without par value, of BRDC. Simultaneously, with the issuance and purchase of the shares of the common stock, BRDC and Baxter entered into an Agreement to be Bound by BRDC Master Agreement whereby Baxter agreed to be bound by the terms and conditions of the BRDC Master Agreement effective as of June 10, 1998, by and among BRDC and its common stockholders. Baxter has the rights set forth in the BRDC Master Agreement in all project technology made, discovered, conceived, developed, learned or acquired by or on behalf of BRDC in connection with, or arising out of, or as the result of, a research project in existence while Baxter is a common stockholder of BRDC.

Effective April 30, 1998, the Cooperative Research Agreement between BRDC and Bernard Technologies expired. Bernard Technologies was no longer a cooperative researcher with BRDC, effective May 1, 1998.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Biotechnology Research and Development Corporation (''BRDC'') intends to file additional written notification disclosing all changes in membership.

On April 13, 1988, Biotechnology Research and Development Corporation (''BRDC'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 1988 (53 FR 16919).

The last notification was filed with the Department on November 5, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 29, 1999 (64 FR 4704).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 99–32329 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Catalytica Advanced Technologies: Polymerization Catalysts

Notice is hereby given that, on July 15, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Catalytica Advanced Technologies: Polymerization Catalysts has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Catalytica Advanced Technologies, Inc., Mountain View, CA; CombiChem, Inc., San Diego, CA; and Exxon Chemical Company, a Division of Exxon Corporation, Houston, TX. The nature and objectives of the venture are to conduct research on polymerization catalysts.

The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32336 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Reserach and Production Act of 1993—Catalytica Advanced Technologies: Emission Control Catalysts

Notice is hereby given that, on August 6, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Catalytica Advanced Technoogies: Emission Control Catalysts has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Catalytica Advanced Technologies, Inc., Mountain View, CA; and CombiChem, Inc., San Diego, CA. The nature and objectives of the venture are to conduct research on the combinatorial discovery and development of emission control catalysts for lean-burn engines.

The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32340 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Commercenet Consortium, Inc.

Notice is hereby given that, on June 15, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Commonwealth of Massachusetts, Boston, MA; Teledyne Electronic Technologies, West Los Angeles, CA; and Levi Strauss & Co., San Francisco, CA have been added as parties to this venture. Also, Boise Cascade Office Products, Itasca, IL; and Defense Information Systems Agency, Reston, VA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on May 11, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32331 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—E&P Technology Cooperative

Notice is hereby given that, on March 30, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), E&P Technology Cooperative has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, one of the original members of the Cooperative, The British Petroleum Company plc, London EC2M 7BA, England, merged with Amoco Corporation effective December 31, 1998. The British Petroleum Company plc was renamed BP Amoco plc and remains a party to the venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and E&P Technology Cooperative intends to file additional written notification disclosing all changes in membership.

On June 6, 1996, E&P Technology Cooperative filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 28, 1996 (61 FR 33774).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32333 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IAP Research, Inc.: Electromagnetic Dynamic Compaction

Notice is hereby given that, on July 21, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IAP Research, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are IAP Research, Inc., Dayton, OH; Delco Remy America, Anderson, IN; and Select Tool & Die Corp., Dayton, OH. The nature and objectives of the venture are to conduct research on Electromagnetic Dynamic Compaction. The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32337 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Intevac, Inc.

Notice is hereby given that, on July 13, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Intevac, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Intevac, Inc., Santa Clara, CA; and National Semiconductor Corporation, Santa Clara, CA. The nature and objectives of the venture are to conduct research on a low cost, low light level video camera. The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32341 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Technology Program: Microfluidics Device for Diagnosis of Nosocomial Agents MeDiNA

Notice is hereby given that, on July 7, 1999, pursuant to section 6(a) of the National Cooperative Research and

Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Motorola, Inc. Physical Sciences Research Laboratories, Motorola Labs has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Motorola, Inc. Physical Sciences Research Laboratories, Motorola Labs, Tempe, AZ; CFD Research Corporation, Huntsville, AL; and Arizona State University, Tempe, AZ. The nature and objectives of the venture are to conduct research under a program entitled ''Microfluidics Device for Diagnosis of Nosocomial Agents MeDiNA''. The activities of this Joint Venture may be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32332 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc. (''NCMS'')

Notice is hereby given that, on August 5, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Center for Manufacturing Sciences, Inc. (''NCMS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ActiveTouch Systems, Inc., Santa Clara, CA; FileNET Corporation, Denver, CO; Michigan BIDCO, Inc., Ann Arbor, MI; Optomec Design Company, Ellicott City, MD; Partnerships Limited, Inc., Lawrenceville, NJ; Six Sigma Qualtec, Inc., Scottsdale, AZ; Stratasys Inc., Eden Prairie, MN; Technology Answers, Inc., Petaluma, CA; Metal Finishing Suppliers' Association, Herndon, VA; Wayne State University, Detroit, MI have been added as parties to this venture. Pursuant to a previous merger with Michigan Materials and Processing Institute (''MMPI''), Auto-Air Composites, Inc., Lansing, MI; and Gougeon Brothers, Inc., Bay City, MI have also been added as parties to this venture. Also, Advanced Optical Equipment & Systems Corporation, Edgewood, NM; Advanced Technology & Research Corporation, Burtonsville, MD; Kasper Machine Company, Madison Heights, MI; Lucent Technologies, Inc., Warren, NJ; Mettech Corporation, Richmond, British Columbia, CANADA; PCC Olofsson Corporation, Lansing, MI; Performance Controls, Inc., Horsham, PA; PlyMore Circuit Technologies LP, Maryville, TN; Preco Industries, Inc., Lenexa, KS; QM Technologies, Inc., Albuquerque, NM; Aerospace Corporation, Los Angeles, CA; and New Jersey institute of Technology, Newark, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences, Inc. (''NCMS'') intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, National Center for Manufacturing Sciences, Inc. (''NCMS'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on April 1, 1999. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 26, 1999 (64 FR 28519).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32328 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pharmacia Biotech: Arrayed Primer Extension Research Consortium

Notice is hereby given that, on July 15, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pharmacia Biotech: Arrayed Primer Extension Research Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, on December 31, 1997, one of the original participants of the Consortium, Pharmacia Biotech Inc., merged with and into Amersham Life Science Inc. At that time, the surviving corporation, Amersham Life Science Inc., changed its name to Amersham Pharmacia Biotech Inc. As a result of the merger, Amersham Pharmacia Biotech Inc., Piscataway, NJ, assumed all rights and obligations of Pharmacia Biotech, Inc.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Pharmacia Biotech: Arrayed Primer Extension Research Consortium intends to file additional written notification disclosing all changes in membership.

On September 26, 1995, Pharmacia Biotech: Arrayed Primer Extension Research Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 13, 1995 (60 FR 64078).

The last notification was filed with the Department on September 29, 1995. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 13, 1995 (60 FR 64078).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32339 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Research Corp). (''SRC'')

Notice is hereby given that, on August 4, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Semiconductor Research Corporation (''SRC'') has filed

written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Microbar Incorporated, Sunnyvale, CA; and TestChip Technologies, Inc., Dallas, TX, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Semiconductor Research Corporation (''SRC'') intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Semiconductor Research Corporation (''SRC'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 30, 1985 (50 FR 4281).

The last notification was filed with the Department on March 12, 1999. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32335 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Telematics Suppliers Consortium, Inc.

Notice is hereby given that, on May 26, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Telematics Suppliers Consortium, Inc. (''Telematics'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ATX Technologies, Inc., San Antonio, TX; Mannesman GmbH, Wetzlar, Germany; and Volkswagen GmbH, Stuttgart, Germany have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Telematics Suppliers Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 12, 1999, Telematics Suppliers Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99–32338 Filed 12–13–99; 8:45 am]

BILLING CODE 4410–11–M

PAROLE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: Thursday, December 16, 1999, 9:30 a.m.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving approximately two cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: December 9, 1999.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 99–32451 Filed 12–10–99; 11:16 am]

BILLING CODE 4410–31–M

PAROLE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 10:30 a.m., Thursday, December 16, 1999.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Attorney Representation of D.C. Parole Violators.

AGENCY CONTACT: Sam Robertson, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: December 9, 1999.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 99–32452 Filed 12–10–99; 11:19 am]

BILLING CODE 4410–31–M

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meeting

TYPE: Quarterly Meeting.

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability. Notice of this meeting is required under Section 522b(e)(1) of the Government in the Sunshine Act, (P.L. 94–409).

QUARTERLY MEETING DATES: February 28–March 1, 2000, 8:30 a.m. to 5:00 p.m.

LOCATION: Radisson Plaza Hotel Orlando, 60 South Ivanhoe Boulevard, Orlando, Florida; 407–843–0262.

FOR INFORMATION, CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, DC 20004–1107; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing interpreters or other accommodations

should notify the National Council on Disability prior to this meeting.

ENVIRONMENTAL ILLNESS: People with environmental illness must reduce their exposure to volatile chemical substances in order to attend this meeting. In order to reduce such exposure, we ask that you not wear perfumes or scents at the meeting. We also ask that you smoke only in designated areas and the privacy of your room. Smoking is prohibited in the meeting room and surrounding area.

OPEN MEETING: This quarterly meeting of the National Council on Disability will be open to the public.

AGENDA: The proposed agenda includes:

Reports from the Chairperson and the Executive Director
Committee Meetings and Committee Reports
Executive Session (closed)
Unfinished Business
New Business
Announcements
Adjournment

Records will be kept of all National Council on Disability proceedings and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on December 9, 1999.

Ethel D. Briggs,

Executive Director.

[FR Doc. 99–32477 Filed 12–10–99; 12:50 pm]

BILLING CODE 6820–MA–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings

TIME AND DATE: 10:00 a.m., Thursday, December 16, 1999.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Operating Fee Scale.
2. Community Development Revolving Loan Program for Credit Unions: Notice of Applications for Participation and Interest Rate for Loans.
3. Appeal from a Federal Credit Union of Regional Director's Denial of a Field of Membership Request.
4. Final Rule: Amendment to Part 701, NCUA's Rules and Regulations, Secondary Capital Accounts—Disposition of Interest Payments.
5. Annual Report of NCUA Board Liaison to National Association of State Credit Union Supervisors (NASCUS).

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, December 16, 1999.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Field of Membership Appeal. Closed pursuant to exemption (8).
2. Insurance Appeal. Closed pursuant to exemptions (6) and (8).
3. Proposed Modification to NCUA's Indemnification Policy. Closed pursuant to exemptions (2), (6) and (7).
4. Two (2) Personnel Matters. Closed pursuant to exemptions (2), (5), (6) and (7).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–32453 Filed 12–10–99 11:22 am]

BILLING CODE 7535–01–M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Publication of Revised System of Records Notice

AGENCY: National Labor Relations Board (NLRB).

ACTION: Revised publication of System of Records Notice NLRB–4, Claim Records.

SUMMARY: The Privacy Act of 1974, as amended, requires that each agency publish a notice of a proposed new System of Records, as well as proposals to revise existing Systems of Records. This notice alters an existing Privacy Act System of Records Notice NLRB–4, Claim Records, by deleting two routine uses, dividing one routine use into two distinct uses for purposes of clarity, amending the language of four routine uses, changing the system manager, and the address of the system location, and updating the citations referring to 29 CFR 102.117; as well as making several insignificant administrative language revisions.

All persons are advised that in the absence of submitted comments, views, or arguments considered by the NLRB as warranting modification of the notice as herewith to be published, it is the intention of the NLRB that the notice shall be effective upon expiration of the comment period without further action by this Agency.

DATES: The amended System of Records Notice will become effective without further notice 30 days from the date of this publication (January 13, 2000) unless comments are received on or before that date which result in a contrary determination.

ADDRESSES: All persons who desire to submit written comments, views, or arguments for consideration by the NLRB in connection with the proposed revised System of Records Notice shall file them with the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

Copies of all such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: The following changes have been made to the existing NLRB System of Records Notice NLRB–4, Claim Records.

1. Routine uses 1 and 2 have been deleted because the specified ''need to know'' in them is authorized by 5 U.S.C. 552a(b) (1) and (5).
2. Routine use 3 has been amended by changing reference from ''Agency'' to ''NLRB'' for more specificity, and has been renumbered 1.
3. Routine use 4 has been amended to specify more exactly the information that may be disclosed to a court or an adjudicative body in the course of presenting evidence or argument including disclosure to opposing counsel or witnesses in the course of civil discovery, and has been renumbered 2.
4. Routine use 5 has been renumbered 3.
5. Routine use 6 has been amended to specify more exactly the categories of users and the information that may be disclosed, and has been renumbered 4.
6. The language of routine use 7 has been amended to specify that on disclosure to an inquiring congressional office, the subject individual must be a constituent about whom the records are maintained, and has been renumbered 5.
7. Routine use 8 has been renumbered 6.
8. Routine use 9 has been divided into two distinct uses for purposes of clarity, one dealing solely with arbitrators and the other with officials of labor organizations. The language has been amended to conform to the intent of routine use (e) in the Government-wide system of records OPM/GOVT–2,

Employee Performance File System Records, to eliminate the NLRB requirement that the information that may be disclosed to a labor organization ''shall be furnished in depersonalized form, i.e., without personal identifiers.'' Routine use (e) is a Government-wide system of records OPM/GOVT–2 which provides that the information will be ''disclosed to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.'' The NLRB is deleting the requirement that ''[W]herever feasible and consistent with the responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers,'' a requirement not contained in OPM–GOVT–2 routine use (e). Routine use 9 has been renumbered 7 and 8.

9. The manager, system location, and address of NLRB–4 has been changed from ''Library and Administrative Services Branch'' to ''Director, Division of Administration'' and from ''NLRB, 1717 Pennsylvania Avenue, NW, Washington, DC 20570–0001'' to ''NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.''

10. References to 29 CFR 102.117 citations in NLRB–4 have been changed to read as follows for the paragraphs in Notification Procedures, 29 CFR 102.117(f); Records Access Procedures, 29 CFR 102.117 (g) and (h); and Contesting Records Procedures, 29 CFR 102.117(i).

A report of the proposal to revise this system of records was filed pursuant to 5 U.S.C. 552(r) with Congress and the Office of Management and Budget.

Dated: Washington, DC, December 3, 1999.

By direction of the Board.

John J. Toner,

Executive Secretary.

NLRB–4

SYSTEM NAME:

Claim Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Director, Division of Administration, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing claims under the Federal Tort Claims Act of 1946; the Military Personnel and Civilian Employees' Claims Act of 1964; claims filed under 41 CFR 101–39.4, Interagency Fleet Management Systems, Accidents and Claims; and claims under contracts with rental car companies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include reports of accidents or other events causing damage or loss; data bearing upon the scope of employment of motor vehicle operators; statements of witnesses; claims for damage or loss; investigations of claims, including doctors' reports, if any; police reports; rental agreements; repair estimates; records on disposition of claims; and information related to the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2671 et seq.; 29 U.S.C. 153(d), 154(a) and (b); 31 U.S.C. 3701 et seq.

PURPOSE(S):

These records document the initiation, investigation, and disposition of claims filed with the NLRB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records, or information contained therein may be disclosed to:

1. The Department of Justice for use in litigation when either: (a) The NLRB or any component thereof; (b) any employee of the NLRB in his or her official capacity; (c) any employee of the NLRB in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

2. A court, a magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witness in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) The NLRB or any component thereof; or (b) any employee of the NLRB in his or her official capacity; (c) any employee of the NLRB in his or her individual capacity, where the NLRB has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and determines that disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the NLRB to be for a purpose that is compatible with the purpose for which the records were collected.

3. Investigators utilized by the Agency to obtain information relevant to a claim against the Agency.

4. Other agencies, offices, establishments, and authorities, whether Federal, State, or local, authorized or charged with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule, or order issued pursuant thereto.

5. A Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

6. Individuals who need the information in connection with the processing of an appeal, grievance, or compliant.

7. Officials of labor organizations recognized under 5 U.S.C. Chapter 71, when disclosure is not prohibited by law; and the data is normally maintained by the Agency in the regular course of business and is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. The forgoing shall have the identical meaning as 5 U.S.C. 7114(b)(4) as interpreted by the FLRA and the courts.

8. An arbitrator to resolve disputes under a negotiated grievance arbitration procedure.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on forms, documents, and other papers.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in a file cabinet within the office of the Director, Division of Administration. During duty hours files are under the surveillance of personnel charged with the custody of the records, and after duty hours are behind locked doors. Access is limited to personnel who have a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Claims reports involving pecuniary liability are destroyed 10 years after the close of the fiscal year in which final action was taken. All other claims reports are destroyed 3 years after the close of the fiscal year in which final action was taken.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administration, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether this system contains a record pertaining to him or her by directing a request to the System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to him or her should contact the System Manager in accordance with the procedures set forth in 29 CFR 102.117 (g) and (h).

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to such individual maintained in this system by directing a request to the System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

Claimants, investigators, and witnesses.

[FR Doc. 99–32253 Filed 12–13–99; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure: 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: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: January 10–12, 2000, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation at 4201 Wilson Blvd., Arlington, VA 22230, Rm. 390.

Type of Meeting: Closed.

Contract Person: Greg Farber and Mary Jane Saunders, Program Director, Biological Instrumentation and Instrument Development, National Science Foundation, Rm. 615, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for acquisition of Biological Instrumentation and Instrument Development for the Multi-User Equipment and Instrumentation Resources for Biological Sciences (MUE) Program 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: December 9, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–32300 Filed 12–13–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meetings

Name: This notice is being published in accord with the Federal Advisory Committee Act (Public Law 92–463, as amended). During the period January 1 through January 30, 2000, the Special Emphasis Panel will be holding meetings to review and evaluate research proposals. The dates, contact person, and types of proposals are as follows:

Special Emphasis Panel in Electrical and Communications Systems (1196).

1. *Date:* January 18–19, 2000, 8:30am-5:00pm, Room 365.

Contact: Dr. James Mink, Program Director, Electronics, Photonics, and Device Technologies (EPDT), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Electronics, Photonics, and Device Technologies.

Date: January 25, 2000, 8:30am-5:00pm, Room 365.

Contact: Dr. Paul Werbos, Program Director, Control Networks, and Computational Intelligence (CNCI), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Room 675, Arlington, VA 22230. Telephone: (703) 306–1339.

Type of Proposal: Control, Networks, and Computational Intelligence.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate EPDT & CNCI proposals submitted to the Division 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: December 9, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–32299 Filed 12–13–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (1756).

Date and Time: January 10, 2000; 8:00 a.m.–5:00 p.m.

Place: Room 770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael Mayhew, Program Director, Education and Human Resources Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA 22230, (703) 306–1557.

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 REU Panel, 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 9, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–32302 Filed 12–13–99 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: January 20–21, 2000, 8:30 a.m.–5:00 p.m.

Place: Hilton Arlington & Towers, 950 North Stafford Street, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Ephraim Glinert, Acting Division Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1926.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation Program ROBOTICS proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 9, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–32297 Filed 12–13–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: January 27–28, 2000; 8:30 a.m.–5:00 p.m.

Place: Holiday Inn, 4610 North Fairfax Drive, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Ephraim Glinert, Acting Division Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1926.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation Program VISION proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 9, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–32298 Filed 12–13–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: January 13–15, 2000; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1020, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. C. Denise Caldwell, Program Director, MPS/PHY/Atomic, Molecular and Optical Physics Program, (703) 306–1807.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Physics Division—Atomic, Molecular and Optical Physics Program at NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary date for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: December 9, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99–32301 Filed 12–13–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

National Science Board Delegation of Authority

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: As authorized by Sec. 5(e)(2) of the National Science Foundation Act of 1950, as amended, the National Science Board remakes its delegation of authority to the National Science Foundation Director to review, approve and take final action on grants, contracts, or other arrangements.

DATES: Approved November 18, 1999.

ADDRESSES: National Science Board, National Science Foundation, 4201 Wilson Boulevard, Room 1225, Arlington, Virginia, 22207.

FOR FURTHER INFORMATION CONTACT: Dr. Marta Cehelsky, Executive Officer, NSB, (703) 306–2000.

SUPPLEMENTARY INFORMATION: None.

Dated: December 2, 1999.

Marta Cehelsky,

Executive Officer.

[FR Doc. 99–32362 Filed 12–13–99; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 64, No. 234/Tuesday, December 7, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, December 14, 1999.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote to cancel the December 14, 1999 Board meeting that was to consider the following items:

7216: Highway Accident Report: Greyhound Motorcoach Run-Off-the-Road Accident, Burnt Cabins, Pennsylvania, June 20, 1998

7217: Proposed Safety Recommendation: Regarding the Use of Medication when Operating Vehicles

7127: Opinion and Order: Administrator v. Kraft, Docket SE–15152, disposition of the Administrator's appeal

FOR FURTHER INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: December 10, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–32524 Filed 12–10–99; 3:18 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Co.; Zion Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

[Docket Nos. 50–295 and 50–304]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR–39 and DPR–48, issued to Commonwealth Edison Company (ComEd or the licensee) for the Zion Nuclear Power Station (ZNPS) Units 1 and 2, located in Lake County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would exempt ZNPS, because of its permanently shutdown and defueled status, from certain requirements of 10 CFR 50.54(w) regarding the amount of onsite property insurance required and from the requirements of 10 CFR 140.11 regarding the amount of offsite liability insurance required. Specifically, the exemption would allow the licensee to reduce onsite insurance coverage to $50 million, offsite coverage to $100 million, and withdraw from participation in the secondary insurance pool based on the permanently defueled status of ZNPS.

The proposed action is in accordance with the licensee's application for exemption dated October 22, 1999.

The Need for the Proposed Action

ZNPS was shut down permanently in February 1997. ComEd certified the permanent shutdown on February 13, 1998, and, on March 9, 1998, certified that all fuel had been removed from the reactor vessels. In accordance with 10 CFR 50.82(a)(2), upon docketing of the certifications, the facility operating license no longer authorizes ComEd to operate the reactor or to load fuel into the reactor vessel. In this permanently shutdown condition, the facility poses a reduced risk to public health and safety. Because of this reduced risk, full compliance with all the requirements in 10 CFR 50.54(w) and 10 CFR 140.11 is no longer necessary. The requested exemptions from portions of 10 CFR 50.54(w) and 10 CFR 140.11 are needed to allow a reduction in the insurance coverage to a level that is appropriate for ZNPS in its permanently shutdown and defueled condition.

Environmental Impact of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that since the exemption only involves changes to indemnity insurance, the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

The only potential environmental impacts associated with the proposed action would be economic in nature in the event of an accident, if insurance coverage is not sufficient. The NRC staff determined in SECY–96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' that $50 million in on-site coverage and $100 million in offsite coverage is sufficient for the most limiting accident associated with a permanently shutdown defueled plant. Therefore, given that the proposed action conforms to the dollar amounts of SECY–96–256, the staff has concluded that there would be no significant economic impact on the surrounding community in the event of an accident.

Accordingly, the Commission 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 resources not previously considered in the Final Environmental Statement for the Zion Nuclear Power Station, Units 1 and 2, dated December 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on November 23, 1999, the staff consulted with the Illinois State officials, Mr. Gary Wright and Mr. Neill Howey, of the Illinois Department of Nuclear Safety (IDNS) regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 30, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW, Washington, DC. Publicly 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 8th day of December 1999.

For the Nuclear Regulatory Commission.

Dino C. Scaletti,

Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–32309 Filed 12–13–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50–320

GPU Nuclear, Inc., et al; Three Mile Island Nuclear Station, Unit 2, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Possession Only License No. DPR–73, issued to GPU Nuclear, Inc. (the licensee), for the Three Mile Island Nuclear Station, Unit 2 (TMI–2), located in Dauphin County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would add a statement to existing License Condition 2.B.(5) to ensure that the storage of certain radioactive materials at TMI–2 from the co-located Three Mile Island, Unit 1, as authorized under the Unit 1 license, does not result in a source term that, if released, would exceed that previously analyzed in the Post-Defueling Monitored Storage Safety Analysis Report for TMI–2.

The proposed action is in accordance with the licensee's application for amendment dated June 29, 1999, as supplemented by letters dated August 27, October 29, and November 3, 1999.

The Need for the Proposed Action

The proposed action is needed to ensure that activities conducted under authorization of the TMI–1 license, which permits the movement to and storage at TMI–2 of certain radioactive materials, do not contravene the existing restrictions applicable to TMI–2.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action effectively places appropriate limits on the radioactive materials that may be possessed by the TMI–1 licensee at TMI–2, and, further, has determined that the source term from any accident involving radioactive material at TMI–2 under the TMI–1 license would be within that assumed in the Post Defueling Monitored Storage Safety Analysis Report for TMI–2.

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 does not involve any historic sites, does not affect nonradiological plant effluents, and has no other environmental impact. 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 actions are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Three Mile Island Nuclear Station, Unit 2.

Agencies and Persons Consulted

In accordance with its stated policy, on October 20, 1999, the staff consulted with the Pennsylvania State official, Stan Maingi of the Pennsylvania Bureau of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action 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 letter dated June 29, 1999, as supplemented by letters dated August 27, October 29, and November 3, 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 8th day of December 1999.

For the Nuclear Regulatory Commission

John L. Minns,

Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–32310 Filed 12–13–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Wednesday, December 15, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Wednesday, December 15

9:25 a.m.
Affirmation Session (Public Meeting) a: Final Rule—AP600 Design Certification (Tentative) (Contact: Ken Hart, 301–415–1659)

9:30 a.m.
Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: Dr. John Larkins, 301–415–7360)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers, if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: December 8, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–32478 Filed 12–10–99; 12:52 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42205; File No. SR–MSRB–98–08]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval to Proposed Rule Change Relating to Rule G–38, on Consultants, Rule G–37, Political Contributions and Prohibitions on Municipal Securities Business, Rule G–8, on Books and Records, and Revisions to the Attachment Page to Form G–37/G–38

December 7, 1999.

I. Introduction

On June 16, 1998, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change that requires brokers, dealers, or municipal securities dealers (''dealers'') to obtain from their consultants information on the consultants' political contributions and payment to state and local political parties and to report such information to the Board on Form G–37/G–38. On August 26, 1999, the Board filed Amendment No. 1 which replaced and superseded the proposed rule change.[3]

The proposed rule change was published for comment in the **Federal Register** on October 12, 1999.[4] The Commission received one comment letter regarding the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would require a dealer to receive and report certain contribution and payment information from: the consultant; any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the dealer; and, any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the of the dealer.[5] A dealer would be required to include within its Consultant Agreement a statement that the consultant agrees to provide the dealer each calendar quarter with a listing of reportable political contributions to an official(s) of an issuer and reportable contributions to political parties of states and political subdivisions during such quarter, or a report that no reportable political contributions or reportable political party contributions were made, as appropriate.[6]

The proposed rule change would require a dealer to obtain information from its consultants about the contributions made to issuer officials only if the consultant has had direct or indirect communication with such issuer to obtain municipal securities business on behalf of the dealer.[7] The political party payments required to be reported are limited to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer (*e.g.,* city, county and state parties). The date that establishes the obligation for the collection of contribution information is the date of the consultant's communication with the issuer to obtain municipal securities business on behalf of the dealer.

With respect to the collection of contribution and payment information, the proposed rule change contains a six-month ''look-back'' provision, as well as a six-month ''look-forward'' provision from the date of communication with an issuer. Thus, a consultant must disclose to the dealer the contributions and payments made by the consultant during the six months prior to the date of the consultant's communication with the issuer.[8] So too, if the consultant's communication with an issuer continues, any reportable contributions and payments would be required to be disclosed. Once communication ceases, the consultant still must disclose to the dealer contribution and payment information for six months.[9] The proposed rule change would require dealers to keep records under Rule G–8 of all reportable political contributions and all reportable political party payments.

A dealer's requirement to collect contribution and payment information from its consultants ends when a Consultant Agreement has been terminated.[10] Of course, dealers should not attempt to avoid the requirements of Rule G–38 by terminating a consultant relationship after directing or soliciting the consultant to make a political contribution to an issuer official after termination. Rule G–37(d) prohibits a dealer from doing any act indirectly which would result in a violation of Rule G–37 if done directly by the dealer. Thus, a dealer may violate Rule G–37 by engaging in municipal securities business with an issuer after directing or soliciting any person to make a contribution to an official of the issuer.

The proposed rule change would require that the information obtained by dealers concerning their consultants' contributions and payments be submitted by dealers to the Board on Form G–37/G–28.[11] The proposed rule change would require dealers to disclose on the attachment sheet for each consultant used by the dealer the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, from Ronald W. Smith, Senior Legal Associate, MSRB, dated August 26, 1999.

[4] Securities Exchange Act Release No. 41975 (October 4, 1999), 64 FR 55326.

[5] A ''consultant'' in Rule G–38 can refer to an individual or a company (*e.g.,* a bank affiliated with a bank dealer). For example, if an individual is a consultant, this individual would report to the dealer only his or her contributions and payments and the contributions of any PAC controlled by such individual. If the consultant is a company, the company would report its contributions and payments to the dealer, as well as those made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer, and any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer.

[6] The de minimis exception for contributions to official(s) of an issuer provides that a consultant need not provide to a dealer information about contributions made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer to any official of an issuer for whom such individual is entitled to vote if such individual's contributions, in total, are not in excess of $250 to each official of such issuer, per election. Similarly, the de minimis exception for payments provides that a consultant need not provide to a dealer information about payments to political parties of a state or political subdivision made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer who is entitled to vote in such state or political subdivision if the payments by the individual, in total, are not in excess of $250 per political party, per year.

[7] A dealer must disclose contributions with respect to those issuers from which a consultant is seeking municipal securities business on behalf of the dealer, regardless of whether contributions are going to and communications are occurring with the same or different personnel within that particular issuer.

[8] Such contributions and payments become reportable in the calendar quarter in which the consultant first communicates with the issuer.

[9] Contributions and payments made simultaneously with or after the consultant's first communication with the issuer are reportable in the calendar quarter in which they are made.

[10] A dealer that terminates a Consultant Agreement would of course be obligated to obtain information regarding contributions and payments made up to the date of termination.

[11] The proposed rule change also requires dealers to report the consultant's business address on Form G–37/G–38.

contributions and payments covered by the rule or that no such contributions or payments were made for the quarter. Furthermore, a dealer must disclose if a consultant has failed to provide it with a report concerning its contributions and payments. When completing the form, a dealer must disclose, in addition to the other required information, the calendar quarter and year of any reportable political contributions and reportable political party payments that were made prior to the calendar quarter of the form being completed (*e.g.,* contributions and payments made in a prior quarter that are reportable as a result of the six-month look-back). Reportable ''look-back'' contributions and payments also must be disclosed on the Form G–37/G–38 for the quarters in which the consultant has communicated with an issuer to obtain municipal securities business on behalf of a dealer. Once a contribution or payment has been disclosed on a report, a dealer should not continue to disclose that particular contribution or payment on subsequent reports. The attachment page to Form G–37/G/38 also has been revised to require dealers to separately identify all of the municipal securities business obtained or retained by the consultant for the dealer.[12]

The proposed rule change includes a ''reasonable efforts'' provision that allows dealers to rely in good faith on information received from their consultants regarding contributions and payments. The reasonable efforts provision states that a dealer will not violate Rule G–38 if the dealer fails to receive from its consultant all required contribution and payment information and thus fails to report the information to the Board if the dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. However, to avail itself of the reasonable efforts provision, a dealer must:

(1) State in its Consultant Agreement that Board rules require disclosure of consultant contributions and payment;

(2) Send quarterly reminders to consultants of the deadline for their submissions to the dealer of contribution information;

(3) Include language in the Consultant Agreement to the effect that: (a) the Consultant Agreement will be terminated if, for any calendar quarter, the consultant fails to provide the dealer with information about its reportable contributions or payments, or a report noting that the consultant made no reportable contributions or payments, and the failure continues up to the date to be determined by the dealer but no later than the date by which the dealer is required to send Form G–37/G–38 to the Board with respect to the next succeeding calendar quarter, such termination to be effective upon the date the dealer must send its Form G–37/G–38 to the Board, and (b) the dealer may not make any further payments to the consultant, including payments owed for services performed prior to the date of termination, as of the date of such termination; and

(4) Enforce the Consultant Agreement provisions described above in a full and timely manner and indicate the reason for and date of the termination on its Form G–37/G–38 for the applicable quarter.

The failure by a dealer to include the termination and non-payment provisions in a Consultant Agreement or to enforce any such provisions that may be contained in the Consultant Agreement, would not, in and of itself, constitute a violation of Rule G–38 but would instead preclude the dealer from invoking the reasonable efforts provision as a defense against a possible violation for failing to disclose consultant contribution information, which the consultant may have withheld from the dealer.

Finally, the proposed rule change contains a clarifying amendment to Rule G–38(b)(i)(B), and a technical amendment to Rule G–37(e)(I)(D) to conform to the amendments to Rule G–38.

III. Summary of Comments

The Commission received one comment letter from the Bond Market Association (''TBMA''),[13] generally opposing the proposed rule change but supporting the ''reasonable efforts'' provision. In its letter, TBMA questioned the need for an additional layer of regulatory bureaucracy under the proposed changes to Rule G–38, arguing that Rule G–37 already prohibits the use of consultants, as a conduit, to make contributions that are inappropriate payments to secure municipal business. For the same reason, TBMA also stated that the proposed rule change unduly interferes with commercial contractual arrangements and is an example of excessive regulatory micromanagement. If the proposed rule change is adopted, TBMA stated that the ''reasonable efforts'' provision must be included in its broadest form, and further suggested that the provision should be modified into a non-exclusive safe harbor, thereby allowing dealers to present facts and circumstances evidence of ''reasonable efforts'' even though the specific requirements presented in the proposed rule change have not been satisfied.

The Commission disagrees with TBMA's suggested modification of the ''reasonable efforts'' provision. The Commission believes an interpretation of this provision which focuses primarily on facts and circumstances evidence could lead to irregular compliance and inconsistent enforcement of the rules. The Commission recognizes that, ultimately, the responsibility for disclosure reporting lies with the dealers. The Commission notes, however, that these dealers benefit from their relationships with and the activities of their consultants. Thus, the burden should be on the dealers to ensure that their consultants provide the requisite information in the time specified by the rules. Therefore, the Commission supports the proposed rule change, as amended, because it removes the possibility of collusion between dealers and consultants and requires dealers to act affirmatively to ensure that the required information is disclosed.

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.[14] In particular, the Commission believes the proposed rule change in consistent with the requirements of Section 15B(b)(2)(C) of the Act[15] because the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. The Commission believes the proposed rule change is consistent with the Act because the public will be able to monitor whether there is a connection

[12] The existing version of the form requires dealers to list only the municipal securities business obtained or retained by the consultant in which the consultant was paid a specific dollar amount for the particular municipal securities business.

[13] *See* letter from Paul Saltzman, Executive Vice President and General Counsel, TBMA, to Jonathan Katz, Secretary, SEC, dated November 5, 1999.

[14] In reviewing this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78f(b)(7).

[15] 15 U.S.C. 78o–4(b)(2)(C).

between contributions given to an issuer by consultants and the business they obtained for the dealers that hired them.

the Commission notes that Rule G–38 requires that dealers record and report certain information about their consultants every quarter; the amendments merely add items of information that must be recorded and reported. While the additional information may be a burden on dealers, the Commission believes it is important that dealers obtain and report the information so that consultants' political contributions can be reviewed to determine whether these contributions influenced the awarding of municipal securities business. Accordingly, to establish a complete record of information, the Commission finds it reasonable that the proposed rule change requires dealers to receive quarterly reports from their consultants listing all reportable contributions, stating that the consultants made no reportable contributions, or disclosing that the consultants failed to provide a report to their dealer.

The proposed rule change also mandates that dealers include a statement in their Consultant Agreements describing this quarterly reporting requirement so the consultant is informed of his reporting responsibilities. The Commission believes that if it should be determined later that a consultant did in fact make a reportable contribution after reporting that no reportable contributions were made, the dealer will have a record to demonstrate that the consultant hid the contribution information from the dealer.

Additionally, the Commission believes that the proposed rule change is a measured response to the Act's requirement to prevent fraudulent and manipulative acts and practices. The proposed rule change does not require a dealer to obtain information about all political contributions made by its consultants. A dealer must obtain information from its consultants about the contributions made to issuer officials only if the consultant has communicated directly or indirectly with the issuer to obtain municipal securities business on behalf of the dealer. The political party payments required to be reported are limited to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer. Furthermore, the proposed rule change only requires dealers to record and report information about certain political contributions and payments to state and local political parties made by their consultants.[16]

The date that establishes the obligation for the collection of contribution information is the date of the consultant's communication with the issuer to obtain municipal securities business on behalf of the dealer. The proposed rule change provides for a six-month look-back and a six-month look-forward reporting provision from this date of communication with an issuer.[17] The Commission finds these provisions are necessary to ensure that this information is provided for a minimum period of one-year, absent termination of a Consultant Agreement, about any consultant contributions to officials of an issuer with whom the consultant communicated on behalf of a dealer to obtain municipal securities business. This requirement also should help to identify any situations in which contributions could have influenced the awarding of municipal securities business.

The Commission also finds that the ''reasonable efforts'' provision is consistent with the Act. The provision allows a dealer to rely in good faith on information received from its consultants regarding contributions and payments if the dealer: (1) Demonstrates that it used reasonable efforts in attempting to obtain the necessary information; (2) follows certain disclosure requirements regarding the Consultant Agreement; and (3) terminates the Consultant Agreement if the information is not provided by the second calendar quarter. These requirements should help ensure that all required information on contributions is obtained from the consultants. The Commission believes that these requirements emphasize the Board's stated intention that a dealer should vigorously enforce its contract with a consultant if the dealer becomes aware that the consultant is not providing it with materially complete or accurate information concerning contributions on a timely basis. Moreover, the Commission finds the proposed time period for reporting a consultant's contribution and payment information, or lack thereof, is appropriate and reasonable. Under the proposed rule change, a dealer has in excess of two calendar quarters (*i.e.,* no later than the date by which the dealer is required to send Form G–37/G–38 to the Board with respect to the next succeeding calendar quarter) to report this information. If a dealer fails to report this information by the end of this extended period, then the dealer must terminate the Consultant Agreement.

The Commission carefully considered the concerns expressed by TBMA in its letter opposing the amendment. The Commission was not persuaded by TBMA's contention that Rule G–37 already addresses the concerns for which the proposed rule change is designed. As previously discussed, the Commission believes that the reporting requirements outlined in the proposed rule change, which make it possible to review consultants' political contributions, are an important mechanism for preventing fraudulent and manipulative acts and practices. Moreover, the Commission believes that the proposed limitations on the ''reasonable efforts'' defense are necessary to ensure that dealers exercise diligence in monitoring the disclosure and receipt of reportable information.

Moreover, the Commission believes two calendar quarters constitute an appropriate and reasonable time period for a dealer to comply with the reporting requirements. Two calendar quarters should provide a diligent dealer with enough time to gather and report the information currently required by the Board's rules as well as the information required by the proposed rule change. Accordingly, the Commission believes that a facts and circumstance review, as suggested by TBMA, is unnecessary because of the extended reporting period provided by the proposed rule change. Furthermore, the Commission believes such a review is antithetical to the purpose of the proposed rule change which is to encourage accurate and timely reporting by dealers. Indeed, the Commission believes that a facts and circumstance review in combination with the ''reasonable efforts'' provision would permit dealers to circumvent the rule, rather than encourage timely and thorough reporting by them.

The proposed rule change provides that the reporting information is sent to the Board which then posts the Forms G–37/G–38 on its web site. This requirement includes those instances in which a Consultant Agreement has been terminated because the consultant did not provide the required information concerning contributions made. The Commission finds that this procedure is consistent with the Act because it

[16] The Commission notes that the proposed rule change does not prohibit political contributions or payments to political parties. Contributions and payments are allowed within the *de minimis* exemption. the Commission also notes that the proposed rule change does not prevent dealers or their employees from demonstrating support for local and state officials in other ways, such as volunteer political campaign activity. *See* Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994).

[17] The dealer's reporting requirement ends when a Consultant Agreement is terminated.

allows the public to access and monitor the information disclosed by consultants thereby removing impediments to and perfecting the mechanism of a free and open market in municipal securities.

Date of Effectiveness

As requested by the Board, the proposed rule change will become effective on April 1, 2000, beginning with the reports for the second quarter of 2000 (*i.e.,* reports required to be sent to the Board by July 31, 2000). Dealers will be required to disclose their consultants' reportable political contributions and reportable political party payments for the second quarter of 2000 and include, pursuant to the six-month look-back, reportable political contributions and reportable political party payments since October 1, 1999, where appropriate.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–MSRB–98–08), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32271 Filed 12–13–99; 8:45 am]

BILLING CODE 8010–01–M

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42207; File No. SR–NASD–99–70]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a Fee for Historical Research and Administrative Reports Provided Through Nasdaq's Web Sites

December 8, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 24, 1999, the National Association of Securities Dealers (''NASD'' or ''Association''), through its wholly owned subsidiary, Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to amend NASD Rule 7010 to establish a fee for historical research and administrative reports provided through Nasdaq's web sites. Below is the text of the proposed rule change. Proposed new language is in italics.

Rule 7010 System Services

(a)–(p) No changes

(q) Historical Research and Administrative Reports

The charge to be paid by the purchaser of separate Historical Research and Administrative Reports, shall be as follows:

(1) *Daily Detailed Reports—$7 per day, per security and/or market participant for reports containing 15 fields or less. $15 per day, per security and/or market participant for reports exceeding 15 fields.*

(2) *Summary Level Activity Reports—$25 per report.*

(3) *Administrative Reports—$25 per user, per month.*

* * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Historical Research Reports. Nasdaq proposes to establish a fee which it will charge to investors who request historical research reports pertaining to Nasdaq, Over-the-Counter Bulletin Board (''OTCBB'') or other Over-the-Counter (''OTC'') issues. Nasdaq has provided such reports on an ad hoc basis to customers requesting this information by telephone. Investors would contact a member of Nasdaq's staff via telephone, describe the type of customized report desired, and arrange for an appropriate billing and delivery method before having the Nasdaq staff member compile the report. Charges for these reports were based on hourly rates relative to the time required for compilation and delivery of the reports. Nasdaq believes the system was an inefficient and time consuming arrangement that was both burdensome to Nasdaq and an impediment to the accessibility of the information for the investor.

As the number of individual investors in today's market directing their own investment decisions has increased significantly, the volume of requests for this information also has increased. To alleviate the demand upon staff resources and increase the quality, speed and availability of the information, Nasdaq has developed an automated request and delivery system that will facilitate the delivery of these reports in a timely and systematic manner at a fixed price, based on a standardized pricing methodology. Investors will be able to access the reports through the Internet on the NasdaqTrader.com (for Nasdaq issues) and OTCBB.com (for OTCBB and other OTC issues) web sites (or their successor sites), by directing an Internet browser to the appropriate web site. Once at the proper location within the web site, investors would choose from a list of standardized reports, input the necessary information pertaining to the desired security or market participant, and provide credit card information for payment.[3] Once completed, the report would be sent via e-mail directly to the investor.

Nasdaq proposes to provide historical research reports that fall into two categories: ''Daily Detailed Reports'' and ''Summary Level Activity Reports.'' Examples of Daily Detailed Reports include a Market Maker Price Movement Report (displays all market maker quote changes and the best bid and offer throughout a chosen day for a selected security), and a Time and Sales Report (provides a record of media-reported trades in the selected security, indicating the reported time, price and share volume). Summary Level Activity Reports would provide trade and/or quote information over a monthly or quarterly period.

Fees for the Daily Detailed Reports would be sent on a two-tiered basis to reflect the amount of information provided. Nasdaq proposes to assess a fee of $7 for reports with 15 or fewer

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Credit card information will be provided utilizing a secure web site connection.

fields of information[4] for each trading day requested.[5] Those reports with more than 15 fields would cost $15 per trading day of information. Some reports may be available for purchase on a single day basis, while others may be available only as multiple-day packages with a corresponding charge based on the number of days provided. Fees for Summary Level Activity Reports would be fixed at $25 per report.

Nasdaq believes that this pricing structure is a suitable assessment method that will facilitate the creation of an inexpensive and effective service for investors. Furthermore, Nasdaq has been testing this product and the Internet delivery system (on OTCBB.com) for several months by providing selected reports to investors at no charge and has found a high level of satisfaction and interest among investors for their continued availability.

Administrative Reports. This second category of reports available through NasdaqTrader.com and/or OTCBB.com, termed ''Administrative Reports,'' will be available to NASD member firms only. These reports are generally composed of firm specific information which is currently provided on an informal basis. One example of this group of reports is the ''SEC 31(a) Report'' which provides member firms with the number of trades transacted on a daily basis and the anticipated SEC 31(a) fees that will be assessed at the end of the month. Another proposed report that could be provided would estimate the total Nasdaq monthly transaction fees for the member firm based on the firm's historical volume.

These Administrative Reports would assist members in auditing their own internal systems, verifying back-end processing, and projecting monthly costs. The reports, which are provided presently by Nasdaq in CD ROM form, would be available through this secure web site connection in a more cost-effective and timely manner. Subscribing member firms would be charged a $25 fee per user, per month, for access to each administrative report.[6]

[4] Examples of fields, depending on the type of report chosen, could include reported volume, reported price, reported time, inside bid/ask, short sale indicator, etc.

[5] For example, an investor requesting a report containing 12 fields of information for a three trading day period would be charged $21.

[6] After assessing the demand for this service, Nasdaq may offer volume discounts to purchasers of multiple reports if such discounts are determined to be economically feasible.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)[7] and (6)[8] of the Act. Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. Section 15A(b)(6) requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that this service involves the implementation of reasonable fees, assessed only to users utilizing the service, while providing beneficial information to subscribers on a non-discriminatory basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–99–70 and should be submitted by January 4,2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32368 Filed 12–13–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78o–3(b)(5).

[8] 15 U.S.C. 78o–3(b)(6).

[9] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending December 3, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6560.

Date Filed: November 29, 1999.

Parties: Members of the International Air Transport Association.

Subject: PTC31 N&C/CIRC 0101 dated 26 November 1999, Expedited Circle Pacific Resolution 002bb, Intended effective date: 15 January 2000.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–32345 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Advisory Circular (AC) 91–XX, Altimeter Errors At Cold Temperatures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of and request for comments on proposed AC 91–XX, which provides information and pilot/controller guidance about a potentially hazardous situation with altimeters that occurs at extreme temperatures. Now that international standards have matured to a level of confidence, it is important that cold temperature correction procedures be implemented in the national airspace system. This action is being taken to address Controlled Flight Into Terrain (CFIT) issues and support the Administrator's safety agenda.

DATES: Comments must be received on or before January 28, 2000.

ADDRESSES: Send all comments on the proposed AC to: Howard Swancy, Flight Procedures Standards Branch (AFS–420), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: (202) 267–8724.

FOR FURTHER INFORMATION CONTACT: Howard Swancy, Flight Procedures Standards Branch (AFS–420), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: (202) 267–8724.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by accessing the FAA's webpage at http://www.faa.gov/avr/arm/nprm/nprm.htm. Interested parties are invited to submit comments on the proposed AC. Commenters must identify AC 91–XX, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC.

Discussion

The effect of cold temperature on altimeters has been the subject of intense study and analysis since the early days of aviation. These study results indicate that a number of aircraft accidents can be attributed solely to pilot failures to set or use the altimeter correctly. Although, there have been no accidents occurring in the Unites States being directly related to a cold altimeter error, studies confirm a number of near tragic events being thwarted in the final seconds.

Cold temperatures tend to induce altimeter error that, in turn, could potentially pose a deadly threat to today's aviators worldwide. At extreme temperatures, altimeters may give pilots significantly erroneous readings. The situation is especially dangerous at cold extremes because altimeters may indicate altitudes higher than the aircraft's actual altitude. This error might be as much as 1000 feet or more. A pilot may not maintain an altitude necessary to clear obstructions when relying solely on the altimeter reading and flying in extreme cold temperatures.

The subject of cold temperature altimeter errors has been studied, by world experts, and is considered to be a primary factor facilitating CFIT mishaps. In the interest of safety, every pilot must understand and know procedures to make altitude adjustments as appropriate for actual flight conditions.

Issued in Washington, DC, on December 9, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

[FR Doc. 99–32481 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Valdosta Regional Airport, Valdosta, Georgia

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 Valdosta 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) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 13, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert Ator, Executive Director of the Valdosta-Lowndes County Airport Authority at the following address: Valdosta-Lowndes County Airport Authority, 1750 Airport Road, Suite 1, Valdosta, Georgia 31601.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Valdosta-Lowndes County airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Larry Clark, Program Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, Phone Number: (404) 305–7144.

The application may be reviewed in person at this time 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 Valdosta 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 30, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by Valdosta-Lowndes County 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 March 2, 2000.

The following is a brief overview of the application.

PFC Application No.: 00–04–C–00–VLD.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 2000.

Proposed charge expiration date: December 31, 2002.

Total estimated PFC revenue: $350,000.

Brief description of proposed project(s):

1. Security Fencing.
2. T-Hangar Taxiway.
3. Rehabilitate Runway 17/35 (Design).
4. DBE Plan.
5. Drainage Study.
6. Rehabilitate Runway 17/35.
7. Terminal Building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Carriers with less than 1000 enplanements per year.

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 Valdosta-Lowndes County Airport Authority.

Issued in College Park, Georgia on November 30, 1999.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 99–32349 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council meeting on Monday, December 6, 1999. The following designations are made for each item: (A) is an ''action'' item; (I) is an ''information item;'' and (D) is a ''discussion'' item. The agenda includes the following: (1) Call to Order and Introductions (I); (2) Statements of Antitrust Compliance and Conflict of Interest (A); (3) Approval of Last Meeting's Minutes (A); (4) Federal Report (I); (5) President's Report (I); (6) Cell Phones as Data Probes Task Force Report and Recommendations (I); (7) ITS and Information Security (I); (8) RTAG Advice (I/D/A); (9) Coordinating Council Nominations; (10) Annual Meeting Awards Process; (11) Horizons Committee Progress Report (I); (12) Committee Reports (I): Communications and Outreach; Planning; Intermodal Freight Working Group/Task Force; Societal/Institutional/Environmental Committee; Weather Information Applications Task Force; (13) Future Coordinating Council Meeting Dates (I/A); (14) Adjournment.

DATES: The Coordinating Council of ITS AMERICA will meet on Tuesday, December 6, 1999, from 8 a.m.—12 noon (Eastern Standard time).

ADDRESSES: Pointe Hilton Tapitio Cliffs Resort, 11111 North 7th Street, Phoenix, AZ 85020. Tel. (602) 866–7500; Fax (602) 866–6347.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue, SW., Suite 800, Washington, DC 20024. Persons needing further information or to request to speak at this meeting should contact Marlene Vence-Crampton at ITS AMERICA by telephone at (202) 484–4847, or by Fax at (202) 484–3483. The DOT contact is Mary Pigott, FHWA, HVH–1, Washington, DC 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: Monday, November 29, 1999.

Jeffrey Paniati,

Deputy Director, ITS Joint Program Office.

[FR Doc. 99–31349 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–99–6484

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 14, 2000.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street, S.W., Plaza 401, Washington, D.C. 20590. Docket No. NHTSA–99–6484.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Room 6240, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

2000 Motor Vehicle Occupant Safety Survey

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—December 31, 2001.

Summary of the Collection of Information—NHTSA proposes to conduct a year 2000 Motor Vehicle Occupant Safety Survey by telephone among a national probability sample of 12,000 adults (age 16 and older). Participation by respondents would be voluntary. NHTSA's information needs require seat belt and child safety seat sections too large to merge into a single survey instrument without producing an inordinate burden on respondents. Rather than reduce these sections, the proposed survey instrument would be divided into two series of modules. Each module would be administered to one-half the total number of subjects to be interviewed. Module Series #1 of the questionnaire would focus on seat belts and include smaller sections on air bags, motorcyclist safety, and general driving (including speed). Module Series #2 would focus on child restraint use, accompanied by smaller sections on air bags and Emergency Medical Services. Both series would contain sections on crash injury experience, and on drinking and driving because of the extensive impact of alcohol on the highway safety problem. Some basic

seat belt questions contained in Module Series #1 would be duplicated on Module Series #2.

In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

During the late 1960s and early 1970s, more than 50,000 persons were killed each year in motor vehicle crashes in the United States. Diverse approaches were taken to address the problem. Vehicle safety designs and features were improved; restraint devices were improved; safety behaviors were mandated in state legislation (including seat belt use, child safety seat use, and motorcycle helmet use); alcohol-related legislation was enacted; this legislation was enforced; public information and education activities were widely implemented; and roadways were improved.

As a result of these interventions and improvements, crash fatalities dropped significantly. By 1992, total fatalities had fallen to 39,250, representing a 23% decline from 1966. In addition, the resident population and the number of vehicle miles traveled increased greatly over those years. When fatality rates are computed per 100,000 population, the rate for 1992 (15.39) was about 40 percent lower than the 1966 rate (25.89). In sum, heightened highway safety activity conducted over the past three decades corresponds with major strides in reducing traffic fatalities.

Remaining barriers to safety will be more resistant to programmatic influences now that the easy gains have already been accomplished. Moreover, crash fatalities have edged higher since 1992, totaling 41,471 in 1998. Thus significant effort will be needed just to preserve the gains that already have been made. Up-to-date information is essential to plot the direction of future activity that will achieve reductions in crash injuries and fatalities in the coming years.

In order to collect the critical information needed by NHTSA to develop and implement effective countermeasures that meet the Agency's mandate to improve highway traffic safety, NHTSA conducted its first Motor Vehicle Occupant Safety Survey in 1994. The survey included questions related to seat belts, child safety seats, air bags, bicyclist safety, motorcyclist safety, and Emergency Medical Services. It also contained small segments on alcohol use and on speeding. The survey was repeated in 1996 and 1998, with the survey instrument updated to incorporate emergent issues and items of increased interest.

The proposed survey is the fourth Motor Vehicle Occupant Safety Survey. The survey would collect data on topics included in the preceding surveys and would monitor changes over time in the use of occupant protection devices and in attitudes related to vehicle occupant safety. It is important that NHTSA monitor these changes so that the Agency can determine the effects of its efforts to promote the use of safety devices and to identify areas where its efforts should be targeted and where new strategies may be needed. As in 1996 and 1998, NHTSA proposes to make a small number of revisions to the survey instrument to address new information needs.

If approved, the proposed survey would assist NHTSA in addressing the problem of motor vehicle occupant safety and in formulating programs and recommendations to Congress. The results of the proposed survey would be used to: (a) Identify areas to target current programs and activities to achieve the greatest benefit; (b) develop new programs and initiatives aimed at increasing the use of occupant safety devices by the general public; and (c) provide informational support to States and localities in their traffic safety efforts. The findings would also be used directly by State and local highway safety and law enforcement agencies in the development and implementation of effective countermeasures to prevent injuries and fatalities to vehicle occupants.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, a telephone interview averaging approximately 20 minutes in length would be administered to each of 12,000 randomly selected members of the general public age 16 and older in telephone households. The respondent sample would be selected from all 50 states plus the District of Columbia. Interviews would be conducted with persons at residential phone numbers selected through random digit dialing. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—NHTSA estimates that each respondent in the sample would require an average of 20 minutes to complete the telephone interview. Thus, the number of estimated reporting burden hours a year on the general public (12,000 respondents multiplied by 1 interview multiplied by 20 minutes) would be 4000 for the proposed survey. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Rose A. McMurray,

Associate Administrator Traffic Safety Programs.

[FR Doc. 99–32275 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–99–6485]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 14, 2000.

ADDRESSES: Direct all written comments to U.S. Department of Transportation

Dockets, 400 Seventh Street, S.W., Plaza 401, Washington, D.C. 20590. Docket No. NHTSA–99–6485.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Room 6240, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Part Time Seat Belt User Program

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—June 30, 2002.

Summary of the Collection of Information—NHTSA proposes to conduct periodic telephone surveys at each of two test sites to assess the level of public awareness and exposure to a program designed to increase seat belt use among part time seat belt users. The interviewing at each of the two sites would consist of three waves of 500 interviews conducted among a randomly selected sample of persons age 16 and older. Participation by respondents would be voluntary. The interviewers would question respondents about their awareness of program messages and activities, and about their use of seat belts.

In conducting the proposed surveys, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed surveys would be anonymous and confidential.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Seat belt use has increased substantially over the past two decades. Based on State observation surveys, NHTSA computed a seat belt usage rate of 69% for the nation as a whole in 1998. However, this figure obscured the fact that relatively few persons are consistent non-users of seat belts. Rather, research indicates that much of the observed non-use of seat belts occurs among persons who wear their seat belts on other occasions. Research further shows that seat belt use among these part time users tends to be a function of risk assessment; *i.e.*, wearing their seat belts when they perceive greater risk and ignoring them when there is insufficient risk in their perceptual field to grab their attention. Thus persons were more likely to wear seat belts during inclement weather or while driving on the highway, but less likely to wear them on short drives along familiar routes.

Because part time seat belt users considerably outnumber persons who never wear their seat belt, getting part time users to wear their seat belt ''every time'' would greatly increase seat belt usage nationally and improve highway safety. NHTSA presently is developing a program designed to increase seat belt usage among part time users. The program would be implemented at each of two sites in the United States, and would include educational and other activities to encourage the public to wear their seat belt all the time. Tied to the program implementation would be a comprehensive evaluation effort to assess program effectiveness. Observation surveys would be conducted to determine whether the program has had an impact on seat belt usage. However, whether or not a program has an impact depends both on the intervention reaching the target audience, and then its ability to elicit the desired behavior once it has penetrated to the target audience. A program may be effective in one of these tasks and ineffective in the other. In order to adequately interpret the results of the seat belt observation surveys, the program evaluation effort would include telephone surveys to collect information on awareness and exposure to program messages and activities.

If approved, the proposed surveys would assist NHTSA in evaluating the effectiveness of a program designed to increase seat belt use among part time belt users. The results of the proposed surveys would identify whether the program interventions penetrated to the target audience(s), and provide the context in which the seat belt observation data would be interpreted. The findings from the evaluation would be used directly by State and local highway safety agencies, as well as other safety organizations, to develop and implement effective programs to increase seat belt use.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, a telephone interview averaging approximately 10 minutes in length would be administered to each of 3,000 randomly selected members of the general public age 16 and older in telephone households. The respondent sample would be selected from each of two sites where a part time seat belt user program had been implemented, with a total of 1,500 interviews conducted per site. There would be three waves of interviewing conducted at each site, with each wave composed of 500 interviews per site. The survey waves would take place at strategic points related to the implementation schedule of the program. Interviews would be conducted with persons at residential phone numbers selected through random digit dialing. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of

Information—NHTSA estimates that each respondent in the sample would require an average of 10 minutes to complete the telephone interview. Thus, the number of estimated reporting burden hours a year on the general public (3,000 respondents multiplied by 1 interview multiplied by 10 minutes) would be 500 for the proposed survey. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Rose A. McMurray,

Associate Administrator, Traffic Safety Programs.

[FR Doc. 99–32276 Filed 12–13–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination—AXA Global Risks US Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 4 to the Treasury Department Circular 570; 1999 Revision, published July 1, 1999, at 64 FR 35864.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6905.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated.

The Company was last listed as an acceptable surety on Federal bonds at 64 FR page 35869, July 1, 1999.

With respect to any bonds currently in force with AXA GLOBAL RISKS US INSURANCE COMPANY, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, bonds that are continuous in nature should to be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms,treas,gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00527–6.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: November 19, 1999.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 99–32316 Filed 12–13–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Mid-Century Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 5 to the Treasury Department Circular 570; 1999 Revision, published July 1, 1999, at 64 FR 35864.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1999 Revision, on page 35881 to reflect this addition: COMPANY NAME: Mid-Century Insurance Company. BUSINESS ADDRESS: P.O. Box 2478, Terminal Annex, Los Angeles, CA 90051. PHONE: (323) 932–3200. UNDERWRITING LIMITATION b/: $68,731,000. SURETY LICENSES c/: AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: California.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the company remains qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00527–6.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 370 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: November 12, 1999.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 99–32317 Filed 12–13–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

[CO–68–87; CO–69–87; CO–18–90]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations CO–68–87 and CO–69–87(TD 8352), Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986; Pre-change Attributes, and CO–18–90 (TD 8531), Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards (§§ 1.382–4 and 1.382–2T).

DATES: Written comments should be received on or before February 14, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room

5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: CO–68–87 and CO–69–87(TD 8352), Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986; Pre-change Attributes, and CO–18–90 (TD 8531), Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards.

OMB Number: 1545–1120.

Regulation Project Number: CO–68–87; CO–69–87; CO–18–90.

Abstract: (CO–68–87 and CO–69–87) These regulations require reporting by a corporation after it undergoes an ''ownership change'' under Code sections 382 and 383. Corporations required to report under these regulations include those with capital loss carryovers and excess credits. (CO–18–90) These regulations provide rules for the treatment of options under Code section 382 for purposes of determining whether a corporation undergoes an ownership change. The regulation allows for certain elections for corporations whose stock is subject to options.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 75,150.

Estimated Time Per Respondent: 2 hours, 56 minutes.

Estimated Total Annual Burden Hours: 220,575.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 7, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–32401 Filed 12–13–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application for Relief on Account of Loss, Theft, or Destruction of United States Savings and Retirement Securities and Supplemental Statement Concerning United States Securities.

DATES: Written comments should be received on or before February 14, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Titles: Application For Relief on Account of Loss, Theft or Destruction of United States Savings and Retirement Securities and Supplemental Statement Concerning United States Securities.

OMB Number: 1535–0013.

Form Numbers: PD F 1048 and PD F 2243.

Abstract: The information is requested to issue owners substitute securities or payment in lieu of lost, stolen or destroyed securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 80,000

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 32,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 8, 1998.

Vicki S. Thorpe,

Manager, Graphics, Printing, and Records Branch.

[FR Doc. 99–32292 Filed 12–13–99; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Description of United States Savings Bonds/Notes and Description of United States Savings Bonds Series HH/H.

DATES: Written comments should be received on or before February 14, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Titles: Description of United States Savings Bonds/Notes and Description of United States Savings Bonds Series HH/H.

OMB Number: 1535–0064.

Form Numbers: PD F 1980 and PD F 2490.

Abstract: The information is requested to establish the owner of savings bonds.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 19,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 1,900.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 8, 1999.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 99–32293 Filed 12–13–99; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application By Voluntary Guardian of Incapacitated Owner of United States Savings Bonds/Notes.

DATES: Written comments should be received on or before February 14, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application By Voluntary Guardian Of Incapacitated Owner of United States Savings Bonds/Notes.

OMB Number: 1535–0036.

Form Number: PD F 2513.

Abstract: The information is requested to establish the right of a voluntary guardian to act on behalf of an incompetent bond owner.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 7,650.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 2,600.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 8, 1999.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 99–32294 Filed 12–13–99; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Application For Payment of United States Savings Bonds/Notes and/or Related Checks in an Amount Not Exceeding $1,000 By The Survivor of a Deceased Owner Whose Estate is Not Being Administered.

DATES: Written comments should be received on or before February 14, 2000, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Application For Payment of United States Savings Bonds/Notes and/or Related Checks in an Amount Not Exceeding $1,000 By The Survivor Of A Deceased Owner Whose Estate Is Not Being Administered.

OMB Number: 1535–0035.

Form Number: PD F 4881.

Abstract: The information is requested from the survivors of deceased bond owners to apply for proceeds from bonds, or related checks.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,965

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 991.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 8, 1999.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 99–32295 Filed 12–13–99; 8:45 am]

BILLING CODE 4810–39–P

Corrections

Federal Register

Vol. 64, No. 239

Tuesday, December 14, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

Correction

In notice document 99–31482 appearing on page 68096 in the issue of Monday, December 6, 1999, make the following correction:

On page 68096, in the second column, in the seventh line,''b. *Project No.:* 1494–194 and 1949–195'' should read, ''b. *Project No.:* 1494–194 and 1494–195''.

[FR Doc. C9–31482 Filed 12–13–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41302; File No. SR–NASD–99–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Creating a Discovery Guide for Use in NASD Arbitrations

Correction

In notice document 99–10200, beginning on page 20036, in the issue of Friday, April 23, 1999, make the following corrections:

1. On page 20036, in the second column, in the first paragraph under the heading, ''*I. The Need for New Discovery Procedures*'', in the sixth line, ''too'' should read ''two''.

2, On the same page, in the same column, in the third paragraph under the heading, ''*I. The Need for New Discovery Procedures*'' in the fourth line, ''person(s)'' should read ''person(s).''

3. On page 20037, in the first column, in the second paragraph, in the second line from the bottom, ''that'' should read ''that,''.

4. On the same page, in the second column, in the first full paragraph, in the fourth line, ''filled'' should read ''filed''.

5. On the same page, in the third column, in the 18th line, ''the'' should be added after ''whether''.

6. On page 20038, in the first column, under **Document Production Lists**, the heading ''Firm/Associated Persons(s)'' should read ''Firm/Associated Person(s)''.

7. On the same page, in the second column, in paragraph ''(3)'', in the last line, ''control'' should read ''control.''.

8. On the same page, in the same column, in paragraph ''(5)'', the last line ''relating to transaction(s) at issue'' should read ''relating to the transaction(s) at issue.''.

9. On the same page, in the same column, in paragraph ''(9)'', in the last line, ''and'' should be added before ''index''.

10. On the same page, in the third column, in the third line ''of'' should be removed.

11. On the same page, in the same column, in paragraph ''(4)'', the last line, ''statement or claim filed'' should read, ''statement of claim was filed''.

12. On the same page, in the same column, in paragraph ''(8)'', in the fourth line, ''and'' should be added before ''any''.

13. On page 20039, in the first column, in the ninth line, ''least'' should read ''last''.

14. On the same page, in the same column, in the first paragraph ''(3)'' in the sixth line, ''programs'' should read ''program''.

15. On the same page, in the same column, under **List 5**, in paragraph ''(2)'', in the third line, ''person(s)'' should read ''Person(s)''.

16. On the same page, under **List 10**, in the third column, in paragraph ''(3)'', in the fourth line, ''customers'' should read ''customer's''.

17. On the same page, in the same column, under **List 13**, in paragraph ''(2)'', in the seventh line, ''program:'' should read ''program;''.

[FR Doc. C9–10200 Filed 12–13–99; 8:45 am]

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Part II

Department of Health and Human Services

Administration for Children and Families

Assets for Independence Demonstration Program, Fiscal Year 2000; Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2000–04]

Request for Applications Under the Office of Community Services' Fiscal Year 2000 Assets for Independence Demonstration Program (IDA Program)

AGENCY: Office of Community Services (OCS), Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of availability of funds and request for competitive applications under the Office of Community Services' Assets for Independence Demonstration Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), invites eligible entities to submit competitive grant applications for new demonstration projects that will establish, implement, and participate in the evaluation of Individual Development Accounts for lower income individuals and families. Applications will be screened and competitively reviewed as indicated in this Program Announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: To be considered for funding applications must be postmarked on or before May 15, 2000. Applications postmarked after that date will not be accepted for consideration. See Part IV of this announcement for more information on submitting applications.

FOR FURTHER INFORMATION CONTACT: Sheldon Shalit (202) 401–4807, sshalit@acf.dhhs.gov, or Richard Saul (202) 401–9341, rsaul@acf.dhhs.gov, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW, Washington, DC, 20447.

In addition, this Announcement is accessible on the OCS Website for reading or downloading at: http://www.acf.dhhs.gov/programs/ocs/ under ''Funding Opportunities.''

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.602. The title is Assets for Independence Demonstration Program (IDA Program).

SUPPLEMENTARY INFORMATION: This program announcement consists of seven parts plus appendices:

Part I: Background Information: legislative authority, program purpose, project goals, definition of terms, and program evaluation.

Part II: Program Objectives and Requirements: program priority areas, eligible applicants, project and budget periods, funds availability and grant amounts, project eligibility and requirements, non-Federal matching funds requirements, preferences, multiple applications, treatment of program income, and agreements with partnering financial institutions.

Part III: The Project Description, Program Proposal Elements and Review Criteria: purpose, project summary/abstract; objectives and need for assistance, results or benefits expected, approach, organizational profiles, budget and budget justification, non-Federal resources, and evaluation criteria.

Part IV: Application Procedures: application development/availability of forms, application submission, intergovernmental review, initial OCS screening, consideration of applications, and funding reconsideration.

Part V: Instructions for Completing Application Forms: SF424, SF424A, SF424B.

Part VI: Contents of Application and Receipt Process: content and order of program application, acknowledgment of receipt.

Part VII: Post Award Information and Reporting Requirements: notification of grant award, attendance at evaluation workshops, reporting requirements, audit requirements, prohibitions and requirements with regard to lobbying, applicable Federal regulations.

Appendices: Application forms and required attachments.

Paperwork Reduction Act of 1995

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 which expires 10/31/2000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I. Background Information

A. Legislative Authority

The Assets for Independence Demonstration Program (IDA Program) was established by the Assets for Independence Act (AFI Act), under Title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (Pub.L. 105–285, 42 U.S.C. 604 Note).

B. Program Purpose

The purpose of the program is, in the language of the AFI Act: To provide for the establishment of demonstration projects designed to determine:

(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) the extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

There are some 100 IDA programs of various designs operating today in different communities across the country. Most are quite new and all are in the process of learning what design features work best with a variety of circumstances and target populations. Applicants are encouraged to contact these programs to see what might be learned from their experiences: what pitfalls to avoid, what successes might be emulated or adapted. An excellent source of information and discussion about existing IDA programs is the website operated by the Corporation for Enterprise Development (CFED), and its ''IDA Learning Network'' and related ListServe. These can be reached at ''www.idanetwork.org''.

C. Project Goals

The ultimate goals of the projects to be funded under the Assets for Independence Demonstration Program are:

(1) to create, through project activities and interventions, meaningful asset accumulation opportunities for recipients of Temporary Assistance for Needy Families (TANF) and other eligible individuals and working families.

(2) to evaluate the projects to demonstrate the effectiveness of these activities and interventions and of the project designs through which they were implemented, and the extent to which an asset-based program can lead to economic self-sufficiency of members of the communities served through one or more qualified expenses; and

(3) thus to make it possible to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income, and the extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

D. Definition of Terms

For the purposes of this Announcement:

(1) *AFI Act* means the Assets for Independence Act (Title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998) which authorizes this program.

(2) *Custodial Account* means an alternative structure to a Trust for the establishment of an Individual Development Account, as described in PART II, Section G(5).

(3) *Eligible Individual* means an individual who meets the income and net worth requirements of the program as set forth in PART II, Section G(3)(a) below.

(4) *Emergency Withdrawal* means a withdrawal of only those funds, or a portion of those funds, deposited by the eligible individual (Project Participant) in an Individual Development Account of such individual. Such withdrawal must be approved by the Project Grantee, must be made for an allowable purpose as defined in the AFI Act and under the Project Eligibility Requirements set forth in PART II of this Announcement, and must be repaid by the individual Project Participant within 12 months of the withdrawal. [See PART II, Section G(7)(b)]

(5) *Household* means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(6) *Individual Development Account* means a trust or a custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust or custodial account meets the requirements of the AFI Act and of the Project Eligibility and Requirements set forth in this Announcement. [See PART II, Section G(4) and (5).]

(7) *Net Worth of a Household* means the aggregate market value of all assets that are owned in whole or in part by any member of the household, exclusive of the primary dwelling unit and one motor vehicle owned by a member of the household, minus the obligations or debts of any member of the household.

(8) *Project Grantee* means a Qualified Entity as defined in paragraph (11) below, which receives a grant pursuant to this Announcement.

(9) *Project Participant* means an Eligible Individual as defined in paragraph (3) above who is selected to participate in a demonstration project by a qualified entity.

(10) *Project Year* means, with respect to a funded demonstration project, any of the 5 consecutive 12-month periods beginning on the date the project is originally awarded a grant by ACF.

(11) *Qualified Entity* means an entity eligible to apply for and operate an assets for independence demonstration project, under Priority Area 1.0, as one or more not-for-profit 501(c)(3) tax exempt organizations, or a State or local government agency or a tribal government submitting an application jointly with such a not-for-profit organization.

(12) *Qualified Expenses* means one or more of the expenses for which payment may be made from an individual development account by a project grantee on behalf of the eligible individual in whose name the account is held, and is limited to expenses of (A) post-secondary education, (B) first home purchase, and/or (C) business capitalization, as defined below:

(A) *Post-Secondary Educational Expenses* means post-secondary educational expenses paid from an individual development account directly to an eligible educational institution, and includes:

(i) *Tuition and Fees* required for the enrollment or attendance of a student at an eligible educational institution.

(ii) *Fees, Books, Supplies, and Equipment* required for courses of instruction at an eligible educational institution, including a computer and necessary software.

(iii) *Eligible Educational Institution* means the following:

(I) Institution of Higher Education.—An institution described in Section 101 or 102 of the Higher Education Act of 1965.

(II) Post-Secondary Vocational Education School.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)) which is in any State (as defined in section 521(33) of such Act) as such sections are in effect on the date of enactment of the AFI Act.

(B) *First-Home Purchase* means qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. Within this definition:

(i) *Principal Residence* means a main residence, the qualified acquisition costs of which do not exceed 100 percent of the average purchase price applicable to a comparable residence in the area.

(ii) *Qualified Acquisition Costs* means the cost of acquiring, constructing, or reconstructing a residence, including usual or reasonable settlement, financing, or other closing costs.

(iii) *Qualified First-Time Homebuyer* means an individual participating in the project involved (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date on which a binding contract is entered into for purchase of the principal residence to which this subparagraph applies.

(C) *Business Capitalization* means amounts paid from an individual development account directly to a business capitalization account that is established in a Qualified Financial Institution and is restricted to use solely for qualified business capitalization expenses of the eligible individual in whose name the account is held. Within this definition:

(i) *Qualified Business Capitalization Expenses* means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan, when so certified by a Qualified Entity (Grantee) as meeting the requirements of sub-paragraphs (ii), (iii), and (iv) below.

(ii) *Qualified Expenditures* means expenditures included in a qualified plan, including but not limited to capital, plant, equipment, working capital, and inventory expenses.

(iii) *Qualified Business* means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) *Qualified Plan* means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

(D) *Transfers to Idas of Family Members*—Amounts paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) The individual's spouse; or

(ii) Any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(13) *Qualified Financial Institution* means a Federally insured Financial Institution, or a State insured Financial

Institution if no Federally insured Financial Institution is available.

(14) *Qualified Savings of the Individual for the Period* means the aggregate of the amounts contributed by an eligible individual from earned income to the individual development account of the individual during the period.

(15) *Secretary* means the Secretary of Health and Human Services, acting through the Director of the Office of Community Services.

(16) *Tribal Government* means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (24 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(17) *Trust Agreement* means the instrument by which an Individual Development Account is established as a trust in the partnering Financial Institution under PART II Section G(4).

(18) *Trustee* means the Qualified Financial Institution responsible for management of an Individual Development Account established as a trust pursuant to a Trust Agreement.

E. Program Evaluation

Section 414 of the Assets for Independence Act requires that at least one Assets for Independence Demonstration funded project be selected as an ''experimental site'' for in-depth evaluation by the independent research organization funded by ACF. Activity at the experimental site(s) will include the evaluation of a randomly selected ''treatment group'' (of program participants) and a ''control group'' (of nonparticipants) as well as in-depth interviews of families involved with the project, which, in addition to the overall evaluation of the program and of each site, will be the basis for assessing how asset accumulation affects lower income individuals and families, as called for in the Act.

After FY 2000 grants are awarded, OCS will solicit FY 1999 and FY 2000 grantees for expressions of interest in being designated as an experimental site. The solicitation will specify the activities and obligations such designation will entail; but they will include recruitment of a sufficient number of eligible individuals to enable enrollment, within twelve months, of the treatment group and the control group, each to consist of at least 300 members, randomly selected by the independent evaluator from among those recruited, and a commitment to assist in the evaluator's collection of baseline and follow-up data by providing basic identifying and locating information (including address and telephone) for those assigned to participate in both the treatment group and control group.

Part II. Program Objectives and Requirements

The Office of Community Services (OCS) invites qualified entities to submit competing grant applications for new demonstration projects that will establish, support, manage, and participate in the evaluation of Individual Development Accounts for eligible participants among lower income individuals and working families.

A. Program Priority Areas

There is one Program Priority Area under this program for Fiscal Year 2000: Priority Area 1.0, under which OCS will accept applications from Qualified Entities as described below and in Section G. Applications for continuation of grants funded under Priority Area 2.0 of the Fiscal Year 1999 Assets For Independence Program Announcement are not covered by this Program Announcement; but will be the subject of direct correspondence between OCS and the grantees.

B. Eligible Applicants

(1) In General

Eligible applicants for the Assets for Independence Demonstration Program Priority Area 1.0 are one or more not-for-profit 501(c)(3) tax exempt organizations, or a State or local government agency or a tribal government submitting an application jointly with such a not-for-profit organization. Not-for-profit Applicants, including those filing jointly with government agencies or Tribal Governments, must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of their currently valid IRS tax exemption certificate *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. Failure to provide evidence of Section 501(c)(3) tax exempt status will result in rejection of the application.

(2) Applications Submitted Jointly by State or Local Government Agencies or Tribal Governments and Tax Exempt Non-Profit Organizations

Joint applications by government agencies and non-profit organizations must clearly identify the joint applicants; and the SF 424 Application for Federal Assistance must be signed by one of the joint applicants. The applicant signing the SF 424 will be responsible for proper implementation of the grant in accordance with the approved work program and the terms and conditions of the grant. (It may be either the government agency applicant or a non-profit applicant). In either case, a Reserve Fund must be established for the Project by a non-profit Joint Applicant, and maintained and managed as agreed by the Joint Applicants. The Reserve Fund must be established in accordance with Section G, Paragraphs (1) and (2), below; and where the project includes a group or consortium of operating partner CBOs, may include both a central and local Reserve Funds as described there. Such joint applications must also include:

(a) Proof of tax exempt status of the non-profit Joint Applicant, as described in Paragraph (1), above; and

(b) A Joint Applicant Agreement, signed by the responsible officials of both Joint Applicants, setting forth the responsibilities of each Joint Applicant for implementation of the proposed project, including management and oversight of the Reserve Fund and carrying out of the project activities and interventions described in Element II of the proposal narrative. (See PART III, below.) The Joint Applicant Agreement should be the first Appendix to the Application, and the responsibilities it sets out should be described in the Project Narrative under Element II, PART III, C. (below).

(3) Applications Submitted by a Lead Agency on Behalf of a Consortium of Community-Based Organizations (CBOs)

Where the Applicant is applying as the lead agency for a consortium of Community-Based Organizations (CBOs), each of these organizations must be briefly described in the Application, and background materials citing their relevant experience and staff capabilities should be included in the Appendix. In such cases the Applicant should document its capability and experience in managing such consortia, and the roles and responsibilities of all participating agencies should be clearly set forth in signed Partnering Agreements between the Applicant and each of the member CBOs. Copies of the

Partnering Agreements should be included in the Appendix, and the roles and responsibilities of each participating agency clearly explained in PART III, Element II(b), Project Design, and reflected in the Work Plan under Element II(c). These explanations must include the plans for establishing one or more Reserve Fund(s), and how and where IDA Accounts and Parallel Match Accounts will be maintained. (See Section G. Paragraph (1), below.)

C. Project and Budget Periods under Priority Area 1.0

This announcement is inviting applications under Priority Area 1.0 for project and budget periods of five (5) years. Grant actions, on a competitive basis, will award funds for the full five year project and budget period. As noted below in Section E., subject to the availability of funds, grantees may be offered the opportunity to submit applications for supplementary funding in later years during the five-year project.

Note: Applicants should be aware that OCS funds awarded pursuant to this Announcement will be from FY 2000 funds and may not be expended after the end of the five-year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time. Consequently, Applicants should consider carefully the length of time participants will need to achieve their savings goals and at what point in the project they may wish to discontinue the opening of new accounts. Applicants should provide assurance that in every case provision will be made for payment of all promised matching deposits to IDA accounts opened by project participants in the course of the demonstration project.

D. Funds Availability and Grant Amounts under Priority Area 1.0

In Fiscal Year 2000 OCS expects approximately $5.4 million to be available under Priority Area 1.0 for funding commitments to approximately 25 projects, not to exceed $500,000 and averaging $200,000 each for the five-year project and budget periods. Applicants are reminded that grant awards are limited to the amount of committed non-Federal cash matching contributions; and that OCS recognizes that this is a limiting factor in the amount of grant funds requested. Applicants are assured that OCS will welcome requests for less than the maximum grant amounts, and are urged to make realistic projections of project activity over the five year project and propose project budgets accordingly. Draw-down of grant funds over the five-year budget period will be made in amounts that will match non-Federal deposits into the Project Reserve Fund. (See Section G. Paragraph (2) and Section I, below)

E. Funds Availability for Supplementing FY 1999 Grantees

As explained in the FY 1999 Assets for Independence Program Announcement and noted above, subject to availability of funds and the progress of individual demonstration projects, grantees may be offered the opportunity to submit requests for non-competitive supplementary funding during the five-year project, if there were a determination that this would be in the best interest of the government, and subject to the availability of funds. Pursuant to that Announcement approximately $2 million of FY 2000 funds will be made available for supplementary grants to FY 1999 grantees who were awarded less than the maximum amount of $500,000.

Such grantees will be solicited directly by OCS and will be considered for supplementary funding where they can demonstrate to the satisfaction of OCS: (1) A commitment of non-Federal matching contributions at least equal to the supplementary grant requested; (2) a record of successful implementation of their existing grant to date; (3) a proposed supplementary work program that does not deviate from the goals and work program of the original funded project; and (4) unmet need for and interest in individual development accounts by eligible individuals in the target population which could only be satisfied through supplemental funding. Selection of grantees for supplementary funding will be made by OCS staff prior to the review and selection of applications under Priority Area 1.0, and any funds not expended for supplementary grants will be available for project grants under Priority Area 1.0.

F. Funds Availability and Grant Amounts for Continuation Funding of FY 1999 Priority Area 2.0 Grantees

In Fiscal Year 2000 up to approximately $1.86 million is expected to be available under Priority Area 2.0 for up to two continuation grants of up to approximately $930,000 each for the second budget year of a five-year State project funded under Priority Area 2.0 of the FY 1999 Assets for Independence Program Announcement. Any funds not expended in FY 2000 for these Continuation Grants will be available for project grants under Priority Area 1.0.

G. Project Eligibility and Requirements under Priority Area 1.0

To be eligible for funding under Priority Area 1.0, projects must be sponsored and managed by Qualified Entities and must meet the following requirements:

(1) Reserve Fund

Every project funded under this Announcement must establish and maintain a Reserve Fund in accordance with this paragraph. Such Reserve Fund must be maintained in accordance with the accounting regulations prescribed by the Secretary (See Attachment ''L'' to this Announcement), in a Qualified Financial Institution or other insured financial institution satisfactory to the Secretary.

Note: Where an applicant is lead agency for a consortium or group of Community Based Organizations (CBOs), each of which will be implementing an IDA program under the Applicant's grant pursuant to this Announcement, the Applicant/lead agency must maintain a Reserve Fund into which all required non-Federal share matching contribution funds and OCS grant funds shall be deposited in accordance with sub-Paragraph (a). The consortium has two alternatives for maintenance of Reserve Fund(s) in its IDA programs: First, participating CBOs may all operate out of the one central Reserve Fund maintained by the Applicant/lead agency. In this case separate accounting structures would be maintained for each of the CBOs and the funds assigned for their use in accordance with agreements between the Applicant and each CBO. Or second, in addition to the Central Reserve Fund, participating CBOs may each establish a local Reserve Fund in their community into which the Applicant/lead agency will deposit from the Central Reserve Fund the funds (grant and non-Federal share) allocated for use by the particular CBO. Central and local Reserve Funds will be subject to all of the requirements of this Section. Whatever the arrangement, it must be spelled out and agreed to in the Partnering Agreements required under Section B. Paragraph (3) between the Applicant and each consortium member.

(a) Amounts in the Reserve Fund. As soon after receipt as is practicable, grantees shall deposit in the Reserve Fund the non-Federal matching contributions received pursuant to the ''Non-Federal Share Agreement'' or Agreements reached with the provider(s) of non-Federal matching contributions. Once such non-Federal funds are deposited in the Reserve Fund, grantees may draw down OCS grant funds in amounts equal to such deposits. Similarly, as soon after receipt as practical, grantees shall deposit in the Reserve Fund the income received from any investment made of those funds (see paragraph (d) below).

(b) Use of Amounts in the Reserve Fund. Grantees shall use the amounts in such Reserve Fund as follows:

(A) At least 90.5% of the federal grant funds, and an equal amount of the required non-Federal share funds, shall be used as matching contributions, equally divided between federal and non-federal monies, to individual development accounts for project participants, in an agreed upon ratio to deposits made in those accounts by project participants from earned income.

(B) At least 2% but no more than 9.5% of the Federal grant funds shall be used toward the expense of collecting and providing to the research organization evaluating the demonstration project the data and information required for the evaluation.

(C) Up to 7.5% of the Federal grant funds may be used for administration of the demonstration project and toward expenses of assisting project participants to obtain the skills (including economic literacy classes, budgeting, and business management skills), training, and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses.

(D) Up to 9.5% of the required matching non-Federal funds may be used for expenses outlined in Paragraphs (B) and (C), above, or other project-related expenses as agreed by the Applicant and the providing entity.

Note: If a grantee mobilizes matching non-Federal contributions in excess of the required 100 percent match, such non-Federal funds may be used however the grantee and provider of the funds may agree. Where the use of such funds falls within a Program Element/-Proposal Review Criterion which formed the basis for the grant award, Grantees will be held accountable for commitments of such excess matching funds and additional resources, even though over the amount of the required non-Federal match.

(c) Authority to Invest Funds. A grantee shall invest the amounts in its Reserve Fund that are not immediately needed for payment under paragraph (b), in a manner that provides an appropriate balance between return, liquidity, and risk, and in accordance with Guidelines which will be issued by the Secretary prior to making of grant awards and provided to grantees at the time of grant award.

(d) Use of Investment Income. Income generated from investment of Reserve Fund monies that are not allocated to existing Individual Development Accounts may be added by grantees to the funds committed to program administration, participant support, or evaluation data collection. As noted in Paragraph M, below, once funds have been committed as matching contributions to Individual Development Accounts, then any income subsequently generated by such funds must be deposited/credited to the credit of such accounts.

Note: No part of such income is to be considered as a Federal funds contribution subject to the $2000/$4000 limitations under Paragraph (5)(b), below.

(e) Joint Project Administration. If two or more qualified entities are jointly administering a project, none shall use more than its proportional share for the purposes described in subparagraphs (B) and (C), of paragraph (b).

(2) Use of Grant Funds by State and Local Government Agencies and Tribal Governments.

As set forth in Section B. Paragraph (2) above, grantees who are State or local government agencies or Tribal governments are required to submit applications jointly with tax exempt non-profit organizations. In such cases, whether the lead applicant signing the SF 424 is the government agency or the non-profit organization, a Reserve Fund must be established for the Project by the non-profit Joint Applicant and maintained and managed as agreed by the Joint Applicants. The Reserve Fund shall be subject to the requirements of Paragraph (1) above, and Section I, below.

(3) Eligibility and Selection of Project Participants

(a) Participant Eligibility. Eligibility for participation in the demonstration projects is limited to individuals who are members of households eligible for assistance under TANF or of households whose adjusted gross income does not exceed the earned income amount described in Section 32 of the Internal Revenue Code of 1986, which establishes eligibility for the Earned Income Tax Credit (EITC)(taking into account the size of the household), and whose net worth as of the end of the calendar year preceding the determination of eligibility does not exceed $10,000, excluding the primary dwelling unit and one motor vehicle owned by a member of the household.

Note: The most recent EITC Earned Income Guidelines which set the limits on annual income for eligibility in the IDA Program are as follows:

—for a household without a child: $10,030
—for a household with one child: $26,473.
—for a household with more than one child: $30,095.

Applicants are reminded that there is also an assets test for eligibility in the program.]

(b) Participant Selection. In keeping with the statutory preference in Section 405(d)(3) of the AFI Act for applications that target individuals from neighborhoods or communities that experience high rates of poverty or unemployment, grantees in their selection of Project Participants may restrict participation in such neighborhoods or communities targeted by their demonstration projects to individuals and households with lower incomes and net worth than set forth above, provided that they shall nonetheless select individuals that they determine to be best suited to participate in the demonstration project.

(4) Establishment of Individual Development Accounts

Project Grantees must create, through written governing instruments, either (a) Trusts, under this paragraph, or (b) Custodial Accounts described in Paragraph (5) below, which will be Individual Development Accounts on behalf of Project Participants. Trustees of Trusts must be Qualified Financial Institutions. Custodians of Custodial Accounts may be Qualified Financial Institutions, other insured financial institutions satisfactory to the Secretary, or Demonstration Project Grantees. In every case the Participant's personal savings from earned income shall be deposited in the Participant's Individual Development Account in a participating insured financial Institution. In every case the participating insured financial institution and the Demonstration Project Grantee shall be parties to the written governing instruments creating the Trust or Custodial Account, which must contain the following provisions:

(a) All contributions to the accounts must be either in cash, by check, money order, or by electronic transfer of funds.

(b) The assets of the account will be invested in accordance with the direction of the Project Participant after consultation with the grantee and pursuant to the guidelines of the Secretary (which will be issued prior to the making of grant awards and made available to grantees at the time of grant award).

(c) The assets of the account will not be commingled with other property except in a common trust fund or parallel account or common investment fund.

(d) In the event of the death of the Project Participant, any balance remaining in the account shall be distributed within 30 days of the date of death to another Individual Development Account established for the benefit of an eligible individual as directed by the deceased Participant in

the Savings Plan Agreement under sub-paragraph (g), below; provided, that the Participant may at their option direct the disposition of any funds in the account which were deposited in the account by the Participant as he or she may see fit, except that where such disposition is not to another Individual Development Account, all matching contributions made by the grantee to the account, and any income earned thereby, shall be returned to the Reserve Fund.

Note that this will mean that each Project Participant must provide such direction at the time the Individual Development Account is established. Provision should be made by grantees for modification of such directions during the course of the project, in the event of changing circumstances.

(e) Except in the case of the death of the Project Participant, amounts in the account attributable to deposits by the grantee from grant funds and matching non-federal contributions, and any interest thereon, may be paid, withdrawn or distributed out of the account only for the purpose of paying qualified expenses of the Project Participant including transfers under Paragraph (7)(d), below).

(f) The procedures governing the withdrawal of funds from the Individual Development Account, for both Qualified Expenses and Emergency Withdrawals, which comply with the provisions of Paragraph (7) Withdrawals from Individual Development Accounts, below.

(g) a ''Savings Plan Agreement'' between the grantee and the Project Participant, which may be incorporated by reference, and which should include: (1) Savings goals (including a proposed schedule of savings deposits by the Participant from earned income, which may be for a period of less than five years); (2) the rate at which participant savings will be matched (from one dollar to eight dollars for each dollar in savings deposited by Participant, the Federal grant funds portion of which may not exceed $2000 during the five-year project period); (3) the proposed qualified expense for which the Account is maintained, (4) agreement by the grantee to provide and the Participant to attend classes in Economic Literacy; (5) any additional training or education related to the qualified expense which the Grantee agrees to provide and of which the Participant agrees to partake, (6) contingency plans in the event that the Participant exceeds or fails to meet projected savings goals or schedules, (7) any agreement as to investments of assets described in subparagraph (b), above, (8) an explanation of withdrawal procedures and limitations, including the consequences of unauthorized withdrawal, (9) provision for disposition of the funds in the account in the event of the Participant's death (see sub-Paragraph (d), above; and (10) provision for amendment of the Agreement with the concurrence of both Grantee and Participant.

(5) Custodial Accounts

As provided in Paragraph (4), above, Grantees may, in the alternative, create, through written governing instruments, Custodial Accounts which shall be Individual Development Accounts on behalf of Project Participants, except that they will not be trusts. As in the case of trusts established under paragraph (4), the written governing instruments of the accounts must contain the requirements outlined in subparagraphs (a) through (g) of that paragraph, with the following exceptions. Whereas trustees of the trusts created under Paragraph (4) must be Qualified Financial Institutions, the assets of the custodial account may be held by a bank or another ''person'' (or institution) who demonstrates to the satisfaction of the Secretary that the manner in which the account will be administered will be consistent with the provisions of the AFI Act, and that the IDA's will be created and maintained as described in paragraph (4) and Section 404(5)(A) of the AFI Act. In addition, in the case of a custodial account treated as a trust by reason of this paragraph, the custodian of such account may be the Project Grantee, provided that it can assure compliance with the requirements of Paragraph (4) above, and Section 404(5)(A) of the AFI Act. These arrangements would place the ''custodial'' responsibilities with the grantee, and relieve financial institutions of trustee obligations. The Secretary has determined that the assets of any such accounts must be held in an insured financial institution and be subject to the provisions of Paragraph M, below, pertaining to agreements between applicants/grantees and participating financial institutions.

(6) Deposits in Individual Development Accounts

(a) Matching Contributions. Not less than once every three months during the demonstration project grantees will make deposits into Individual Development Accounts as matching contributions to deposits from earned income made by Project Participants during the period since the previous deposit. Such deposits may be made either into the accounts themselves or into a parallel account maintained by the grantee in an insured financial institution.

Note: Deposits made by Project Participants shall be deemed to have been made from earned income so long as the Participant's earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986) during the period since the Participant's previous deposit in the account is greater than the amount of the current deposit. Section 911(d)(2) provides, in relevant part, ''the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered''.

Matching contributions (as deposits to IDA accounts or to parallel accounts) must be made to IDA's in equal amounts from Federal grant funds and the non-Federal public and private funds committed to the project as matching contributions, as described in Section I below, and Sections 405(c)(4) and 406(b)(1) of the AFI Act. Such matching contribution deposits by grantees may be from $0.50 to $4 in non-Federal funds and an equal amount in Federal grant funds, for each dollar of earned income deposited in the account by the Project Participant in whose name the account is established. Once such equal matching contribution deposits are made, grantees may make additional matching contributions to IDA's from other non-Federal sources, or other Federal sources, such as TANF, where the legislation or policies governing such programs so permit. Such additional matching contributions would not be a use of funds falling within any Program Element/Proposal Review Criterion under Part III below, which formed the basis for the grant award, and as such, grantees will not be held accountable for their commitment to the project.

At the time matching contribution deposits are made, the grantee will also deposit into the Individual Development Account (or the parallel account) any interest or income that has accrued since the previous deposit on amounts previously deposited in or credited to that account.

(b) Limitations on Matching Contributions. Over the course of the five year demonstration, not more than $2,000 in Federal grant funds shall be provided through matching contributions to any one individual; and not more than $4,000 shall be provided to IDA's in any one household. [As noted in Paragraph (1)(d), above, no part of any investment income earned by monies in the Reserve Fund is to be considered as a Federal funds contribution subject to this limitation.]

(7) Withdrawals from Individual Development Accounts

(a) Limitations. Under no circumstances may funds be withdrawn from an Individual Development Account earlier than six months after the initial deposit by a Project Participant in the Account. Thereafter funds may be withdrawn from such account only upon written approval of the Project Participant and of a responsible official of the project grantee, and only for one or more Qualified Expenses (as defined in Part I) or for an Emergency Withdrawal.

(b) Emergency Withdrawals. An Emergency Withdrawal may only be of those funds, or a portion of those funds, deposited in the account by the Project Participant, and for the following purposes:

(i) Expenses for medical care or necessary to obtain medical care for the Project Participant or a spouse or dependent of the Participant;

(ii) Payments necessary to prevent eviction of the Project Participant from, or foreclosure on the mortgage for, the principal residence of the Participant;

(iii) Payments necessary to enable the Project Participant to meet necessary living expenses (food, clothing, shelter—including utilities and heating fuel) following loss of employment.

(c) Reimbursement of Emergency Withdrawals. A Project Participant shall reimburse an Individual Development Account for any funds withdrawn from the account for an Emergency Withdrawal, not later than 12 months after the date of the withdrawal. If the Participant fails to make the reimbursement, the Project Grantee must transfer the funds deposited into the account or a parallel account from Federal and non-Federal matching contributions, and any income generated thereby, back to the Reserve Fund of the grantee, and use the funds to benefit other individuals participating in the demonstration project involved. Any remaining funds deposited by the Project Participant (plus any income generated thereby) shall be returned to such Project Participant.

(d) Transfers to Individual Development Accounts of Family Members. At the request of a Project Participant, and with the written approval of a responsible official of the grantee, amounts may be paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) The Participant's spouse, or

(ii) Any dependent of the Participant with respect to whom the Participant is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

H. Project Eligibility and Requirements under Priority Area 2.0

As previously noted in Part II Section A, there is no Priority Area 2.0 under this Announcement. Applications for continuation of grants funded under Priority Area 2.0 of the Fiscal Year 1999 Assets For Independence Program Announcement will be the subject of direct correspondence between OCS and the grantees.

I. Non-Federal Matching Funds Requirements

Grantees must mobilize at least one hundred percent of the OCS grant amount in cash non-Federal share for deposit to the Reserve Fund as matching contribution. Public sector resources that can be counted toward the minimum required match include funds from State and local governments, and funds from various block grants allocated to the States by the Federal Government provided that the authorizing legislation for these grants permits such use. Note, for example, that Community Development Block Grant (CDBG) funds may be counted as matching funds; Community Services Block Grant (CSBG) FUNDS MAY NOT. With regard to State TANF funds, any State funds that comprise Maintenance Of Effort (MOE) under the TANF regulations may NOT be used as required non-Federal share under this Announcement. (But see discussion of additional matching contributions in Paragraph (6)(a), above.)

To be considered for funding an Application must include a copy of a ''Non-Federal Share Agreement'' or Agreements in writing executed by the Applicant and the organization or organizations providing the required non-Federal matching contributions, signed for the organization by a person authorized to make a commitment on behalf of the organization, and signed for the Applicant by the person signing the SF424. Such Agreement(s) must include: (1) A commitment by the organization to provide the non-Federal funds contingent only on the grant award; and (2) an agreement as to the schedule of the opening of Individual Development Accounts by the Applicant, and the schedule of deposits by the organization to the project's Reserve Fund, such that the two schedules will together assure that there will be at all times in the Reserve Fund non-Federal matching contribution funds sufficient to meet the maximum pledges of matching contributions under the ''Savings Plan Agreements'' for all Individual Development Accounts then open and being maintained by the grantee as part of the demonstration project.

Thus, for example, if the provider of non-Federal share only agrees to a fixed schedule of deposits, this non-Federal share requirement can be met by the Applicant agreeing to a schedule for opening new accounts that will assure that new IDA accounts will only be opened when there are sufficient funds in the Reserve Fund to meet the maximum amount of matching contributions pledged under the ''Savings Plan Agreements''.

Where the Applicant is itself providing any of the required cash non-Federal share, it must include a statement of commitment, on applicant letterhead, signed by the official signing the SF 424 *and countersigned by the Applicant's Board Chairperson or Treasurer, that the non-Federal matching funds will be provided, contingent only on the OCS grant award, and that non-Federal share deposits to the Reserve Fund and the opening of Individual Development Accounts will be coordinated so that new accounts will only be opened when there are sufficient funds in the Reserve Fund to cover the maximum matching requirements of the Savings Plan Agreements*.

With regard to Applicants which are State or local government agencies or Tribal governments, submitting jointly with tax exempt non-profit organizations, note that under Section G Paragraphs (1) and (2), above, Reserve Funds are required to be established as in other applications/projects.

OCS has determined that the strict legislative limitations on the use of Federal grant funds and of the minimum required non-Federal match (at least 90.5% of each must go toward matching deposits in Individual Development Accounts) mean that important training, counseling and support activities, critical to the success of a project, may best be supported by additional resources, both of the applicant itself and mobilized by the applicant in the community. Consequently, Applicants are encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal, for support of project administration and assistance to Project Participants in obtaining skills, knowledge, and needed support services. (See PART III, Element V) Applicants are reminded that they will be held accountable for commitments of such additional resources even if over the amount of the required non-Federal match.

J. Preferences

In accordance with the provisions of the AFI Act, in considering an application to conduct a demonstration project under this Announcement, OCS will give preference to an application that:

(1) Demonstrates the willingness and ability of the applicant to select eligible individuals for participation in the project who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian.

Note: Applications that target TANF recipients will be deemed to have met this preference.

(2) Provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed from private sector sources; and

(3) Targets individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities) that experience high rates of poverty or unemployment.

Note: Applications which target residents of Empowerment Zones, Enterprise Communities, Public Housing, or CDFI Fund-designated Distressed Communities will be deemed to have met this preference. (For information on CDFI Fund designation of Distressed Communities applicants may visit the CDFI Help Desk Website at: http://www.cdfifundhelp.gov.)

Each of these preferences will be valued at 2 points in the Application Review process, so that applicants not meeting these preferences will have 2 points subtracted from its score for a given Proposal Element for each preference not met. [Preferences (1) and (3) fall under Proposal Element II(a); Preference (2) falls under Proposal Element V(a)]. In the case of a consortium of CBO's operating programs funded through a lead agency, if a majority of the participating CBO's meet these legislative preferences, the Application as a whole will be awarded these points.

K. Multiple Applications

Qualified Entities may submit more than one application for different demonstration projects, but no more than one such application will be funded to the same Qualified Entity pursuant to this Announcement.

L. Treatment of Program Income

As noted in Section G Paragraph (1)(d), above, income generated from investment of unallocated funds in the Reserve Fund may be added to the funds already committed from the Reserve Fund to program administration, participant support, or evaluation data collection. However, once funds have been committed as matching contributions to Individual Development Accounts, then any income subsequently generated by such funds must be deposited proportionately to the credit of such accounts.

Note: No part of such income is to be considered as a Federal funds contribution subject to the $2000/$4000 limitations under Section G Paragraph (6)(b), above.

M. Agreements With Partnering Financial Institutions

All applicants under this Announcement must enter into agreements with one or more insured Financial Institutions, in collaboration with which Reserve Funds and Individual Development Accounts will be established and maintained. To be considered for funding, an Application must include a copy of an Agreement or Agreements with one or more partnering Qualified Financial Institutions (or in the case of Individual Development Accounts established as Custodial Accounts, an insured financial institution satisfactory to the Secretary), which state(s) that the accounting procedures to be followed in account management will conform to Guidelines (CFR Part 74) established by the Secretary

Note: Such regulations may be found as Attachment ''L'' to this Announcement.

and under which the partnering insured Financial Institution agrees to provide data and reports as requested by the applicant. In the case of IDA's established as Trusts under Section G Paragraph (4), above, the partnering financial institution must be a Qualified Financial Institution as defined in PART I Section D(12). In the case of IDA's established as Custodial Accounts, the partnering financial institution must be insured and must meet the requirements of Section G Paragraph (5), above, to the satisfaction of the Secretary.

The Agreement may also include other services to be provided by the partnering Financial Institution that could strengthen the program, such as Financial Education Seminars, favorable pricing or matching contributions provided by the Financial Institution, and assistance in recruitment of Project Participants.

Part III. The Project Description, Program Proposal Elements and Review Criteria

A. Purpose

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

B. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Applicants should provide a Project Summary of not more than one page which should be placed at the beginning of the Application (and will not be counted as a part of the Project Narrative/Description). The Project Summary should be on Applicant's letterhead. It should open with a brief identification of the geographic area to be served, indicating poverty and unemployment rates, and the specific population to be targeted by the project, followed by the amount of the grant requested, the name of partnering financial institution(s) and collaborating CBO's (if applicable), the amount of required non-Federal match committed, number of IDA accounts projected to be opened in the course of the Demonstration Project, the proposed rate of matching contributions, and the types and numbers of ''Qualified Expenses'' expected to be achieved by participants. This should be followed by a brief narrative description of the project indicating any of its innovative aspects.

C. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial,

instructional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

D. Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe the population to be recruited to the IDA program, how many accounts are projected to be opened, what qualified expenses are expected to be achieved, and how they will assist participants to move towards self-sufficiency.

E. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of accounts opened. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

F. Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or,* by providing a copy of the currently valid IRS tax exemption certificate, *or,* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

G. Budget and Budget Justification

Provide a line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

H. Non-Federal Resources

Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

I. Evaluation Criteria

Proposal Elements and Review Criteria for Applications

Each application which passes the initial screening will be assessed and scored by three independent reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement. Scoring will be based on a total of 100 points, and for each application will be the average of the scores of the three reviewers.

The competitive review of proposals will be based on the degree to which applicants:

(1) Adhere to the requirements in PART II and incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

(2) Describe convincingly a project that will develop new asset accumulation opportunities for TANF recipients and other eligible individuals and working families that can lead to a transition from dependency to economic self-sufficiency through the accumulation of assets and the pursuit of activities requiring one or more qualified expenses; and

(3) Provide for the collection and validation of relevant data to support the national evaluation to be carried out by the independent research organization, under contract with ACF, of the project design, implementation, and outcomes of this Demonstration Program.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding Project Summaries and appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

Project descriptions are evaluated on the basis of substance, not length. Pages should be numbered and a table of contents should be included for easy reference. For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions

only; but the applicant must remember that the overall Project Narrative must not be longer than 30 pages.

Evaluation Criteria 1: Organizational Profiles

Element I. Organizational Experience and Administrative Capability; Ability To Assist Participants. (0 to 20 points)

Criterion: The capability and relevant experience of the applicant and its partners and collaborators in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project, including the provision of supportive services to TANF recipients and other low income individuals and working families seeking to achieve economic stability and self-sufficiency, as well as with evaluations and data collection; and in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through economic literacy education and the accumulation of assets.

Applications should briefly cite a few specific, concrete examples of successful programs and activities, with accomplishments, with which applicant has been involved which have contributed to its experience and capability to carry out the proposed project. This should include experience in working with the target or similar populations, as well as collaborative programming and operations which involve financial institutions and financial planning, budget counseling, educational guidance, preparation for home ownership, and/or self-employment training.

Applications should identify applicant agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation. (This can be achieved by a statement or letter from agency executive leadership which may be included in the Appendix.) The application should note and justify the priority that this project will have within the agency including the facilities and resources that it has available to carry it out.

The application must also identify the individual staff person(s) who will have the most responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the key staff person(s) who will administer and implement the project, and the application should indicate the amount of time (in FTE) each will be expected to devote to the project. The person identified as Project Director should have supervisory experience, experience in working with financial institutions and budget related problems of the poor, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired, in which case a resume or resumes should be included in the Appendix. If the person or persons have not been identified, then Position Description(s) should be included in the Appendix.

Finally, the application should cite the roles, responsibilities, and experience of any other organizations that will be collaborating with the Applicant to assist and support Project Participants in the pursuit of their goals under the project. Supporting documentation concerning these partnering agencies should be included in the Appendix to the proposal.

Where the Applicant is applying as the lead agency for a consortium of Community-Based Organizations (CBOs), each of these organizations should be briefly described in this section of the Project Narrative; and background materials citing their relevant experience and staff capabilities should be included in the Appendix. In such cases the Applicant should document its capability and experience in managing such consortia, and the roles and responsibilities of all participating agencies should be clearly set forth in Partnering Agreements between the Applicant and each of the member CBOs. Copies of the Agreements should be included in the Appendix, and the roles and responsibilities clearly explained in Element II(b), Project Design, and reflected in the Work Plan under Element II(c).

It is suggested that applicants use no more than 5 pages for this sub-Element, not counting actual resumes or position descriptions, which should be included in an Appendix to the proposal. Background materials on consortium members (if any) and other collaborating agencies, supportive materials, and Partnering Agreements with CBOs should also be included in the Appendix.

Evaluation Criteria 2: Approach I

Element II. Sufficiency of the Project Theory, Design, and Plan (0–45 points)

Criterion: The degree to which the project described in the application appears likely to result in the establishment of a workable, fiscally sound program that will provide a structure of incentives and supports for TANF recipients and other working families of limited means that will enable them to increase their economic self sufficiency through economic literacy training and asset accumulation for one or more ''qualified expenses''.

OCS seeks to learn from the application why and how the project as proposed is expected to establish the creation of new opportunities for asset accumulation by eligible individuals and families that can lead to significant improvements in individual and family self-sufficiency through activities requiring one or more qualified expenses: for post-secondary education, home ownership, and/or qualified business capitalization.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework that makes clear the relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions (0–15 points)

In this sub-element of the proposal the applicant must precisely identify the target population(s) to be served. The geographic area to be impacted should then be briefly described, citing the percentage of residents who are low-income individuals and TANF recipients, as well as the unemployment rate, and other data that are relevant to the project design.

Note: Both the poverty rate and unemployment rate of the target community(s) are needed to be set forth in the Application so that its eligibility for the legislative preference may be determined (see below).

The project design or plan should begin with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built. They should begin with assumptions about the strengths and needs of the population(s) to be served; about how the accumulation of assets will enable project participants to build on those strengths in their quest to achieve self-sufficiency; and about what anticipated needs of the participants could be barriers to that achievement.

In other words, the underlying assumptions of the program are the applicant's analysis of the participant strengths and potential to be supported and their needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those strengths and needs to achieve the desired result. Thus a strong application is based upon a clear description of the strengths, opportunities, needs and problems to be supported and addressed, and a persuasive understanding of the nature of the opportunities and causes of the problems.

The application should include a discussion of the identified personal barriers to employment, job retention and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, lack of suitable clothing or equipment, or poor self-image.) The application should also include an analysis of the identified community systemic barriers which the applicant will seek to overcome. These might include lack of public transportation; lack of markets; unavailability of financing, insurance or bonding; inadequate social services (employment service, child care, job training); high incidence of crime; lack of housing; inadequate health care; or environmental hazards. Applicants should be sure not to overlook the personal and family services and support needed by project participants which will enhance job retention and advancement, so as to assure continued ability to save from earned income, and which will also help to assure that benefits attainable through asset accumulation are not diverted by crises beyond the participants' control which would lead to emergency withdrawals.

Where applicant is the lead agency for a group or consortium of CBOs, this narrative should briefly summarize the location, character, and unemployment and poverty status of the different target populations. More detailed information for each of the participating CBOs should be included in the Appendix to the Application.

Note: In accordance with the legislative preferences set forth in PART II Section J, above, the maximum score for this sub-Element in the review of applications under Priority Area 1.0 will only be given to applications which:

(1) demonstrate the willingness and ability of the applicant to select individuals for participation in the project who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardians. (Applications which target TANF recipients will be deemed to have met this preference); and

(2) target individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities, public housing developments, Empowerment Zones and Enterprise Communities) that experience high rates of poverty or unemployment. (Applications which target residents of Empowerment Zones, Enterprise Communities, Public Housing, or CDFI Fund-designated Distressed Communities will be deemed to have met this preference.) (See PART II, Section J)

Each of these preferences will be valued at 2 points in the proposal review, so that the absence of one will reduce the review score for the sub-Element by 2 points; the absence of both will reduce the review score by 4 points.

In the case of a consortium of CBOs operating programs funded through a lead agency, if a majority of the participating CBOs meet these legislative preferences, the Application as a whole will be awarded these points.

It is suggested that applicants use no more than 5 pages for this Sub-Element, not including any more detailed information about separate target populations, which should be included in the Appendix.

Sub-Element II(b). Project Approach and Design: Interventions, Outcomes, and Goals (0–20 points)

The Application should outline a plan of action which describes the scope and detail of how the proposed activities will be undertaken. This Sub-Element should begin with a concise statement of the number of IDAs that are proposed to be established for each of the ''Qualified Expenses'' under the AFI Act, the projected monthly savings by IDA holders and the planned rate of matching contributions, and the projected savings goals of the participants. The applicant should demonstrate that projected savings goals have a true relation to the ability of the Participant to save and to the value or cost of the ''Qualified Expense'' for which the IDA is to be used, be it housing, postsecondary education, or business capitalization.

Next, the Applicant should present a clear and straightforward description, from the point of view of the Project Participant, of just how the proposed IDA Project will operate. This description should take an eligible member of the target population through project activities from recruitment through the payment for the ''Qualified Expense'' (and beyond, if appropriate). It is suggested that the description generally follow the outline below, plus any additional activities that the Applicant proposes to undertake as part of its project:

(1) How/where does the potential participant learn information about the Project that will excite his/her interest? (*Recruitment*)

(2) Once interested, how, when, by whom, and on what basis is the recruit selected to participate in the project? (*Selection*)

(3) How and when and with what assistance (Case Management? Family Development?) does the new participant make decisions concerning the amount of weekly or monthly savings and the selection of ''Qualified Expense''? Or is this part of the Selection Process? (*Orientation?*)

(4) When and where and with whom does the Participant reach agreement on and sign a ''Savings Plan Agreement''? [Include here a brief discussion of the provisions of the Agreement, or refer to a sample provided in the Appendix.] (*Savings Plan Agreement*)

(5) Where, when and how does the Participant actually open his/her IDA account with the Insured Financial Institution? Where is the Institution in relation to the Participant's home/place of work? How does the Participant get to the Institution? [Include here a brief discussion of the role of the Financial Institution in account management, data collection and reporting, and any other services it will provide, referring to copies of the agreement(s) with the Financial Institution(s) in the Appendix.] (*Opening of the IDA/Role of the Financial Institution*)

(6a) How and where will participant make savings deposits? In person? By mail? Through payroll deduction? (*Savings Deposits*)

(6b) What happens if a scheduled deposit is missed? Will the participant be sent a post card? Receive a supportive phone call? (*Delinquency*)

(7) Where and when and from whom does the participant receive ''Economic Literacy'' or ''Budgeting'' training, and do childcare and transportation need to be provided? (*Training and Support*)

(8a) Where and when and from whom does the participant receive needed support to remain on the job with opportunity for advancement (So as to assure continued savings from earned income)? (*Post Employment Support Services*)

(8b) Where and when and from whom does the participant receive emergency services so as to avoid having to make Emergency Withdrawals? (*Crisis Intervention*)

(9) Where and when and from whom does the participant receive ''Qualified Expenditure'' training related to home ownership, pursuit of educational goals, or business plan development and business management? (*Qualified Expenditure Support*)

(10) When the IDA savings/match goals have been achieved, where, when and how does the participant make or arrange withdrawals to support the ''Qualified Expenses''? (*Withdrawals*)

In this description the applicant should discuss all of the planned activities and interventions, including those supported by other available resources, and should explain the reasons for taking the approaches proposed. The description should give a clear picture of how the project as a whole will operate from day to day, including the recruiting, financial, program support, and data collection responsibilities of the applicant and any partners in the project, and just how they will interact with the financial institutions and other participating agencies.

Where the Applicant is a lead agency for a group or consortium of CBOs, the role of each must be clearly defined in this section of the application. In such cases Applicants should attach copies of signed Partnering Agreements with each of the member CBOs setting forth the roles and responsibilities of each. (See Element I and PART II Section B.(3) above.)

Finally, and following the above description, the Applicant should explain how the proposed project activities will result in outcomes which will build on the strengths of the Program Participants and assist them to overcome the identified personal and systemic barriers to achieving self-sufficiency. In other words, what will the project staff do with the resources available to the project and how will what they do (interventions) assist project participants to accumulate assets in Individual Development Accounts and use those assets for ''Qualified Expenses'' in a manner that will help lead them to self-sufficiency?

It is suggested that applicants use no more than 9 pages for this Sub-Element, not including copies of agreements with financial institutions, partnering agencies or CBO's, or sample ''Savings Plan Agreement'', which should be in an Appendix.

Sub-Element II(c). Work Plan, Projections, Time Lines. (0–10 points)

Applicant should provide quantitative quarterly projections of the activities to be carried out and such information as the projected number of participants to be enrolled in each quarter, the number of Individual Development Accounts projected to be opened in each quarter for each of the ''Qualified Expenses'', the number and amount of projected deposits in each quarter, a projected schedule of IDA completions and qualified expense payments, and the number and types of services provided to participants. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Where the Applicant is a lead agency for a group or consortium of CBOs, this information should be broken out for each of the member CBOs. Applicant may be able to use a time line chart to convey this aspect of the work plan in minimal space.

Note: Applicants should make sure that these projections relate accurately to the amount of grant funds requested and rates of matching contributions that are planned for IDA's. In other words, applicants should not project a greater number of IDA accounts than that number that can be matched by the grant funds that will be available to the project. Applicants should also be aware that OCS funds awarded pursuant to this Announcement will be from FY 2000 funds and may not be expended after the end of the five-year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time. Consequently, Applicants should consider carefully the length of time participants will need to achieve their savings goals and at what point in the project they may wish to discontinue the opening of new accounts. Applicants should provide assurance that in every case provision will be made for payment of all promised matching deposits to IDA accounts opened by project participants in the course of the demonstration project.

This Element of the Proposal should also include a management plan or chart showing the responsibilities of the applicant agency, key personnel, and all partnering agencies and consortium members (where applicable), with an indication of who will be performing various tasks such as recruiting, training, economic education instruction, and support activities. (This plan or chart should be included in the Appendix to the Application.)

It is suggested that applicants use no more than 3 pages for this Sub-Element, not counting the management plan/chart, which should be included in the Appendix.

Evaluation Criteria 3: Budget and Budget Justification

Element III. Appropriateness of Budget and Proposed Use of Cash and In-Kind Resources. (0–5 points)

Criteria: Completeness of the Budget Justification, and the degree to which a description of the allocation of both cash and in-kind resources available to the project (including any income generated for the project by the Reserve Fund) demonstrates a thoughtful plan that reflects the needs of Project Participants and the responsive activities and interventions to be undertaken by the Applicant and its partners.

Every application must include a Budget Justification, placed after the Budget Forms SF 424 and 424A, explaining the sources and uses of project funds. The Budget Justification will not be counted as part of the Project Description subject to the thirty page limitation. Applicant should briefly but thoroughly describe how all of the resources available to the Project will be employed to carry out the Work Plan described in Element II, including those training elements and support services designed to help assure participant success in meeting their savings commitments and their chosen ''qualified expense'' use of their Individual Development Account assets. In the budget forms and supporting Budget Justification, Applicants must clearly distinguish between AFI Act/OCS grant funds and other funds, and between cash and in-kind resources described.

As noted above, the Budget Justification will not be counted as part of the Project Description subject to the thirty page limitation.

Evaluation Criteria 4: Approach II

Element IV. Project Data: Adequacy of Plan for Collecting, Validating and Providing Project-related Data for Management Information, Reporting, and Evaluation Purposes. (0–5 points)

Criteria: Adequacy of the plan for collecting, validating and providing relevant, accurate and complete data for internal management information, statutory reporting and project evaluation purposes; and clear expression of a commitment to cooperation with the statutorily mandated evaluation of the national Assets for Independence Demonstration Program.

Note: Under the AFI Act project grantees are required to use at least 2%—but not more than 9.5%—of grant funds to provide the research organization evaluating the

demonstration project with such information with respect to the demonstration project as may be required for the evaluation.

The AFI Act allocates a portion of the appropriated funds to support an evaluation of the overall demonstration program in addition to the funds grantees are required to expend on data collection. This Element requires the Applicant to provide a well thought-out plan for collecting, validating and reporting/-providing the necessary data in a timely fashion. The Applicant is also encouraged to identify the kinds of data it believes would facilitate the management information, reporting, and evaluation purposes. The Applicant should also declare its agreement to cooperate with the evaluation of the national program, and include a brief explanation of its perception of what that cooperation would entail. Applicants are urged to carry out an ongoing assessment of the data and information collected as an effective ''process'' management/feedback tool in implementing the project. If the Applicant anticipates such an undertaking, the plans should be briefly outlined here.

Note: To attain a maximum score for this Element, the Applicant must state its agreement to use the ''MIS IDA'' information system software developed by the Center for Social Development, or a comparable and compatible system, for the maintenance, collection, and transmission of data from the proposed project.

It is suggested that applicants use no more than 2 pages for this Element.

Evaluation Criteria 5: Non-Federal Resources

Element V. Commitment of Resources. (Total of 0–15 points)

Sub-Element V(a). Proportion of Public/Private Required Non-Federal Matching Contributions. (0–2 points)

Criterion: Whether a proportionately greater amount of committed required non-Federal matching contribution funds are from private sector as opposed to public sources.

In accordance with the legislative preferences set forth in Part III Section J Preferences, above, applications which provide a commitment of required non-Federal cash matching contributions with a proportionately greater amount of such funds committed from private sector as opposed to public sources will receive 2 points under this Element.

Applicants are reminded that as noted in PART II Section I Non-Federal Matching Funds Requirements, where the Applicant is itself providing any of the required cash non-Federal share, it must include in the Appendix a statement of commitment, on applicant letterhead, signed by the official signing the SF 424 and countersigned by the Applicant's Board Chairperson or Treasurer, that the non-Federal matching funds will be provided, contingent only on the OCS grant award, and that non-Federal share deposits and the opening of Individual Development Accounts will be coordinated so that new accounts will only be opened when there are sufficient funds in the Reserve Fund to cover the maximum matching requirements of the Savings Plan Agreements.

Sub-Element V(b). Availability of Additional Resources. (0–13 points)

Criterion: The extent to which additional resources (beyond the required amount of direct funds from non-federal public sector and from private sources that are formally committed to the project as matching contributions) will be available to support those activities and interventions identified in sub-Element II(b), such as economic literacy classes, ''qualified expense''-related training, counseling, post-employment support services, and crisis intervention.

As noted below in Part IV, Paragraph D Initial OCS Screening, the only applications which will be considered for competitive review are those which include written documentation of a commitment, contingent only on award of the OCS grant, from the provider(s) of non-Federal share, in cash as distinguished from in-kind, of at least the amount of the total Federal grant request.

OCS has determined that the strict legislative limitations on the use of Federal grant funds and of the minimum required non-Federal match (at least 90.5% of each must go toward matching deposits in Individual Development Accounts) mean that important training, counseling and support activities, critical to the success of a project, can best be supported by additional resources, both of the applicant itself and from the community.

In order to receive points in the review process under this sub-Element, the applicant must identify those additional resources, cash and in-kind, which will be dedicated to support of those activities and interventions identified in sub-Element II(b), such as economic literacy classes, training, counseling, post-employment support services, and crisis intervention; and any staff data collection/verification activities described in Element III. Such resources may be existing programs of the applicant or a project partner, such as Family Development, Economic Literacy classes, or Small Business Training, in which Project Participants will be enrolled as part of their efforts to achieve self-sufficiency. This Element will be judged in the review process on the adequacy of the available resources to support the activities and interventions described in sub-Element II(b). The commitment of such resources to the project must be documented in writing and submitted as an Appendix to the Application. Because such additional resources are not part of the legislatively mandated non-Federal matching requirement, these additional resources may be of Federal or non-Federal origin, public or private, in cash or in-kind. Applicants are reminded that they will be held accountable for commitments of such additional resources even if over the amount of the required match.

It is suggested that no more than 3 pages be used for this Element, not including non-Federal Share Agreements, assurances, letters of commitment, partnership agreements, or Memoranda of Understanding, which should be put in an Appendix to the proposal.

Evaluation Criteria 6: Results or Benefits Expected

Element VI. Significant and Beneficial Impacts/Critical Issues or Potential Problems. (0–10 points)

Criteria: The extent to which proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community and lead TANF recipients and other eligible individuals and working families toward economic self-sufficiency through economic literacy education and accumulation of assets; and the extent to which applicant convincingly explains how the project will meet any critical issues or potential problems in achieving these results.

Applicants should set forth their realistic goals and projections for attainment of these and other beneficial impacts of the proposed project and should demonstrate that projected savings goals have a true relationship to the ability of the participant to save the projected amounts and to the value or cost of the ''Qualified Expense'' for which the IDA is to be used.

Results are expected to be quantifiable in terms of the number of Individual Development Accounts opened, their rate of growth, the number and size of withdrawals for each of the three ''Qualified Expenses'', and the impact of the payment of those expenses on the

participants' movement toward self-sufficiency.

Applicants should also in this Element explicitly address critical issues or potential problems that might affect the achievement of project objectives, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems.

It is suggested that no more than 3 pages be used for this Element.

Part IV. Application Procedures

A. Application Development/ Availability of Forms

In order to be considered for a grant under this program announcement, an application must conform to the Program Requirements set out in Part II and be prepared in accordance with the guidelines set out in Part III, above. It must be submitted on the forms supplied in the attachments to this Announcement and in the manner prescribed below. Attachments A through I contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts IV and V of this Announcement contain all the instructions required for submittal of applications.

Additional copies may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT:** at the beginning of this announcement. In addition, this Announcement is accessible on the Internet through the OCS WEBSITE for reading or downloading at: http://www.acf.dhhs.gov/programs/ocs/ under ''Funding Opportunities''.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace, the Certification Regarding Environmental Tobacco Smoke, and debarment regulations set forth in Attachments G, H, and I.

Part III contains instructions for the substance and development of the project narrative. Part V contains instructions for completing application forms. Part VI, Section A describes the contents and format of the application as a whole.

B. Application Submission

(1) Number of Copies Required

One signed original application and four copies should be submitted at the time of initial submission. (OMB 0976–0139).

(2) Deadline

Mailed applications shall be considered as meeting the announced deadline of May 15, 2000 if they are either received on or before the deadline date or postmarked on or before the deadline date and received by ACF in time for the independent review. Mailed applications must be sent to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, ''Attention: IDA Program'', 370 L'Enfant Promenade, SW, Washington, DC 20447.

Applications submitted via overnight/ express delivery services should be addressed to the Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, ''Attention IDA Program'', 901 D Street SW, Fourth Floor, Washington, DC 20024.

Applicants must ensure that a legibly dated U.S. Postal Service postmark, or a legibly dated machine produced postmark of a commercial mail service, or an official dated receipt of an overnight/express delivery service, is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service or receipt from an overnight/ express delivery service company must include the logo/emblem of the company and must reflect the date the package was received by the company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing.

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: IDA Program''.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

(3) Late Applications

Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

(4) Extension of Deadlines

ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widespread disruption of the mails. A determination to waive or extend deadline requirements rest with ACF's Chief Grants Management Officer.

C. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/Territory Participation in the Intergovernmental Review Process Does not Signify Applicant Eligibility for Financial Assistance Under a Program. A Potential Applicant Must Meet the Eligibility Requirements of the Program for Which it is Applying Prior to Submitting an Application to its SPOC, if Applicable, or to ACF.

Attachment J is a Single Point of Contact List for participating jurisdictions. The following jurisdictions have elected not to participate in the Executive Order process: Alabama, Alaska, American Samoa, Colorado, Connecticut, Kansas, Hawaii, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington. Applicants from these jurisdictions, for projects administered by federally recognized Indian Tribes, or which are States, need take no action in regard to E.O. 12372. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact

if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, Mail Stop 6C–462, Washington, DC 20447.

D. Initial OCS Screening

Each application submitted under this program announcement will undergo a pre-review to determine that the application was postmarked by the closing date and submitted in accordance with the instructions in this announcement.

All applications that meet the published deadline requirements as provided in this Program Announcement will be screened for completeness and conformity with the following requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

The following requirements must be met by all Applicants except as noted:

(1) The application must contain a signed Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF 424B) completed according to instructions published in Part V and Attachments A, B, and C of this Program Announcement.

(2) A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 30 letter-size pages, numbered, and typewritten on one side of the paper only with one-inch margins and type face no smaller than 12 characters per inch (c.p.i.) or equivalent. Applications with project narratives (excluding Project Summaries and appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. The Joint Applicant Agreement (where applicable), non-Federal share agreement, Budget Narrative, Charts, exhibits, resumes, position descriptions, letters of support or commitment, Agreements with Financial Institutions and other partnering organizations, and Business Plans (where required) are not counted against this page limit, and should be in the Appendix. It is strongly recommended that applicants follow the format and content for the narrative described in the program elements set out in part III.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

(4) Application must contain documentation of the applicant's (or joint applicant's) tax exempt status as required under Part II, Section A.

(5) Application must include a copy of a ''Non-Federal Share Agreement'' or Agreements in writing executed with the entity or entities providing the required non-Federal matching contributions, signed by a person authorized to make a commitment on behalf of the entity and signed for the Applicant by the person signing the SF424. Such Agreement(s) must include: (1) A commitment by the organization to provide the non-Federal funds contingent only on the grant award; and (2) an agreement as to the schedule of the opening of Individual Development Accounts by the Applicant, and the schedule of deposits by the organization to the project's Reserve Fund, such that the two schedules will together assure that there will be at all times in the Reserve Fund non-Federal matching contribution funds sufficient to meet the maximum pledges of matching contributions under the ''Savings Plan Agreements'' for all Individual Development Accounts then open and being maintained by the grantee as part of the demonstration project.

Where Applicants (or Joint Applicants) themselves are providing non-Federal share funding, then with regard to those funds the application should include an assurance, signed by the person signing the SF424, and countersigned by the board Chairperson or Treasurer that the required non-Federal share funds will be provided and that deposits and the opening of Individual Development Accounts will be coordinated so that new accounts will only be opened when there are sufficient funds in the Reserve Fund to cover the maximum matching requirements of the Savings Plan Agreements. (See part II, Section I.)

Applicants are strongly encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal, for support of project administration and assistance to Project Participants in obtaining skills, knowledge, and needed support services. [See part III, Element V(b)]

(6) All Applications must include a copy of an Agreement between the Applicant and one or more Qualified Financial Institution(s), which states that the accounting procedures to be followed in account management will conform to Guidelines (45 CFR part 74) established by the Secretary, and under which the partnering financial institution will agree to provide data and reports as requested by the applicant.

E. Consideration of Applications. Applications which pass the initial OCS screening will be reviewed and rated by an independent review panel on the basis of the specific review criteria described and discussed in Part III, above. Applications will be reviewed and rated under the Program Elements and Review Criteria set forth in part III I. The review criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The review criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the review criteria and program elements within the context of this Program Announcement. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion by applicant of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; the amount and duration of the grant requested and the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of

mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

Since non-Federal reviewers will be used for review of applications, Applicants may omit from the application copies which will be made available to the non-Federal reviewers, the specific salary rates or amounts for individuals identified in the application budget. Rather, only summary information is required.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

F. Reconsideration

After Federal funds are exhausted for this grant competition, applications which have been independently reviewed and ranked but have no final disposition (neither approved nor disapproved for funding) may again be considered for funding. Reconsideration may occur at any time funds become available within twelve (12) months following ranking. ACF does not select from multiple ranking lists for a program. Therefore, should a new competition based on the same review criteria be scheduled and applications remain ranked without final disposition, such applications will be re-reviewed by independent reviewers in the new competition and ranked according to the new score. At the same time, such applicants will be informed of their opportunity instead to obtain reviewer comments from OCS and to reapply for the new competition, if they so choose, and to the extent practical, in which case the previous application will be disregarded.

Part V. Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments A and B) as modified by the OCS specific instructions set forth below:

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

(**Note:** The Budget detail and Narrative Budget Justification should follow the SF 424 and 424A, and are not counted as part of the Project Narrative.)

A. SF–424—Application for Federal Assistance (Attachment A)

Top of Page

Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled Federal Identifier located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. If applicant is a State, enter ''A'' in the box. If applicant is an Indian Tribe enter ''K'' in the box. If applicant is a non-profit organization enter ''N'' in the box.

Item 9. Name of Federal Agency—Enter DHHS-ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.602. The title is ''Assets for Independence Demonstration Program (IDA Program)''.

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations:

I—Individual Projects Under Priority Area 1.0

Item 13. Proposed Project—The project start date must begin on or before September 30, 2000; the ending date should be calculated on the basis of 60-month Project Period.

Item 15a. This amount should be no greater than $500,000 for applications under Priority Area 1.0.

Item 15b-e. These items should reflect both cash and third-party, in-kind contributions for the Project Period (60 months).

B. SF–424A—Budget Information—Non-Construction Programs (Attachment B)

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in *Non-Federal* entries.

Sections A, B, and C of SF–424A should reflect budget estimates for each year of the Project Period.

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts)

Col. (a): Enter ''IDA Program'' as Item number 1. (Items 2, 3, 4, and 5 should be left blank.)

Col. (b): Catalog of Federal Domestic Assistance number is 93.602. Col. (c) and (d): not relevant to this program.

Column (e)–(g): enter the appropriate amounts in items 1. and 5. (Totals) Column e should not be more than $500,000 for applications under Priority Area 1.0, and in no case can it be more than the committed non-Federal matching cash contribution.

Section B—Budget Categories

(Note that the following information supersedes the instructions provided with the Form in Attachment C)

Columns (1)–(5): For each of the relevant Object Class Categories:

Column 1: Enter the OCS grant funds for the full 5-year budget period. With regard to Class Categories, all of OCS grant funds should be entered in ''h. Other'', representing the funds to be deposited in the Reserve Fund.

Columns 2, 3 and 4 are not relevant to this program.

Column 5: Enter the total federal OCS grant funds for the five year budget by Class Categories under ''other'', showing a total of not more than $500,000.

Section C—Non Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project, including both the required cash non-Federal ''matching contributions'' share, and the ''additional resources'' which will bring additional support to the project, which may be cash or in-kind, non-Federal or Federal. In this context, ''Non-Federal'' resources mean any and all resources other than the OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program or the Welfare-to-Work program, should be entered on these lines. Provide a brief listing of

these ''non-Federal'' resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party cash or in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process under the Non-Federal Resources program element.

Note: Even though non-Federal resources mobilized may go beyond the amount required as match under the IDA Program, grantees will be held accountable for any such cash or in-kind contribution proposed or pledged as part of an approved application where the use of such funds falls within a Program Element/Proposal Review Criterion which formed the basis for the grant award. [See part II, Section I. and part III, Element V(b).]

Sections D, E, and F may be left blank by Applicants under Priority Area 1.0.

As noted in Part VI, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, with justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances: Non-Construction Programs

Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' (Attachment C) Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. (See Attachments D and E) Applicants must sign and return the certification with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 U.S.C. 1352.

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1988 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). (See Attachments G and H) By signing and submitting the applications, applicants are attesting to their intent to comply with these requirements and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. (See Attachment I) By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurances are located at the end of this announcement.

Part VI. Contents of Application and Receipt Process

Application pages should be numbered sequentially throughout the application package, beginning with a Summary/Abstract of the proposed project as page number one; and each application must include all of the following, in the order listed below:

A. Content and Order of IDA Program Application

1. A Project Summary/Abstract—Brief, not to exceed one page, on the Applicant's letterhead, that includes the information listed in Part III, Section B.
2. Table of Contents;
3. A completed Standard Form 424 (Attachment A) which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization];
4. A completed Budget Information-Non-Construction Programs (SF–424A) (Attachment B);
5. A Budget Justification, including narrative budget justification for each object class category included under Section B, as described in Part III, Program Element III;
6. Proof of current tax-exempt status of Applicant or Joint Applicant (See Part II B.);
7. *A project narrative*, limited to the number of pages specified below, which includes all of the required elements described in Part III. [Specific information/data required under each component is described in Part III Section I, Evaluation Criteria.]
8. *Appendices,* which should include the following:

(a) (Where Application is submitted by a State or Local government agency or Tribal government jointly with a tax exempt non-profit organization) a properly executed *Joint Application Agreement* as described in Part II B.(2), above;

(b) Filled out, signed and dated *Assurances—Non-Construction Programs* (SF–424B), (Attachment C);

(c) *Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements:* filled out, signed and dated form found at Attachment D;

(d) *Disclosure of Lobbying Activities, SF–LLL:* Filled out, signed and dated form found at Attachment E, if appropriate (omit Items 11–15 on the SF LLL and ignore references to continuation sheet SF–LLL–A)

(e) *Maintenance of Effort Certification* (See Attachment F);

(f) Signed *Agreement(s)* with partnering Financial Institution(s) including identification of insurance carrier and current insurance number;

(g) Signed *Agreements with providers of required non-Federal matching contributions* (See Part II, Section I.)

(h) Resumes and/or position descriptions (see Part III Program Element I);

(i) (Where Applicant is ''lead agency'' of a collaborative or consortium of CBO's) Copies of *Partnering Agreements between the Applicant and each of the member CBO's*, setting forth their roles and responsibilities. (See Part III, Elements I and II(b))

(j) Any letters and/or supporting documents from collaborating or partnering agencies in target communities, providing additional information on staffing and experience in support of narrative under Part III Element I. [Such documents are not part of the Narrative and should be included in the Appendices. These documents are therefore not counted against the page limitations of the Narrative.]; and

(k) Single points of contact comments, if applicable.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound plans, or plans enclosed in binders is specifically discouraged.

B. Acknowledgment of Receipt

Acknowledgment of Receipt—All applicants will receive an acknowledgment with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their Application, or a FAX number or e-mail address which can be used for acknowledgment. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the Application. If an acknowledgment is

not received within three weeks after the deadline date, please notify ACF by telephone at (202) 205–5082.

Part VII. Post Award Information and Reporting Requirements.

A. Notification of Grant Award.

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

B. Attendance at Evaluation Workshops

OCS hopes to sponsor one or more national evaluation workshops in Washington, DC or in other locations during the course of the five-year project. Project Directors will be expected to attend such workshops provided additional funds can be made available by OCS for expenses of attending.

C. Reporting Requirements

Grantees will be required to submit a semi-annual program progress and financial report (SF 269) covering the six months after grant award, and similar reports after conclusion of the first Project Year. Such reports will be due 60 days after the reporting period. Thereafter grantees will be required to submit annual program progress and financial reports (SF 269), as well as a final program progress and financial report within 90 days of the expiration of the grant.

D. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR part 74 (non-profit organizations) or part 92 (governmental entities) which require audits under OMB Circular A–133.

E. Prohibitions and Requirements With Regard to Lobbying

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the non-appropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification.

The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H, for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment K indicates the regulations which apply to all applicants/grantees under the Assets for Independence Demonstration Program.

Dated: November 23, 1999.

Donald Sykes,

Director, Office of Community Services.

Assets for Independence Demonstration Program

List of Attachments

Attachment A—Application for Federal Assistance
Attachment B—Budget Information—Non-Construction Programs
Attachment C—Assurances—Non-Construction Programs
Attachment D—Certification Regarding Lobbying
Attachment E—Disclosure of Lobbying Activities
Attachment F—Certification Regarding Maintenance Effort
Attachment G—Certification Regarding Drug-Free Workplace Requirements
Attachment H—Certification Regarding Environmental Tobacco Smoke
Attachment I—Certification Regarding Debarment, Suspension and Other Responsibility Matters
Attachment J—E.O. 12372 State Single Point of Contact List
Attachment K—DHHS Regulations Applying to All Applicants/Grantees Under The Assets for Independence Demonstration Program (IDA Program)
Attachment L—Accounting Regulations

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Attachment A

OMB Approval No. 0348-004

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application: ☐ **Construction** ☐ **Non-Construction**

Preapplication: ☐ **Construction** ☐ **Non-Construction**

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code):*

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Prescribed by OMB Circular A-102

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Attachment A.—Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item No. and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (*e.g.*, construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (*e.g.*, State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowance, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (certain Federal agencies may require that this authorization be submitted as part of the application.)

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Attachment B

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Attachment B, page 2

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page

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Attachment B.—Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–??4), Washington, DC ??503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the programs. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog Number) and requiring a functional or activity breakdown enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for teach program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5. Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimate of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total of each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment C.—Assurances—Non-construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the

data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the AGe Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 265c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Signature of authorized certifying official

Applicant organization

Title

Date submitted

Attachment D.—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress,

or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Attachment E

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Attachment E.—Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to tile 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity, include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st entire. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Attachment F.—Certification Regarding Maintenance of Effort

In accordance with the applicable program statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the Program by (Applicant Organization), will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

Signature of Authorized Certifying Official
Title

Date

Attachment G.—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement;

consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces.)

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment H.—Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment I.—Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the

certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment J.—State Single Point of Contact Listing Maintained by OMB

In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' Section 4, ''the Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development.'' This attached listing is the OFFICIAL OMB LISTING. This listing is also published in the Catalogue of Federal Domestic Assistance biannually.

*August 23, 1999, OMB State Single Point of Contact Listing**

Arizona

Joni Saad
Arizona State Clearinghouse
3800 N. Central Avenue
Fourteenth Floor
Phoenix, Arizona 85012
Telephone: (602) 280–1315
FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
515 W. 7th St., Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682–1074
FAX: (501) 682–5206

California

Grants Coordination
State Clearinghouse
Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, California 95814
Telephone: (916) 445–0613
FAX: (916) 323–3018

Delaware

Francine Booth

State Single Point of Contact
Executive Department
Office of the Budget
540 S. Dupont Highway
Suite 5
Dover, Delaware 19901
Telephone: (302) 739–3326
FAX: (302) 739–5661

District of Columbia

Charles Nichols
State Single Point of Contact
Office of Grants Mgmt. and Dev.
717 14th Street, N.W., Suite 1200
Washington, D.C. 20005
Telephone: (202) 727–1700 (direct)
FAX: (202) 727–1617

Florida

Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399–2100
Telephone: (850) 922–5438
FAX: (850) 414–0479
Contact: Cherie Trainor (850) 414–5495

Georgia

Deborah Stephens
Coordinator
Georgia State Clearinghouse
270 Washington Street, S.W., 8th Floor
Atlanta, Georgia 30334
Telephone: (404) 656–3855
FAX: (404) 656–7901

Illinois

Virginia Bova, State Single Point of Contact
Illinois Department of Commerce and Community Affairs
James R. Thompson Center
100 West Randolph, Suite 3–400
Chicago, Illinois 60601
Telephone: (312) 814–6028
FAX: (312) 814–1800

Indiana

Renee Miller
State Budget Agency
212 State House
Indianapolis, Indiana 46204–2796
Telephone: (317) 232–2971 (directline)
FAX: (317) 233–3323

Iowa

Steven R. McCann
Division for Community Assistance
Iowa Department of Economic Development
200 East Grand Avenue
Des Moines, Iowa 50309
Telephone: (515) 242–4719
FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director
Sandra Brewer, Executive Secretary
Intergovernmental Affairs
Office of the Governor
700 Capitol Avenue
Frankfort, Kentucky 40601
Telephone: (502) 564–2611
FAX: (502) 564–0437

Maine

Joyce Benson
State Planning Office
184 State Street
38 State House Station
Augusta, Maine 04333
Telephone: (207) 287–3261
FAX: (207) 287–6489

Maryland

Linda Janey
Manager, Plan and Project Review
Maryland Office of Planning
301 W. Preston Street, Room 1104
Baltimore, Maryland 21201–2365
Staff Contact: Linda Janey
Telephone: (410) 767–4490
FAX: (410) 767–4480

Michigan

Richard Pfaff
Southeast Michigan Council of Governments
660 Plaza Drive, Suite 1900
Detroit, Michigan 48226
Telephone: (313) 961–4266
FAX: (313) 961–4869

Mississippi

Cathy Mallette
Clearinghouse Officer
Department of Finance and Administration
550 High Street
303 Walters Sillers Building
Jackson, Mississippi 39201–3087
FAX: (601) 359–6758

Missouri

Lois Pohl
Federal Assistance Clearinghouse
Office of Administration
P.O. Box 809
Jefferson Building, 9th Floor
Jefferson City, Missouri 65102
Telephone: (314) 751–4834
FAX: (314) 751–7819

Nevada

Department of Administration
State Clearinghouse
209 E. Musser Street, Room 220
Carson City, Nevada 89710
Telephone: (702) 687–4065
FAX: (702) 687–3983
Contact: Heather Elliot
(702) 687–6367

New Hampshire

Jeffrey H. Taylor
Director, New Hampshire Office of State Planning
Attn: Intergovernmental Review Process
Mike Blake
2½ Beacon Street
Concord, New Hampshire 03301
Telephone: (603) 271–2155
FAX: (603) 271–1728

New Mexico

Nick Mandell
Local Government Division
Room 201 Bataan Memorial
Santa Fe, New Mexico 87503
Telephone: (505) 827–3640
FAX: (505) 827–4984

New York

New York State Clearinghouse
Division of the Budget
State Capitol
Albany, New York 12224
Telephone: (518) 474–1605
FAX: (518) 486–5617

North Carolina

Jeanette Furney
North Carolina Department of Administration
116 West Jones Street—Suite 5106
Raleigh, North Carolina 27603–8003
Telephone: (919) 733–7232
FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact
Office of Intergovernmental Assistance
600 East Boulevard Avenue
Bismarck, North Dakota 58505–0170
Telephone: (701) 224–2094
FAX: (701) 224–2308

Rhode Island

Kevin Nelson
Review Coordinator
Department of Administration
Division of Planning
One Capitol Hill, 4th Floor
Providence, Rhode Island 02908–5870
Telephone: (401) 277–2656
FAX: (401) 277–2083

South Carolina

Omeagia Burgess
State Single Point of Contact
Budget and Control Board
Office of State Budget
1122 Ladies Street—12th Floor
Columbia, South Carolina 29201
Telephone: (803) 734–0494
FAX: (803) 734–0645

Texas

Tom Adams
Governor Office
Director, Intergovernmental Coordination
P.O. Box 12428
Austin, Texas 78711
Telephone: (512) 463–1771
FAX: (512) 936–2681

Utah

Carolyn Wright
Utah State Clearinghouse
Office of Planning and Budget
Room 116 State Capitol
Salt Lake City, Utah 94114
Telephone: (801) 538–1027
FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director
Community Development Division
W. Virginia Development Office
Building #6, Room 553
Charleston, West Virginia 25305
Telephone: (304) 558–4010
FAX: (304) 558–3248

Wisconsin

Jeff Smith
Section Chief, Federal/State Relations
Wisconsin Department of Administration
101 East Wilson Street—6th Floor
P.O. Box 7868
Madison, Wisconsin 53707
Telephone: (608) 266–0267
FAX: (608) 267–6931

Wyoming

Sandy Ross
State Single Point of Contact
Department of Administration and Information
2001 Capitol Avenue, Room 214
Cheyenne, WY 82002
Telephone: (307) 777–5492

FAX: (307) 777–3696

Territories

Guam

Joseph Rivera
Acting Director
Bureau of Budget and Management Research
Office of the Governor
P.O. Box 2950
Agana, Guam 96932
Telephone: (671) 475–9411 or 9412
FAX: (671) 472–2825

Puerto Rico

Jose Caballero-Mercado
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*In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs'' this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process BUT GRANT APPLICANTS ARE STILL ELIGIBLE TO APPLY FOR THE GRANT EVEN IF YOUR STATE, TERRITORY, COMMONWEALTH, ETC DOES NOT HAVE A ''STATE SINGLE POINT OF CONTACT.'' STATES WITHOUT ''STATE SINGLE POINTS OF CONTACT'' INCLUDE: Alabama, Alaska; American Samoa; Colorado; Connecticut; Hawaii; Idaho; Kansas; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

Attachment K.—DHHS Regulations Apply to All Applicants/Grantees Under the Assets for Independence Demonstration Program (IDA Program)

Title 45 of the Code of Federal Regulations:

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (grants with subgrants to entities)
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance
Subpart F—Drug Free Workplace Requirements
Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VIp of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non-Discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services
Part 86—Non-discrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)
Part 93—New Restrictions on Lobbying Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment L.—Accounting Regulations

The Program Announcement states in Part II Sections G(1) and M that the Accounting Regulations for maintenance of the Reserve Fund to which partnering financial Institutions must adhere could be found in this Attachment L.

As this Program Announcement went to press the subject Accounting Regulations were still in clearance. Consequently, they are not available for inclusion at this time: and instead, copies of the Regulations, which basically conform to CFR part 74, will be made available to grantees at the time of grant award.

[FR Doc. 99–31321 Filed 12–13–99; 8:45 am]

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Tuesday
December 14, 1999

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 11

General Rulemaking Procedures; Plain Language Clarification; Proposed Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11

[Docket No. FAA–1999–6622; Notice No. 99–20]

RIN 2120–AG95

General Rulemaking Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FAA is issuing this proposed rule in response to President Clinton's mandate to Federal agencies to make communications with the public more understandable. FAA proposes to revise and clarify its rulemaking procedures by putting them into plain language and by removing redundant and outdated material. Rulemaking procedures are an important way for the public to interact with FAA, and it is important that these procedures be easy to understand and follow.

DATES: Send your comments on or before January 28, 2000.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, SW, Washington, DC 20590–0001. You must identify the docket number FAA–1999–6622 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA has received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Donald Byrne, Assistant Chief Counsel, Regulations Division, AGC–200, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone: (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–1999–6622.'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

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

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

1. Proposed Substantive Changes

We propose to revise part 11 by eliminating redundant and outdated information that is not necessary to public participation in the rulemaking process. We also propose to remove supplementary information available on request from FAA, such as internal delegations of authority. This change will help FAA keep its procedures current because we will be able to change supplementary information that is not critical to your participation in the rulemaking process without the need to revise Part 11.

Because of the elimination of redundant material from subparts A through E, FAA will fold all its rulemaking procedures into one subpart, A. This rulemaking consolidates material on different aspects of our regulatory program into one subpart, clarifying that there is really only one basic process the public must follow to interact with our regulatory program. We will eliminate some provisions that are obsolete. These changes are explained in more detail in the following paragraphs. Finally, we will update our list of information collection clearance numbers found in current subpart F, now redesignated subpart B. New subpart B is not printed here; it will be included in the final version of part 11.

A. General Changes

FAA is proposing some general changes that will impact several different sections in the rule.

Petitions for Reconsideration of Final Rules. We have removed any reference in proposed part 11 to petitions for reconsideration of a final rule. The current rule discusses this procedure only for final rules for the designation of controlled airspace and for airworthiness directives (see current §§ 11.73 and 11.93). Actually, under both current part 11 and proposed part 11 you may ask FAA to reconsider any agency final rule by following FAA rulemaking procedures. For example, if the FAA issues a final rule accompanied by a request for comments, you may submit arguments why the final rule should not have been adopted. If we agree, we may issue another final rule repealing or revising the earlier rule.

In addition, you may file a petition for rulemaking to repeal or revise a final rule we recently adopted. If we agree with you that we should not have adopted the final rule, we may issue

another final rule repealing or revising it. If you persuade us that the final rule was not reasonable in light of the record, including the comments we received, we may do this by issuing an immediate final rule to correct the problem. If you provide information that we didn't have before, we may need to preface our repeal or revision with an opportunity for others to comment.

Petitions for Reconsideration of Denied Petitions. We have created a single, simplified section to explain how to obtain reconsideration of a denial of a petition for rulemaking or exemption. It is a simplified version of the rule that currently applies to denials of exemption (§ 11.55(d)). You have to present a significant new fact and tell us why you didn't include it in your original petition. Or you have to show us how we made a significant factual error or misapplied a law, regulation, or precedent incorrectly. If you can't do this, we won't be able to accept your petition for reconsideration.

Rules and Procedures for Airspace Designation. The procedures for designation of airspace currently in subpart D of part 11 are a variation of the other rulemaking procedures found elsewhere in part 11. As we have noted, we propose to consolidate all our rulemaking procedures in one subpart. We will continue to separately state other information specific to the process of designating airspace. For example, in new § 11.77, we have indicated what information you must provide when you petition the FAA to establish, amend, or revoke an airspace designation. This information is in addition to what you must provide with any other petition for rulemaking.

We have removed discussion of the Administrative Procedure Act for airspace actions, since it is the same as for other subparts. We also removed any reference to ''orders,'' since we no longer use them to designate airspace. We only use regulations that we adopt using part 11 procedures. Also, we have removed references to most internal delegations. New part 11 would not specify time periods for agency action. The FAA will respond to petitions for airspace designations in a timely manner, and will provide a reasonable time for you to submit comments and to participate in any public meetings.

We have removed the reference now in § 11.65 that says an interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. This provision is contrary to DOT ex-parte policy, which prohibits non-public contacts with DOT officials once an NPRM has been issued. Where discussion of a proposal is appropriate, the FAA will hold an open public meeting.

We have removed the provisions now in § 11.67 for conducting hearings. Informal airspace meetings generally have replaced this procedure. These meetings are held prior to issuing an NPRM. We issue a notice announcing them in the **Federal Register** and open them to the public. At the meeting, we accept oral as well as written comments. The purpose of these meetings is to collect information from local aviation users on the impact on operations in the area of airspace changes we are considering.

Publication of Petitions for Rulemaking. We have removed any reference to the publication of summaries of petitions for rulemaking for public comment.

The FAA no longer publishes these summaries because we do an initial screening when we receive your petition. In circumstances where your petition does not meet our criteria for action, we will deny your petition without delay. In deciding whether to take action on your petition, we consider: the immediacy of the safety or security concerns you raise; their priority relative to other issues we must address; and the resources we have available to address these issues. We also may decline to handle your petition as a separate action if we are already addressing the issues you raise. For example, if we have tasked the Aviation Rulemaking Advisory Committee (ARAC) to study the general subject area of your petition, we may ask the ARAC to review and evaluate your proposed action as well.

If your petition meets these criteria for action, and we are not otherwise addressing the issues you raise, we will respond by issuing a Notice of Proposed Rulemaking (NPRM) no later than 6 months after we receive your petition. In such a case, we invite public comment on the proposed rule, rather than on your petition itself.

The FAA no longer publishes summaries of denials of petitions for rulemaking, in order to preserve resources for processing priority rulemaking actions.

Removal of Delegations. We have removed almost all the references to internal FAA delegations involving the processing of rulemaking actions. A number of these delegations in current part 11 are no longer accurate. We will publish a separate notice in the **Federal Register**, telling you who exercises the authority of the Administrator in rulemaking matters. Doing this by notice instead of regulation will make it easier for us to keep this information current. You can get this information from us at any time.

We have retained some references to delegations where you need to know them to participate in the rulemaking process. For example, the Director of Rulemaking accepts most petitions for rulemaking or exemption on behalf of the Administrator. Other officials accept certain other petitions. These are shown in tables in the proposed text.

Special Conditions. We have removed the discussion of special conditions now in § 11.28. The FAA issues special conditions when we find that the airworthiness standards for a proposed aircraft, engine, or propeller design do not contain adequate or appropriate safety standards, because of a novel or unusual design feature. The FAA follows the same rulemaking procedures as it does for general rules, and thus there is no need to address special condition regulations separately. FAA publishes additional information in the **Federal Register** notice to assist you in commenting on a proposed special condition.

Legal Citations. Current part 11 identifies some types of rulemaking by the statutory authority under which they are issued. For example, subpart D, which deals with the processing of airspace designations, refers to them as ''rules and orders issued under § 307(a) of the Federal Aviation Act of 1958.'' In plain language, we call these simply ''airspace designations.'' In addition, most of the legal citations in current part 11 are out of date. We have removed them since they are unnecessary to understanding the process. We will continue to include in the regulatory documents themselves legal citations to the authority under which we issue them.

Electronic Filing. The new rule makes clear that we will accept comments, petitions, requests for extension of comment periods, and other requests from the public by e-mail.

B. Description of Proposed Sections

Section 11.1: To what does this part apply? Proposed § 11.1 states that the part applies to FAA rulemaking actions covered by the Administrative Procedure Act (APA).

Section 11.3: What are the most common kinds of rulemaking actions for which FAA follows APA procedures? Proposed § 11.3 lists the most common types of rulemaking actions taken by FAA that are covered by the Administrative Procedure Act.

Section 11.5: Does FAA follow the same procedures in issuing all three types of rules? Proposed § 11.5 states

that FAA follows the same general procedures for all these types of rules.

Section 11.11: How does FAA issue rules? Proposed § 11.11 lists the types of rulemaking documents that FAA issues, such as notices of proposed rulemaking and final rules, and what we put in the documents.

Section 11.13: What is an advance notice of proposed rulemaking? Proposed § 11.13 describes an advance notice of proposed rulemaking.

Section 11.15: Are there other ways FAA collects specific rulemaking recommendations before we issue an NPRM? Proposed § 11.15 describes FAA's use of the Aviation Rulemaking Advisory Committee and other rulemaking advisory committees to get advice about specific rulemakings.

Section 11.17: What is a notice of proposed rulemaking? Proposed § 11.17 describes a notice of proposed rulemaking.

Section 11.19: What is a supplemental notice of proposed rulemaking? Proposed § 11.19 describes a supplemental notice of proposed rulemaking.

Section 11.21: May FAA change its regulations without first issuing an ANPRM or NPRM? Proposed § 11.21 explains the circumstances under which FAA may adopt, amend, or repeal regulations without first issuing an ANPRM or NPRM.

Section 11.23: What is a final rule? Proposed § 11.23 describes a final rule.

Section 11.25: What is a direct final rule? Proposed § 11.25 describes a direct final rule.

Section 11.27: How does FAA process direct final rules? Proposed § 11.27 discusses FAA's publication of information on direct final rules in the **Federal Register** and how FAA deals with adverse comments on direct final rules.

Section 11.29: What is a final rule with request for comments? Proposed § 11.29 discusses when FAA might ask for comments on a final rule for which we did not issue an NPRM.

Section 11.31: How can I track FAA's rulemaking activities? Proposed § 11.31 discusses how the public can use the docket number and the regulation identifier number (RIN) to track FAA's rulemaking activities in the Department of Transportation's Docket Management System (DMS) and in the **Federal Register**.

Section 11.33: Does FAA include sensitive security information in the DMS? Proposed § 11.33 explains that FAA removes sensitive security information from public comments before putting them in the DMS.

Section 11.35: Where can I find information about an Airworthiness Directive, an airspace designation, or a petition handled in a region? Proposed § 11.35 specifies that you can get information about rulemaking actions taken in the regions by contacting the person listed in the **Federal Register** notice about the action.

Section 11.37: How may I participate in FAA's rulemaking process? Proposed § 11.37 explains that you may participate in FAA's rulemaking by filing comments, requesting a meeting, or filing a petition.

Written Comments

Section 11.41: Who may file comments? Proposed § 11.41 explains that anyone may file written comments about proposals made in any rulemaking document that requests public comments.

Section 11.43: What information must I put in my written comments? Proposed § 11.43 lists the information that you must include in any comments on FAA's rulemaking.

Section 11.45: Where and when do I file my comments? Proposed § 11.45 addresses the timeframes for filing comments.

Section 11.47: May I ask for more time to file my comments? Proposed § 11.47 explains how to request more time to file comments.

Public Meetings and Other Proceedings

Section 11.51: May I request that FAA hold a public meeting on a rulemaking action? Proposed § 11.51 explains how to request a public meeting on a rulemaking action.

Section 11.53: What takes place at a public meeting? Proposed § 11.53 explains the nature of a public meeting.

Petitions for Rulemaking and for Exemption

Section 11.61: May I ask FAA to add, amend, or repeal a regulation, or grant relief from the requirements of a current regulation? Proposed § 11.61 explains that you may ask FAA to adopt, amend, or repeal a regulation, or grant relief from a regulation, by filing a petition.

Section 11.63: Where and to whom do I submit my petition for rulemaking or petition for exemption? Proposed § 11.63 provides an address to which you should send your petition for rulemaking or petition for exemption. The rule would no longer discuss where to file petitions for exemption from the medical standards in part 67, since exceptions to these standards are now handled by special issuances under § 67.401.

Section 11.71: What information must I include in my petition for rulemaking? Proposed § 11.71 lists the information you must include in your petition for rulemaking.

Section 11.73: How does FAA process petitions for rulemaking? Proposed § 11.73 discusses how FAA handles petitions for rulemaking, including under what circumstances FAA may dismiss your petition.

Section 11.75: Does FAA invite public comment on petitions for rulemaking? Proposed § 11.75 states that FAA does not invite public comment on petitions for rulemaking.

Section 11.77: Is there any additional information I must include in my petition for designating airspace? Proposed § 11.77 lists additional information you must include in a petition to designate airspace.

Section 11.81: What information must I include in my petition for an exemption? Proposed § 11.81 lists information you must include in your petition for an exemption.

Section 11.83: Are exemptions FAA grants under this part valid outside the United States? Proposed § 11.83 explains how FAA handles exemptions that you want to use outside the United States.

Section 11.85: Does FAA invite public comment on petitions for exemption? Proposed § 11.85 discusses how FAA publicizes petitions.

Section 11.87: Are there circumstances under which FAA may decide not to publish a summary of my petition for exemption? Proposed § 11.87 explains what information you must provide to FAA to convince us not to delay your petition by publishing it.

Section 11.89: How much time do I have to submit comments to FAA on a petition for exemption? Proposed § 11.89 lists the amount of time usually allowed for comments on a petition for exemption.

Section 11.91: What information does FAA publish when it grants or denies my petition for exemption? Proposed § 11.91 lists what information FAA publishes after making a decision about a petition for exemption.

Section 11.101: Can I ask FAA to reconsider my petition for rulemaking or petition for exemption if it is denied? Proposed § 11.101 explains how you can request FAA to reconsider petitions that we have denied.

Section 11.201—OMB control numbers assigned pursuant to the Paperwork Reduction Act: The text of this section will be updated and will appear in full in the final rule.

2. Clearer Regulatory Format

Plain language helps readers find requirements quickly and understand them easily. To do that, we have reorganized and reworded the regulation using plain-language techniques not usually found in the **Federal Register** and the Code of Federal Regulations (CFR).

- We have used undesignated center headings to cluster related sections within subpart A.
- We have shortened sections, paragraphs, and sentences, and where possible used simple words to speed up reading and improve understanding.
- Our section headings in the form of questions help direct the readers to specific material they are interested in.
- We have used personal pronouns to reduce passive voice and draw readers into the writing.
- We have used tables to display complex information in a simple, easy-to-read format.

3. Rulemaking Analyses and Assessments

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that it's economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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. Therefore, we determined that this notice does not have federalism implications.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

This proposed rule clarifies and revises FAA's general rulemaking procedures to make them easier for the public to understand. It's economic impact is minimal. Therefore, we certify that this proposed action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with part 11.

International Trade

The Office of Management and Budget directs the FAA to assess whether or not a regulatory change would affect international trade. We determined that the provisions of this proposed rule would have no impact on trade for U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532–1538) requires the FAA to assess the effects of Federal regulatory actions on state, local, and tribal governments, and on the private sector of proposed rules that contain a Federal intergovernmental or private sector mandate that exceeds $100 million in any one year. This action does not contain such a mandate.

Cross Reference

To identify where we have relocated present regulations in the proposed rule, the following cross-reference table is provided:

CROSS REFERENCE TABLE

Current part 11	Proposed part 11	Reason for change
Subpart A	Subparts A–E combined	Subparts were redundant.
§ 11.1 Applicability	§§ 11.1 and 11.3.	
§ 11.11 Docket	§§ 11.31 and 11.45.	
§ 11.13 Delegation of authority	None	Not needed in rule, to be published separately.
§ 11.15 Emergency exemptions	None	Unnecessary, applied only to ''enemy attack on the United States.''
§ 11.17 Direct final rule	§§ 11.25 and 11.27.	
Subpart B:		
§ 11.21 Scope	None	Substance included principally in proposed §§ 11.1 through 11.11.
§ 11.23 Initiating rulemaking procedures	None	Unnecessary language.
§ 11.25 Petitions for rulemaking or exemption.	§ 11.61 and following.	
§ 11.27 Action on petitions for rulemaking or exemption.	§ 11.61 and following.	
§ 11.28 Action on special conditions	None	Not needed.
§ 11.29 Notice of proposed rulemaking	§ 11.11 and following.	
§ 11.31 Participation of interested persons in rulemaking procedures.	§§ 11.41 and 11.43.	
§ 11.33 Additional rulemaking proceedings	§ 11.51 and following.	
§ 11.35 Participation by Civil Aeronautics Board in rulemaking proceedings.	None	CAB has been abolished.

CROSS REFERENCE TABLE—Continued

Current part 11	Proposed part 11	Reason for change
§ 11.37 Requests for informal appearances	None	Procedure no longer available.
Subpart C:		
§ 11.41 Scope	None	Delegations not needed in rule, to be published separately.
§ 11.43 Processing of petitions for rulemaking or exemption from parts of this chapter.	None	Unnecessary, internal procedure.
§ 11.45 Issue of notice of proposed rulemaking.	None	Delegations not needed in rule, to be published separately.
§ 11.47 Proceedings after notice of proposed rulemaking.	Para. (a) to § 11.45.	
	Para. (b)—none	Internal procedures.
§ 11.49 Adoption of final rules	None	Internal procedures and delegations.
§ 11.51 Denial of petition for rulemaking	None	Internal procedures.
§ 11.53 Grant or denial of exemption	None	Internal procedures.
§ 11.55 Reconsideration of a denial or grant of exemption.	§ 11.101.	
Subpart D:		
§ 11.61 Scope.	None	Consolidated; delegations to be published separately.
§ 11.63 Filing of proposals	§ 11.63.	
§ 11.65 Issue of notice of proposed rulemaking.	None	Consolidated; delegations to be published separately.
§ 11.67 Hearings	None	Replaced with informal meetings.
§ 11.69 Adoption of rules or orders	None	Consolidated and simplified in one subpart.
§ 11.71 Exemptions	§ 11.61 and following.	
§ 11.73 Petitions for rehearing or reconsideration of rules or orders.	None	Specific procedures unnecessary.
Subpart E:		
§ 11.81 Scope	None	Consolidated.
§ 11.83 Processing of petitions for rulemaking or exemption.	§ 11.61 and following.	
§ 11.87 Proceedings after notice of proposed rulemaking.	None	Internal procedures.
§ 11.89 Adoption of final rules	None	Internal procedures.
§ 11.91 Grant or denial of exemption	None	Internal procedures.
§ 11.93 Petitions for reconsideration of rules.	None	Specific procedures unnecessary.
Subpart F	Subpart B	Updated and redesignated.
§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.	§ 11.201.	

List of Subjects in 14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Administration Aviation proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

1. Revise part 11 to read as follows:

PART 11—GENERAL RULEMAKING PROCEDURES

Subpart A—Rulemaking Procedures

General

Sec.

11.1 To what does this part apply?
11.3 What are the most common kinds of rulemaking actions for which FAA follows APA procedures?
11.5 Does FAA follow the same procedures in issuing all three types of rules?
11.11 How does FAA issue rules?
11.13 What is an advanced notice of proposed rulemaking?
11.15 Are there other ways FAA collects specific rulemaking recommendations before we issue an NPRM?
11.17 What is a notice of proposed rulemaking?
11.19 What is a supplemental notice of proposed rulemaking?
11.21 May FAA change its regulations without first issuing an ANPRM or NPRM?
11.23 What is a final rule?
11.25 What is a direct final rule?
11.27 How does FAA process direct final rules?
11.29 What is a final rule with request for comments?
11.31 How can I track FAA's rulemaking activities?
11.33 Does FAA include sensitive security information in the DMS?
11.35 Where can I find information about an Airworthiness Directive, an airspace designation, or a petition handled in a region?
11.37 How may I participate in FAA's rulemaking process?

Written Comments

11.41 Who may file comments?
11.43 What information must I put in my written comments?
11.45 Where and when do I file my comments?
11.47 May I ask for more time to file my comments?

Public Meetings and Other Proceedings

11.51 May I request that FAA hold a public meeting on a rulemaking action?
11.53 What takes place at a public meeting?

Petitions for Rulemaking and for Exemption

11.61 May I ask FAA to adopt, amend, or appeal a regulation, or grant relief from the requirements of a current regulation?
11.63 Where and to whom do I submit my petition for rulemaking or petition for exemption?
11.71 What information must I include in my petition for rulemaking?
11.73 How does FAA process petitions for rulemaking?
11.75 Does FAA invite public comment on petitions for rulemaking?

11.77 Is there any additional information I must include in my petition for designating airspace?
11.81 What information must I include in my petition for an exemption?
11.83 Are exemptions FAA grants under this part valid outside the United States?
11.85 Does FAA invite public comment on petitions for exemption?
11.87 Are there circumstances in which FAA may decide not to publish a summary of my petition for exemption?
11.89 How much time do I have to submit comments to FAA on a petition for exemption?
11.91 What information does FAA publish when it grants or denies my petition for exemption?
11.101 Can I ask FAA to reconsider my petition for rulemaking or petition for exemption if it is denied?

Subpart B—Paperwork Reduction Act Control Numbers

11.201 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Authority: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

Subpart A—Rulemaking Procedures

General

§ 11.1 To what does this part apply?

This part applies to the issuance, amendment, and repeal of any regulation for which FAA (''we'') follows public rulemaking procedures under the Administrative Procedure Act (''APA'') (5 U.S.C. 553).

§ 11.3 What are the most common kinds of rulemaking actions for which FAA follows APA procedures?

(a) FAA follows APA procedures for three major types of rules:

(1) Rules found in the Code of Federal Regulations;

(2) Airworthiness directives issued under part 39 of this chapter; and

(3) Airspace Designations issued under various parts of this chapter.

(b) You will also find procedures in this part to petition FAA for an exemption from a current regulation. These procedures are modeled on the public rulemaking procedures of the APA.

§ 11.5 Does FAA follow the same procedures in issuing all three types of rules?

Yes. In general, FAA follows the same procedures for all three rule types. There are some differences as to which FAA official has authority to issue each type, and where you send petitions for the FAA to adopt, amend, or repeal each type. Assume that the procedures in this subpart apply to all three types, except where we specify otherwise.

§ 11.11 How does FAA issue rules?

(a) FAA uses APA rulemaking procedures to adopt, amend, or repeal regulations. To propose or adopt changes to a regulation, FAA may issue one or more of the following documents. We publish these rulemaking documents in the **Federal Register** unless we name and personally serve a copy of a rule on every person subject to it.

(1) An advance notice of proposed rulemaking (ANPRM).

(2) A notice of proposed rulemaking (NPRM).

(3) A supplemental notice of proposed rulemaking.

(4) A final rule.

(5) A direct final rule.

(6) A final rule with request for comments.

(b) Each of the rulemaking documents in paragraph (a) of this section generally contains the following information:

(1) The topic involved in the rulemaking document.

(2) FAA's legal authority for issuing the rulemaking document.

(3) How interested persons may participate in the rulemaking proceeding (for example, by filing written comments or making oral presentations).

(4) Whom to call if you have questions about the rulemaking document.

(5) The date, time, and place of any public meetings FAA will hold to discuss the rulemaking document.

(6) The docket number and regulation identifier number (RIN) for the rulemaking proceeding.

§ 11.13 What is an advance notice of proposed rulemaking?

An advance notice of proposed rulemaking (ANPRM) tells the public that FAA is considering an area for rulemaking and requests written comments on the appropriate scope of the rulemaking or on specific topics. An advance notice of proposed rulemaking may or may not include the text of potential changes to a regulation.

§ 11.15 Are there other ways FAA collects specific rulemaking recommendations before we issue an NPRM?

Yes. The FAA obtains advice and recommendations from rulemaking advisory committees. The Aviation Rulemaking Advisory Committee (ARAC) is a formal standing committee comprised of representatives of aviation associations and industry. In conducting its activities, ARAC complies with the Federal Advisory Committee Act and the direction of the FAA. We task ARAC with providing us with recommended rulemaking actions dealing with specific areas and problems. If we accept an ARAC recommendation to change an FAA rule, we ordinarily publish an NPRM using the procedures in this part. The FAA may establish other rulemaking advisory committees as needed to focus on specific issues for a limited period of time.

§ 11.17 What is a notice of proposed rulemaking?

A notice of proposed rulemaking (NPRM) proposes FAA's specific regulatory changes for public comment and contains supporting information. It includes proposed regulatory text.

§ 11.19 What is a supplemental notice of proposed rulemaking?

On occasion, FAA may decide that it needs more information on an issue, or that we should take a different approach than we proposed. Also, we may want to follow a commenter's suggestion that goes beyond the scope of the original proposed rule. In these cases, FAA may issue a supplemental notice to give the public an opportunity to comment further or to give us more information.

§ 11.21 May FAA change its regulations without first issuing an ANPRM or NPRM?

FAA may adopt, amend, or repeal regulations without first issuing an ANPRM or NPRM in the following situations:

(a) We may issue a final rule without first requesting public comment if, for good cause, we find that a notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest. We place that finding and a brief statement of the reasons for it in the final rule. FAA calls these rules ''immediately adopted'' rules. For example, we may issue such a final rule in response to a safety emergency.

(b) If an NPRM would be unnecessary because we do not expect to receive adverse comment, we may issue a direct final rule.

§ 11.23 What is a final rule?

A final rule sets out new or revised requirements and their effective date. It also may remove requirements. When preceded by an NPRM, a final rule will also identify significant substantive issues raised by commenters in response to the NPRM and give the agency's response.

§ 11.25 What is a direct final rule?

A direct final rule is a final rule that will take effect on a specified date unless FAA receives an adverse comment or notice of intent to file an

adverse comment within the comment period—generally 60 days after the direct final rule is published in the **Federal Register**. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, we do not consider the following types of comments to be adverse:

(a) A comment recommending another rule change, in addition to the change in the direct final rule at issue. We consider the comment adverse, however, if the commenter states why the direct final rule would be ineffective without the change.

(b) A frivolous or insubstantial comment.

§ 11.27 How does FAA process direct final rules?

(a) We will publish a confirmation document in the **Federal Register**, generally within 15 days after the comment period closes, if we have not received an adverse comment or notice of intent to file an adverse comment. The confirmation document tells the public the effective date of the rule.

(b) If we receive an adverse comment or notice of intent to file an adverse comment, we will advise the public by publishing a document in the **Federal Register** before the effective date of the direct final rule. This document will withdraw the direct final rule in whole or in part. If we withdraw a direct final rule because of an adverse comment, we may incorporate the commenter's recommendation into another direct final rule or may publish a notice of proposed rulemaking.

§ 11.29 What is a final rule with request for comments?

The FAA usually issues a final rule with request for comments when we issue an immediately adopted final rule. We invite comments on an immediately adopted final rule only if we think that we will receive useful information. We would not invite comments, for example, when we are just making an editorial clarification or correction.

§ 11.31 How can I track FAA's rulemaking activities?

The following identifying numbers allow you to track FAA's rulemaking activities:

(a) *Docket number.* We assign an identifying number, called a docket number, to each rulemaking proceeding. Each rulemaking document that FAA issues in a particular rulemaking proceeding will display the same docket number. This number allows you to do the following:

(1) Associate related documents that appear in the **Federal Register**.

(2) Search DOT's Docket Management System (DMS) for information on some rulemaking proceedings—including notices of proposed rulemaking, public comments, appeals, records of additional rulemaking proceedings and final rules. The DMS does not contain information on Airworthiness Directives or Airspace Actions. There are two ways you can search the DMS:

(i) Visit the public docket room and review and copy any docketed materials during regular business hours. The DOT Docket Management System is located at the U.S. Department of Transportation, Plaza Level 401, 400 7th Street, SW, Washington, DC 20590–0001.

(ii) View and download docketed materials through the Internet at http://dms.dot.gov.

(b) *Regulation identifier number.* DOT publishes a semiannual agenda of all current and projected DOT rulemakings, reviews of existing regulations, and completed actions. This semiannual agenda appears in the Unified Agenda of Federal Regulations which is published in the **Federal Register** in April and October of each year. The semiannual agenda tells the public about DOT's—including FAA's—regulatory activities. DOT assigns a regulation identifier number (RIN) to each individual rulemaking proceeding in the semiannual agenda. This number appears on all rulemaking documents published in the **Federal Register** and makes it easy for you to track those rulemaking proceedings in both the **Federal Register** and the semiannual regulatory agenda itself.

§ 11.33 Does FAA include sensitive security information in the DMS?

No. For proposed rule changes involving civil aviation security, FAA reviews comments as we receive them. If we find that a comment contains sensitive security information, we remove that information before placing the comment in the docket.

§ 11.35 Where can I find information about an Airworthiness Directive, an airspace designation, or a petition handled in a region?

To get information about rulemaking actions undertaken in FAA's regions, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in the **Federal Register** document about the action.

§ 11.37 How may I participate in FAA's rulemaking process?

You may participate in FAA's rulemaking process by doing any of the following:

(a) File written comments on any rulemaking document that asks for comments, including an advance notice of proposed rulemaking, notice of proposed rulemaking, direct final rule, or a final rule with request for comments.

(b) Ask that we hold a public meeting on any rulemaking, and participate in any public meeting that we hold.

(c) File a petition for rulemaking that asks us to adopt, amend, or repeal a regulation.

(d) File an appeal that asks us to reexamine our decision to issue all or part of a final rule or direct final rule.

Written Comments

§ 11.41 Who may file comments?

Anyone may file written comments about proposals and final rules that request public comments.

§ 11.43 What information must I put in my written comments?

Your comments must be in English and must contain the following:

(a) The docket number of the rulemaking document you are commenting on, clearly set out at the beginning of your comments.

(b) Your name, mailing address, and, if you wish, other contact information, such as a fax number, telephone number, or e-mail address.

(c) Information, views, or arguments that follow the instructions for participation that appear in the rulemaking document on which you are commenting.

(d) All available material that is relevant to any statement of fact in your comments.

(e) The document title and page number of any material that you reference in your comments.

§ 11.45 Where and when do I file my comments?

(a) Send your comments to the location specified in the rulemaking document on which you are commenting. If you are asked to send your comments to the Docket Management System, you may send them in either of the following ways:

(1) By mail to: U.S. Department of Transportation, Docket Management System 400 7th Street, SW., Plaza Level 401, Washington, DC 20591.

(2) Through the Internet to http://dms.dot.gov.

(b) Make sure that your comments reach us by the deadline set out in the

rulemaking document on which you are commenting. We will consider late-filed comments to the extent possible only if they do not significantly delay the rulemaking process.

(c) We may reject your paper or electronic comments if they are frivolous, abusive, or repetitious. We may reject comments you file electronically if you do not follow the electronic filing instructions at the website.

§ 11.47 May I ask for more time to file my comments?

Yes. If FAA grants your request for more time to file comments, we grant all persons the same amount of time. We will notify the public of the extension by a document in the **Federal Register**. If FAA denies your request, we will notify you of the denial. To ask for more time, you must file a written or electronic request for extension at least ten days before the end of the comment period. Your letter or message must:

(a) Show the docket number of the rule at the top of the first page.

(b) Begin by stating that you are requesting an extension of the comment period.

(c) Show that you have good cause for the extension and that an extension is in the public interest.

(d) Send your request to the address specified for comments in the rulemaking document that you wish to comment on.

Public Meetings and Other Proceedings

§ 11.51 May I request that FAA hold a public meeting on a rulemaking action?

Yes. You may request that we hold a public meeting. FAA holds a public meeting when we think that we need more than written comments to make a fully informed decision. You should submit your request in writing to the address specified for comments in the rulemaking document that you wish to comment on. Specify at the top of your letter or message that you are requesting that the agency hold a public meeting. Submit your request no later than 30 days after our rulemaking notice. If we find that we have good cause for a meeting we will notify you and publish a notice of the meeting in the **Federal Register**.

§ 11.53 What takes place at a public meeting?

A public meeting is a non-adversarial, fact-finding proceeding conducted by an FAA representative. Public meetings are announced in the **Federal Register**. We invite interested persons to attend and to present their views to the agency on specific issues. There are no formal pleadings and no adverse parties, and any regulation issued afterward is not necessarily based exclusively on the record of the meeting. Sections 556 and 557 of the Administrative Procedure Act (5 U.S.C. 556 and 557) do not apply to public meetings under this part.

Petitions for Rulemaking and for Exemption

§ 11.61 May I ask FAA to adopt, amend, or repeal a regulation, or grant relief from the requirements of a current regulation?

Yes.

If you want . . .	Then you must submit . . .
(a) To adopt, amend, or repeal a regulation	A petition for rulemaking.
(b) Relief from the requirements of a current regulation	A petition for exemption.

§ 11.63 Where and to whom do I submit my petition for rulemaking or petition for exemption?

(a) For paper submissions, send one original signed and two copies of your petition for rulemaking or exemption to the following postal address, except as provided in paragraph (c) of this section for petitions pertaining to parts 39 and 139 of this chapter, or airspace designations: Federal Aviation Administration, Office of Rulemaking (ARM–1), 800 Independence Avenue, SW. Washington, DC 20591.

(b) For electronic submissions, send one original to the following electronic address, except as provided in paragraph (c) of this section for petitions pertaining to parts 39 and 139 of this chapter, or airspace designations:

Send your . . .	To . . .
(1) Petition for rulemaking	To Be Announced.
(2) Petition for exemption	To Be Announced.

(c) For petitions pertaining to parts 39 and 139 of this chapter, or airspace designations submit one original signed and two copies of your petition for rulemaking or petition for exemption to the following offices:

Send your petitions concerning . . .	To the . . .
(1) Part 39: Airworthiness Directives	Certification Directorate having airworthiness responsibility for the product involved.
(2) Part 139: Certification of Airports	Appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport.
(3) Class D or E airspace designation	Manager of the Air Traffic Division in the FAA region involved.
(4) Any other airspace designation	Associate Administrator for Air Traffic (ATS–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

§ 11.71 What information must I include in my petition for rulemaking?

(a) You must include the following information in your petition for rulemaking:

(1) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address.

(2) An explanation of your proposed action and its purpose.

(3) The language you propose for a new or amended rule, or the language you would remove from a current rule.

(4) An explanation of why your proposed action would be in the public interest.

(5) Information and arguments that support your proposed action, including relevant technical and scientific data available to you.

(6) Any specific facts or circumstances that support or demonstrate the need for the action you propose.

(b) In the process of considering your petition, we may ask that you provide information or data available to you about the following:

(1) The costs and benefits of your proposed action to society in general, and identifiable groups within society in particular.

(2) The regulatory burden of your proposed action on small businesses, small organizations, small governmental jurisdictions, and Indian tribes.

(3) The recordkeeping and reporting burdens of your proposed action and whom they would affect.

(4) The effect of your proposed action on the quality of the natural and social environments.

§ 11.73 How does FAA process petitions for rulemaking?

The FAA may respond to your petition for rulemaking in one of the following ways:

(a) If we determine that your petition justifies our taking the action you suggest, we may issue an NPRM or ANPRM. We will do so no later than 6 months after the date we receive your petition. In making our decision, we consider:

(1) The immediacy of the safety or security concerns you raise;

(2) The priority of other issues the FAA must deal with; and

(3) The resources we have available to address these issues.

(b) We may dismiss your petition for rulemaking in the following circumstances:

(1) If we already have issued an ANPRM or NPRM on the subject matter of your petition, we will consider your arguments for a rule change as a comment in connection with the rulemaking proceeding. We will not treat your petition as a separate action.

(2) If we already have begun a rulemaking project in the subject area of your petition, we will consider your comments and arguments for a rule change as part of that project. We will not treat your petition as a separate action.

(3) If we have tasked the Aviation Rulemaking Advisory Committee (ARAC) to study the general subject area of your petition, we may ask the ARAC to review and evaluate your proposed action. We will not treat your petition as a separate action.

(4) If we determine that the issues you identify in your petition may have merit but do not address an immediate safety concern or cannot be addressed because of other priorities and resource constraints, we may dismiss your petition.

§ 11.75 Does FAA invite public comment on petitions for rulemaking?

Generally, FAA does not invite public comment on petitions for rulemaking.

§ 11.77 Is there any additional information I must include in my petition for designating airspace?

In petitions asking FAA to establish, amend, or repeal a designation of airspace, including special use airspace, you must include all the information specified by § 11.71 and also:

(a) The location and a description of the airspace you want assigned or designated;

(b) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the area;

(c) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if we grant the designation; and

(d) The name and location of the agency, office, facility, or person who would have authority to permit the use of the airspace when it was not in use for the purpose to which you want it assigned.

§ 11.81 What information must I include in my petition for an exemption?

You must include the following information in your petition for an exemption.

(a) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address.

(b) The specific section or sections of 14 CFR from which you seek an exemption.

(c) The extent of relief you seek, and the reason you seek the relief.

(d) The reasons why granting your request would be in the public interest; that is, how it would benefit the public as a whole.

(e) The reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which you seek the exemption.

(f) Any additional information, views or arguments available to support your request, and

(g) A summary we can publish in the **Federal Register**, stating:

(1) The rule from which you seek the exemption; and

(2) A brief description of the nature of the exemption you seek.

(h) Whether you want to exercise the privileges of your exemption outside the United States.

§ 11.83 Are exemptions FAA grants under this part valid outside the United States?

No. Exemptions FAA issues under this part normally do not apply outside the United States. If you want to be able to use your exemption outside the United States, you must request this when you petition for relief. We will verify whether operating under the exemption would be in compliance with the standards of the International Civil Aviation Organization (ICAO). If it would not, but we still believe it would be in the public interest to allow you to do so, we will file a difference with ICAO.

§ 11.85 Does FAA invite public comment on petitions for exemption?

Yes. FAA publishes information about petitions for exemption in the **Federal Register**. The information includes:

(a) The docket number of the petition;

(b) The citation to the rule or rules from which the petitioner requested relief;

(c) The name of the petitioner;

(d) The petitioner's summary of the action requested and the reasons for requesting it; and

(e) A request for comments to assist FAA in evaluating the petition.

§ 11.87 Are there circumstances in which FAA may decide not to publish a summary of my petition for exemption?

The FAA may not publish a summary of your petition for exemption and request comments if you present or we find good cause why we should not delay action on your petition. The factors we consider in deciding not to request comment include:

(a) Whether granting your petition would set a precedent.

(b) Whether the relief requested is identical to exemptions granted previously.

(c) Whether our delaying action on your petition would affect you adversely.

(d) Whether you filed your petition in a timely manner.

§ 11.89 How much time do I have to submit comments to FAA on a petition for exemption?

The FAA states the specific time allowed for comments in the **Federal Register** notice about the petition. We usually allow 20 days to comment on a petition for exemption.

§ 11.91 What information does FAA publish when it grants or denies my petition for exemption?

When FAA grants or denies your petition for exemption, we publish a summary in the **Federal Register** that includes:

(a) The docket number of your petition;

(b) Your name;

(c) The citation to the rules you wanted to change, or from which you requested relief;

(d) A brief description of the general nature of the change or relief requested;

(e) Whether FAA granted or denied the request;

(f) The date of FAA's decision; and

(g) An exemption number.

§ 11.101 Can I ask FAA to reconsider my petition for rulemaking or petition for exemption if it is denied?

Yes. You may petition FAA to reconsider your petition denial. You must submit your request to the address to which you sent your original petition, and FAA must receive it within 60 days after we issued the denial. For us to accept your petition, show the following:

(a) That you have a significant additional fact and why you did not present it in your original petition;

(b) That we made an important factual error in our denial of your original petition; or

(c) That we did not correctly interpret a law, regulation, or precedent.

Subpart B—Paperwork Reduction Act Control Numbers

§ 11.201 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

[**Note:** The text of this section will be updated and will appear in full in the final rule.]

Issued in Washington, DC on December 8, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–32273 Filed 12–13–99; 8:45 am]

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federal register

Tuesday
December 14, 1999

Part IV

Department of Commerce

Economic Development Administration

13 CFR Parts 300, 301, et al.

Revision to Implement Economic Development Administration Reform Act of 1998; Final Rule

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Parts 300, 301, 302, 303, 304, 305, 306, 307, 308, 314, 316, 317, and 318

[Docket Nos. 990106003–9169–03 and 980813217–9141]

RIN 0610–AA56 and 0610–AA59

Revision To Implement Economic Development Administration Reform Act of 1998

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: The Economic Development Administration (EDA) has amended its regulations to implement the comprehensive amendment to the Public Works and Economic Development Act of 1965, as amended, by the Economic Development Administration Reform Act of 1998. EDA has clarified and simplified requirements and incorporated into the body of the rules, requirements unique to EDA for construction projects previously appearing in the EDA regulations and EDA's Civil Rights Guidelines.

EFFECTIVE DATE: This rule is effective on December 14, 1999.

FOR FURTHER INFORMATION CONTACT: Edward M. Levin, Chief Counsel, Telephone Number 202–482–4687, fax 202–482–5671, e-mail elevin@doc.gov

SUPPLEMENTARY INFORMATION:

Background

The Economic Development Administration (EDA) was reauthorized for a five-year period by legislation enacted on November 13, 1998, creating stability and opportunities for EDA to better serve economically distressed communities across the country. On February 3, 1999, EDA published an interim-final rule, Economic Development Administration Regulation: Revision to Implement the Economic Development Reform Act of 1998 (64 FR 5347–5486).

EDA continues to take steps toward improving its program delivery, policies and procedures, and to be more responsive to those whom it serves. In step with the National Performance Review and Paperwork Reduction Act, EDA had completely revised its regulations, thereby creating fewer burdens on and making them more accessible to the public. This final rule continues EDA's efforts in this regard.

The public was invited to submit comments on the interim-final rule for a period of sixty (60) days ending April 5, 1999.

Comments on the Interim-Final Rule

• Comments on the RLF Task Force:

As noted in the preamble to the interim-final rule, EDA established a Task Force to examine its Revolving Loan Fund (RLF) program. Though EDA received several comments on EDA's RLF program, we will not be addressing such comments now, but will do so in an interim final rule to be published by the end of December, 1999, consistent with the report and recommendations of the EDA FLF Task Force.

• Comments on the Plain English Initiative:

A commenter suggested that we use the question and answer format in 13 CFR 304.1 and 2, project selection process and evaluation criteria.

We concur and have changed the rule on selection and evaluation accordingly. EDA continues its efforts to use plain language throughout the final rule, with particular attention to areas where commenters have requested clarification or interpretation.

• Paperwork Reduction Act:

No individual or entity commented on the Paperwork Reduction Act burden hour statement in the interim-final rule.

• Comments on Regulatory Text:

EDA received comments from more than forty (40) persons and entities. Responses include additional modifications resulting from matters inadvertently overlooked by EDA in the promulgation of its interim-final rule. All comments and responses refer to subparts, sections and paragraphs as numbered in this final rule.

• *Definitions.*

Commenters suggested that for simplicity ''CED Strategy'' be deleted to be replaced by the acronym ''CEDS.''

We concur and have modified 13 CFR 300.2 and references throughout the rule to replace ''CED Strategy'' with ''CEDS''.

Commenters recommended that 13 CFR 300.2 be amended to reinstate the term ''Overall Economic Development Program'' or ''OEDP'' since these terms are easily understood and accepted, whereas the term ''Comprehensive Economic Development Strategy'' (or ''CEDS'') may be confusing.

EDA does not concur because the rule as written reflects the language used in PWEDA. The Economic Development Administration Reform Act of 1998 replaced the Overall Economic Development Program with the Comprehensive Economic Development Strategy. We believe the new terminology will be readily understood and accepted.

A commenter suggested that the definition of ''Eligible applicant'' in 13 CFR 300.2 be revised to include special purpose units of local governments.

We have not changed 13 CFR 302.2, because special purpose units of local governments are already included in the definition of eligible applicants as political subdivisions of States. However, to distinguish between general purpose and special purpose units of local governments, and incidently confirm that special purpose units of local government are included as political subdivisions of States, we have changed 13 CFR 301.1(b) to provide that cooperation resolutions or letters for non-profit or for-profit applicants must be from authorized representatives of general purpose units of local governments.

A commenter suggested that the definition of ''Eligible applicant'' in 13 CFR 300.2 be revised to include Community Development Corporations (CDCs) and to exempt CDCs from the requirement for a resolution or letter of cooperation under 13 CFR 301.1(b).

We do not concur with the first part of this suggestion because it is apparent that CDCs are nonprofit organizations and as such they are eligible for EDA assistance. As to the second part, after careful legal analysis we have concluded that the cooperation requirement for non-profits applies to CDCs and that the rule as now written is in accordance with requirements under PWEDA.

A commenter suggested a definition be added for ''Federally-declared disaster.''

We concur and have changed 13 CFR 300.2 to add such a definition.

A commenter suggested that the definition of ''Overall Economic Development Program'' or ''OEDP'' be removed as unnecessary.

EDA concurs, since the Civil Rights provisions in 13 CFR part 317 (the only place in the interim-final rule where the term OEDP appeared) have been changed to refer to CEDS, instead of to OEDP. We have revised 13 CFR 300.2 to remove such definition.

Commenters suggested that a definition be added for ''Presidentially-declared disaster.''

We concur and have changed 13 CFR 300.2 to add such definition.

• *Area eligibility.*

A commenter recommended that 13 CFR 301.2 and 301.4(b) be modified so that ''projected'' unemployment or low income could be used to determine eligibility and/or grant rates.

We determined that this was unnecessary as to eligibility, because the special needs criteria in EDA's NOFA is adequate to qualify areas of significant anticipated unemployment or low income. As to grant rates, we examined the practicality and policy implications of the suggestion and determined that it would be difficult if not impossible to make reliable distress projections. Consequently, we have not modified the regulation.

A commenter recommended that 13 CFR 301.2(e) be amended to define what is meant by ''significant'' employment opportunities and what the impact must be to qualify as an eligible non-distressed area.

Determining significant employment opportunities and the level of impact to qualify as an eligible non-distressed area are decisions that EDA officials will have to make on a case-by-case basis in light of the narrative and supporting material provided by the applicant. While we appreciate that the term is not precise, in the real world application of eligibility criteria it is evident that applying a numerical or other specific quantifiable standard would not add to the utility or clarity of the criteria, given the variety of situations and the differing contexts of the data. Consequently, we have not modified the regulation.

Commenters suggested that unemployment and per capita income data below the county level should be available via special community surveys to establish eligibility of sub-county areas and pockets of distress. A commenter suggested that for ''special needs'', EDA allow applicants to submit other data, as appropriate.

After discussion and consideration of this suggestion, we have clarified 13 CFR 301.2(e) by adding that State data is that which is conducted by or at the direction of the State government. We concur with the suggestion on ''special needs'' and consequently have modified 13 CFR 301.2(h).

A commenter suggested that the reference to future publication in a NOFA of special needs criteria be changed to the present tense.

We concur and have modified the rule accordingly.

A commenter suggested correction of a typographical error appearing in a parenthetical phrase under Economic Adjustment planning requirements by changing ''*i.e.*'' before the word ''strategy'' to ''*e.g.*'' since the intent was to provide an example of planning activities.

We concur and have changed 13 CFR 301.3(a) accordingly.

- *Strategy required.*

Commenters suggested that we reconcile inconsistencies in CEDS requirements by using the same requirements throughout the rule.

We concur and have changed the rule accordingly so that 13 CFR 303.3 contains the CEDS requirements, which apply to CEDS for Public Works and Economic Adjustment Projects, for district designation, and for continuation planning funding for districts and other EDA supported planning organizations. 13 CFR 303.2 contains additional reporting and updating requirements for districts and other EDA supported planning entities. 13 CFR 301.3(b) and 308.4(b) have been changed to refer to requirements under 13 CFR 303.3.

Commenters suggested that the requirement that a strategy be approved by an applicant for a public works or economic adjustment project be changed so that the strategy may be approved by the entity developing the strategy or by the applicant. In the case of a CEDS approved by a State official, it was suggested approval should be by the governor or his/her designee, instead of by the applicant's governing body (i.e., the legislature).

We concur and have revised 13 CFR 301.3(d) accordingly.

Commenters suggested that 13 CFR 301.3 be revised to state that a strategy developed by an entity within the boundaries of the district but not by the district organization itself, be subject to approval by the district organization. Other commenters suggested that the rule be revised to provide that district organizations be given an opportunity to review and comment on strategies within their districts.

District organizations are major partners with EDA in providing economic development assistance, with expertise in the economic development needs and planning process for the district area. Therefore, we concur with the suggestion that districts have an opportunity to review and comment on such non-district strategies. Consequently, we have amended 13 CFR 301.3 to provide that districts will have a 30-day period within which to review and comment upon such strategies. We do not however, concur with the recommendation for approval of such strategies by the districts, since the approval of strategies is the responsibility of EDA under PWEDA.

A commenter suggested that sub-county areas be required to utilize a county level CEDS and that a single representative entity within the county act as applicant for assistance to the sub-county area.

We believe this suggestion is in conflict with the provisions of PWEDA (sections 301(b) and 302(a)) that authorize sub-county areas to be applicants for EDA assistance, and authorize applicants to submit CEDS, without restrictions as to the area covered by the CEDS. Consequently, we have not modified 13 CFR 301.3.

- *Grant Rates.*

On June 18, 1999, EDA published an interim-final rule with changes in the grant rate table in 13 CFR 301.4(b) covering criteria for maximum grant rate eligibility based on disasters and unemployment rates. For an explanation of such changes and the text of the grant rate table, please see 64 FR 32973. No other changes are being made to the grant rate table in 13 CFR 301.4(b).

Commenters suggested clarifying the rule to add language stating that maximum grant rates for projects supporting ongoing operations of districts or university centers could be found in 13 CFR parts 306 and 307.

We concur and have changed 13 CFR 301.4(c) accordingly.

Commenters suggested that language be clarified stating that University Center projects under part 307 subpart B and district organizations are not eligible for the 10% incentive.

We concur and have modified 13 CFR 301.4(d) accordingly.

Commenters suggested that the district incentive in 13 CFR 301.4(d) should only be awarded for projects included in a list in the district's CEDS in order to encourage consistency with district CEDS and deference to the districts.

We do not concur since language in the rule, as modified, accurately reflects PWEDA's intent to encourage active participation with the district.

A commenter recommended that 13 CFR 301.4(e)(2) (maximum grant rates when EDA and another Federal agency are funding a project), be either clarified or deleted.

This rule on supplementary grant assistance for construction is consistent with language in PWEDA, and therefore should not be deleted. Moreover, we were unable to find a clearer way of explaining the grant rates and believe they are clear as presented. We considered including an example, but did not believe it was necessary. If we can clarify this provision in the future, we will do so by amending the rule as appropriate.

Commenters suggested that 13 CFR 301.4(e) on supplemental grants be broadened to include non-construction as well as construction projects.

We do not concur because EDA's authorizing legislation is different from

that of other agencies. The rule as now written accurately reflects PWEDA which limits the supplementary grant provisions to projects for construction or equipping of public works, public service, or development facilities. Note however, that PWEDA has cooperation and fund transfer authorities which apply to all programs under the Act.

A commenter suggested a reduction in the non-Federal share for infrastructure and planning awards comparable to those under HUD and USDA Rural Development initiatives.

We do not concur because the rule as now written provides for reductions in the non-Federal share match if certain criteria are met in accordance with PWEDA.

• *Economic Development Districts.*

Commenters suggested that 13 CFR 302.3(c)(3) be modified to provide for greater flexibility in district organization, e.g., eliminate the requirement that 20 percent of the district organization be composed of private citizens.

EDA considered removing the 20 percent private citizen requirement and determined that EDA's long standing requirements for grass roots broad-based community planning has been successful historically and should be continued to carry out the agency's mission.

A commenter suggested that we substitute 60 days for 30 days as the time period for prior written notice of termination or suspension of district status, and to clarify that such notice will be provided to the district organization, member counties or other areas and each affected State.

We concur and have changed 13 CFR 302.6 accordingly.

A commenter suggested that the rule be modified to remove language requiring the approval of the State or States affected when the district has asked for termination.

We concur and have changed 13 CFR 302.6(c) accordingly.

• *Planning Process for District and Other Planning Organizations Supported by EDA.*

Commenters suggested that language in 13 CFR 303.2(e) be revised to provide that strategies prepared by districts should not be required to have the concurrence of States, some suggesting that States be given the opportunity to review, but not approve such strategies, (others suggested that the rule be clarified to explain the role of States in the review/approval process, or that strategies be submitted to the States for information purposes only).

We agree that it is inappropriate for States to be given veto power over EDA approval of district strategies, particularly as States had to have requested designation of districts in the first instance. Consequently, we have deleted the provision in 13 CFR 303.2(e) calling for concurrence by the States and added instead, that States have 30 days within which to comment on strategies developed by districts within their boundaries.

Commenters suggested that CEDS requirements be modified to include a statement about the continuing nature of such process, that the strategy be developed with broad-based and diverse community participation, that the strategy background section be changed to require the inclusion of the listed factors only ''as appropriate'', and require the inclusion, as appropriate, of a discussion of infrastructure and transportation systems.

We concur and have changed 13 CFR 303.3 accordingly.

• *General Selection Process and Evaluation Criteria.*

A commenter suggested that personal pronouns be used to explain to interested parties how to make contact with the agency for information on proposals and applications.

We concur and have changed 13 CFR 304.1 accordingly.

Commenters suggested that provisions referring to additional criteria or priority consideration factors as being included in a NOFA be moved from other parts of the rule to the part on selection and evaluation because of the general applicability of these criteria. A commenter made a similar suggestion about provisions requiring ''a reasonable budget''.

We concur with both suggestions and have changed 13 CFR 304.1 (c) and 304.2 accordingly.

A commenter suggested that 13 CFR part 304 be modified to contain more flexible organizational requirements and performance based criteria.

EDA considers district organization criteria to be an integral part of the district program's effectiveness in grass-roots planning and implementation to meet the needs of the entire area served by each district. Consequently, we have not modified district organizational requirements. Performance based criteria are addressed in 13 CFR 316.18 and 318.2.

• *Grants for Public Works and Development Facilities.*

Commenters suggested that the appendix containing construction requirements be removed from the rule and that the rule itself contain those requirements that are specific to EDA. A commenter suggested that the rules be organized to accurately reflect the grant process for public works projects.

We concur and have removed Appendix A, Requirements for Construction Grants; we have revised, added to, reordered, and renamed 13 CFR 305.5–26 accordingly, without providing any additional requirements.

A commenter recommended including a provision offering a ''bonus'' for minority firms for construction projects.

PWEDA provides no statutory authority for such a bonus. Consequently, we have not modified the rule.

• *Planning Assistance.*

Commenters suggested that 13 CFR 306 be revised to state that districts are EDA's primary planning grant recipients.

Though districts have been and are likely to remain EDA's primary planning grant recipients, PWEDA does not limit eligible planning grant recipients to districts. Consequently, we have not made the suggested modification. Nevertheless, as noted below, we have distinguished between district organizations and other planning grantees in the determination of maximum grant rates.

Some commenters suggested that districts be eligible for the 75 percent Federal grant rate if they meet any one of the four listed criteria, instead of having to meet all four criteria; other commenters suggested that the maximum grant rate eligibility provision be revised to delete the four criteria and to provide instead that the maximum Federal grant rate is a flat 75 percent.

We do not concur with the suggestions as presented, because they exceed the authority in PWEDA for increasing the maximum grant rate (to more than 50 percent). We have clarified the provisions in 13 CFR 306.3 to state that districts may supplement the 50 percent grant rate if (and only if) they meet the criteria in 13 CFR 306.3(b). We have modified the rule so that districts are not eligible to supplement a 50 percent grant using the table in 13 CFR 301.4(b), because districts are unique as multi-jurisdictional organizations made up primarily of governmental entities. Also, for additional clarity, we have changed language in 13 CFR 306.3(b)(3)(i) and (ii) to substitute ''high unemployment'' for ''substantial unemployment'', to delete ''significantly'' to describe low per capita income and to substitute ''significant'' for ''substantial'' when describing activities addressing the needs of the most economically distressed parts of the applicant's area to be served. We have also modified 13

CFR 306.3(b)(1) to provide that non-district planning applicants are eligible for supplemental grant awards if (and only if) they meet the criteria in the table in 13 CFR 301.4(b). Non-district applicants cannot use the four criteria of 13 CFR 306.3(b)(2) to supplement the 50 percent grant rate.

A commenter suggested that the rule on district incentives be clarified to explain that districts should not be rewarded with a 10 percent incentive for acting in cooperation with themselves, and should not therefore be eligible for the incentive.

We concur and have changed 13 CFR 301.4(d) and 306.3(b)(4) accordingly. We have provided that projects may be eligible for the incentive, so long as the non-district co-applicant is qualified to obtain the incentive, even if a district is a co-applicant.

Commenters suggested that the sections in the rule titled ''Award conditions'' be renamed more appropriately as ''Post-approval requirements'.

We concur and have changed 13 CFR 305.6, 306.4, 307.4, and 307.8 accordingly.

• *Local Technical Assistance.*

Commenters suggested that reporting requirements be moved to the section on post-award requirements.

We concur and have moved reporting requirements to 13 CFR 307.4.

Commenters suggested that award and grant rate requirements be clarified to provide how the maximum Federal grant rate can be supplemented ''up to and including 100 percent'.

We concur and have added 13 CFR 307.3(c)(4) to provide for a grant rate up to and including 100 percent with the concurrence of the Assistant Secretary.

A commenter suggested clarification on the 10 percent incentive rule to state more directly that Local Technical Assistance applicants receiving a supplemental grant under 13 CFR 307.3(c)(2) are not eligible to receive a 10 percent incentive.

We concur and have changed 13 CFR 13 CFR 307.3(c)(3) accordingly.

• *University Center Program.*

As noted above, the evaluation criteria for a reasonable budget has been deleted from 13 CFR 307 Subpart B and added to 13 CFR part 304.

Commenters suggested that requirements for supplementary grant rates be clarified, including an explanation that the distress factors table in 13 CFR 301.3(b) cannot be used by applicants under the University Center program, and that such applicants are not eligible for the 10 percent incentive.

We concur and have changed 13 CFR 307.7 and added 13 CFR 301.4(d)(4) accordingly.

Commenters suggested that EDA's rules provide for a 20 percent ''cap'' on indirect costs for University Center projects. These commenters argued that in the absence of such a cap, there would often be insufficient grant funds to accomplish direct program activities. The nature of the University Center program, they asserted, did not warrant a higher indirect cost rate because the program did not utilize extensive university-wide services.

We concur that the cap in EDA's previous regulations helped to focus EDA funds on direct program expenditures. Accordingly, we have added to 13 CFR 307.7 a new paragraph (d) which states that at least 80 percent of EDA funding must be allocated to direct costs of program delivery.

• *National Technical Assistance, Training, Research and Evaluation.*

Commenters suggested that language on grant rates be clarified to indicate that maximum grant rates can be supplemented for ''up to and including'' 100 percent.

We concur and have changed 13 CFR 307.11(c) accordingly.

• *Requirements for Economic Adjustment Grants.*

Commenters suggested that appendices A–D to part 308–Economic Adjustment, be eliminated from the rule because they are too detailed and cumbersome.

While we agree that the inclusion of these appendices in the rule is cumbersome, we do not concur with this suggestion at this time, because this suggestion will be addressed in an interim final fule to be published by the end of December, 1999, consistent with the report and recommendations of the EDA RLF Task Force.

Commenters suggested that requirements for strategy grants under this program be the same as for other programs, as noted above.

We concur and have changed 13 CFR 308.4(b) accordingly.

A commentator suggested correction of a typographical error appearing in a parenthetical phrase under Economic Adjustment planning requirements by changing ''i.e.'' before the word ''strategy'' to ''e.g.'' since the intent was to provide an example of planning activities.

We concur and have changed 13 CFR 308.5(b) accordingly.

• *Property.*

Commenters suggested that the requirements for uses of property be modified to allow for the replacement of real property, in the same manner as for replacement of personal property.

We believe there are major differences between replacement of personal property, which is often occasioned by the need to upgrade outmoded as well as partially worn-out equipment, and replacement of real property, which is unique and specific to the project. We believe replacement of real property is generally not consistent with a project's purposes. Nevertheless, there can be occasional exceptions, and we have modified 13 CFR 314.3(d) to allow for the replacement of real property upon the approval of the Assistant Secretary, thereby, giving EDA the flexibility to make a determination on a case-by-case basis.

A commenter suggested that the rule on unauthorized use be modified to be more specific about how EDA may assert its interest in grant property to recover the Federal share of its value for the Federal Government, i.e., that such actions be the same as are provided for loan and loan guarantee property interests, in 13 CFR 316.5(c).

We concur and have changed 13 CFR 314.4(b) accordingly.

• *Excess Capacity.*

A commenter suggested that clarifying modifications be made to the definitions of ''beneficiary'', and ''commercial product or service'.

We concur and have changed 13 CFR 316.2(a) accordingly.

A commenter suggested that we make clarifying modifications concerning studies or reports for known beneficiaries, and that we clarify language explaining exemptions for projects that benefit the community as a whole, are primarily for production/distribution, retention, replacement, rebuilding or modernizing, and projects primarily for planning, technical assistance, research, evaluation, other studies or training of workers.

We concur and have changed 13 CFR 316.2(e) accordingly. These changes do not modify the intent or substantive effect of the provisions, but provide clearer guidance to the reader.

• Intergovernmental Review of projects.

A commenter suggested changes in the title and paragraph (a) of 13 CFR 316.11 so that the 15 day review requirement for special purpose units of local governments is only applicable to public works and economic adjustment projects where the applicant is a special purpose unit of local government. Some commenters suggested that project applications submitted by entities that are not participating in the district should be reviewed by the district organization for consistency with the

economic development activities in the region.

As to the first suggestion, we believe that projects under the public works and economic adjustment programs for which special purpose units of governments are applicants, are likely to be of particular concern to appropriate general purpose local governments for review purposes under this section. Consequently, we have modified 13 CFR 316.11 accordingly. As to the second suggestion, there are already intergovernmental review procedures in place under 13 CFR 316.11 and districts will have the opportunity to review and comment on CEDS of project applicants under 13 CFR 301.3. Consequently, we have not made this suggested change to the rule.

• *Project Administration by District Organization.*

Commenters suggested that 13 CFR 316.19(2) be amended to eliminate the requirement that as a prerequisite for project administration districts show that they have the ability to manage projects more efficiently and effectively than any other entity.

This provision on project administration by district organizations incorporates into a regulation EDA's policy and practice developed in response to situations calling for sole sourcing a project to a district. This practice has worked well under the criteria set forth in the rule and is consistent with sole source justifications in accordance with 15 CFR parts 14 and 24. Consequently, we have not modified this rule.

A commenter suggested that districts be allowed to use their own procurement procedures.

There is no authority for this under government-wide requirements for grants administration (OMB Circulars A–102 and A–110; 15 CFR parts 14 and 24, for the Department of Commerce). Therefore, we have not included such a provision.

• *Civil Rights.*

Commenters suggested that the final rule include all civil rights requirements specific to EDA.

We concur and have added provisions to 13 CFR part 317 on discrimination on the basis of age and handicap, as well as reporting, recordkeeping and other EDA civil rights requirements.

• *Evaluation of University Centers.*

Commenters recommended that EDA continue its previous peer review evaluation process, or some variation of such earlier review process. Commenters also suggested that language explaining the purpose of such evaluations be softened to more closely parallel language used in the section on evaluations of districts.

We concur with the suggestion about language as to the purpose of the evaluations, as it was not EDA's intent to imply dissatisfaction with any currently funded University Centers. Consequently, we have changed the rule at 13 CFR 318.1 accordingly. Since the evaluation process is currently under study by the agency, we have not modified the rule on the evaluation process at this time.

Commenters suggested that EDA provide in the rule that it will reimburse those participating in the peer review process.

We concur. It was an oversight to have been silent on this matter and we have changed 13 CFR 318.1 accordingly.

• *Evaluation of Districts.*

Commenters suggested that 13 CFR 318.2 be modified to provide that the reviewing peer district be outside the state or even the EDA region of the district being evaluated.

We have not made the suggested change at this time because the evaluation process is currently under study by the agency.

Commenters suggested that the provision that districts be assessed ''in accordance with the current instructions for performance appraisals'' be removed as ambiguous and outside of the requirements of PWEDA.

We concur and have changed 13 CFR 318.2 accordingly.

Commenters suggested that EDA provide in the rule that it will reimburse those participating in the peer review. Some of these commenters suggested supplemental grants to cover such costs.

We concur in the general suggestion and have changed 13 CFR 318.2 accordingly.

Savings Clause

The rights, duties, and obligations of all parties pursuant to parts, sections and portions thereof of the Code of Federal Regulations removed by this rule shall continue in effect, except that EDA may waive administrative or procedural requirements of provisions removed by this rule.

Executive Order 12866 and 12875

This rule has been determined to be not significant for purposes of E.O. 12866, Regulatory Planning and Review. In addition, it has been determined that, consistent with the requirements of E.O. 12875, Enhancing Intergovernmental Partnership, this final rule will not impose any unfunded mandates upon State, local, and tribal governments.

Regulatory Flexibility Act

Since notice and an opportunity for comment are not required to be given for the rule under 5 U.S.C. 553 or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 601–612) no initial or final Regulatory Flexibility Analysis is required, and none has been prepared.

Paperwork Reduction Act

This rule imposes new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), as amended, and has been cleared under OMB's clearance process under OMB approval numbers 0610–0093, 0610-0094, and 0610–0096, valid until November 30, 2002 and 0610–0095, valid until August 31, 2002.

Administrative Procedure Act and Regulatory Flexibility Act

Executive Order 12612 (Federalism Assessment)

This action has been reviewed in accordance with the principles and criteria contained in E.O. 12612. It has been determined that this final rule does not have significant Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in E.O. 12612.

List of Subjects

13 CFR Part 300

Reporting and recordkeeping requirements; Non-profit organizations; American Indians.

13 CFR Part 301

Grant programs; Community development; American Indians.

13 CFR Part 302

Community development; Grant programs-community development; Technical assistance.

13 CFR Part 303

Community Development; Grant programs-community development.

13 CFR Part 304

Selection and Evaluation.

13 CFR Part 305

Community development; Community facilities; Grant programs-community development.

13 CFR Part 306

Community development; Grant programs-community development.

13 CFR Part 307

Business and industry; Community development; Community facilities; Grant program-business; Grant programs-community development; Research; Technical assistance.

13 CFR Part 308

Business and industry; Community development; Community facilities; Grant programs-business; Grant programs-community development; American Indians; Manpower training programs; Mortgages; Research; Technical assistance.

13 CFR Part 314

Community development; Grant programs-community development.

13 CFR Part 316

Community development; Grant programs-community development; Freedom of Information Act; Loan programs-business; Loan programs-community development; Environmental protection; Record retention; Records.

13 CFR Part 317

Civil rights; Sex discrimination.

13 CFR Part 318

Colleges and universities.

Accordingly, the interim rule revising 13 CFR Chapter III which was published at 64 FR 5347 on February 3, 1999, is adopted as a final rule with the following changes:

PART 300—GENERAL INFORMATION

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 300.2 is amended by revising the definition of *Comprehensive Economic Development Strategy*, by adding in alphabetical order the definitions *Federally-declared disaster* and *Presidentially-declared disaster*, to read as set forth below and by removing the definition of ''OEDP.''

§ 300.2 Definitions.

* * * * *

Comprehensive Economic Development Strategy, *CEDS*, or *strategy* means a strategy approved by EDA under § 301.3 of this chapter.

* * * * *

Federally-declared disaster means a Presidentially-declared disaster or a Federally-declared disaster pursuant to the Magnuson-Stevens Fishery Conversation and Management Act (Public Law 94–265) as amended by the Sustainable Fisheries Act (Public Law 104–297), or a Federal declaration pursuant to the Consolidated Farm and Rural Development Act, as amended (Public Laws 92–419, 96–438, 97–35, 98–258, 99–198, 100–233, 100–387, and 101–624), or a Federally-declared disaster pursuant to the Small Business Act, as amended (Public Law 85–536).

* * * * *

Presidentially-declared disaster means a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

* * * * *

PART 301—GENERAL ELIGIBILITY AND GRANT RATE REQUIREMENTS

1. The authority citation for part 301 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 301.1 is amended by revising paragraph (b) to read as follows:

§ 301.1 Applicants.

* * * * *

(b) Except as otherwise provided in part 307 of this chapter, a public or private nonprofit organization applicant must include in its application for assistance, a resolution passed by, or a letter signed by, an authorized representative of a general purpose political subdivision of a State or an Indian tribe, acknowledging that the applicant is acting in cooperation with officials of the political subdivision or Indian tribe, as applicable.

3. Section 301.2 is amended by revising paragraphs (e) and (h) to read as follows:

§ 301.2 Area eligibility.

* * * * *

(e) Eligibility is determined at the time that EDA receives an application and is based on the most recent Federal data available for the area where the project will be located or where the substantial direct benefits will be received. If no Federal data are available to determine eligibility, an applicant must submit to EDA the most recent data available through the government of the State in which the area is located, i.e., conducted by or at the direction of the State government. Other data may be submitted, as appropriate, to substantiate eligibility based on special needs, under paragraph (b)(3) of this section.

* * * * *

(h) EDA describes special needs criteria under paragraph (b)(3) of this section in a NOFA.

4. Section 301.3 is amended by revising paragraphs (a), (b), and (d) and by adding a new paragraph (e) to read as follows:

§ 301.3 Strategy required.

(a) To be eligible for a project grant under part 305 or 308 of this chapter, the application for assistance must include a CEDS acceptable to EDA. The applicant may, however, incorporate by reference a current strategy previously approved by EDA, as an alternative to including the strategy in the application. (Exception: A strategy is not required when a funding request is for planning assistance, e.g., a strategy grant, under part 308 of this chapter.) The strategy must be in conformance with CEDS requirements under § 303.3 of this chapter.

(b) EDA will approve as acceptable a strategy that it determines meets the requirements of § 303.3 of this chapter. The strategy may be one developed:

(1) With EDA assistance,

(2) Under another Federally supported program, or

(3) Through a local, regional, or State process.

* * * * *

(d) To be acceptable, a strategy must be approved, within one year prior to the date of application, by the entity developing the strategy or by the applicant. In the case of a strategy approved by the applicant, approval must be by the applicant's governing body, or in the case of a State, by the governor or the governor's designee(s).

(e) Before EDA approves a strategy for an area all or partly within the boundaries of an EDD, the EDD organization must be given a 30-day opportunity to review and comment upon such strategy.

5. Section 301.4 is amended by revising paragraph (c), and adding new paragraphs (d)(4) and (5) to read as follows:

§ 301.4 Grant rates.

* * * * *

(c) The table in paragraph (b) of this section does not apply to projects which support the on-going operations of Economic Development Districts or University Centers. Grant rates for those projects are provided in part 306 and subpart B of part 307, of this chapter, respectively.

(d) * * *

(4) The project is not a University Center project under subpart B of part 307, of this chapter; and

(5) The district organization is not itself the sole project applicant. Projects (other than planning projects under part 306 of this chapter) for which the district organization is a co-applicant are eligible for the incentive if the co-

applicant with the district is actively participating in the economic development activities of the district and the project is otherwise eligible for such incentive. Planning projects under part 306 of this chapter for which the district organization is an applicant or a co-applicant are not eligible for the 10 percent increase in assistance.

* * * * *

PART 302—ECONOMIC DEVELOPMENT DISTRICTS; STANDARDS FOR DESIGNATION, MODIFICATION AND TERMINATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 302.4 is amended by redesignating paragraphs (a)(1)(v) through (vii) as paragraphs (a)(1)(vi) through (viii) respectively, by adding a new paragraph (a)(1)(v), and by revising paragraph (b) introductory text to read as follows:

§ 302.4 District organization functions and responsibilities.

(a) * * *

(1) * * *

(v) The inclusion of private citizens who are not officials of or employees appointed by the officials of a general purpose unit of local government;

* * * * *

(b) District organizations receiving EDA financial assistance for the development and implementation of Comprehensive Economic Development Strategies must also:

* * * * *

(3) Section 302.6 is amended by revising the introductory text and paragraph (c) to read as follows:

§ 302.6 Termination and suspension of district designation.

EDA may, upon 60 days prior written notice to the district organization, member counties or other areas as determined by EDA, and each affected State, terminate the designation status of an Economic Development District:

* * * * *

(c) When a district has requested termination.

* * * * *

PART 303—PLANNING PROCESS AND STRATEGIES FOR DISTRICT AND OTHER PLANNING ORGANIZATIONS SUPPORTED BY EDA

1. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 303.1 is amended by revising paragraphs (a)(1), and (b) to read as follows:

§ 303.1 Definitions, purpose and scope.

(a) * * *

(1) *Planning organization* means an Economic Development District organization, Indian tribe, or other recipient of an EDA grant under part 306 of this chapter which grant is awarded in whole or in part to develop, update, or replace a CEDS, and

* * * * *

(b) This part describes the planning process of and requirements for strategies developed and implemented by planning organizations supported by EDA. Though the strategy requirements are the same under all EDA programs which call for a strategy, the planning process and reporting and updating requirements for EDA supported planning organizations are more stringent.

3. Section 303.2 is amended by revising paragraph (e) and adding a new paragraph (f) to read as follows:

§ 303.2 Planning process.

* * * * *

(e) A new or revised strategy is required at least every five years, or sooner if EDA or the planning organization determines that the strategy is inadequate due to changed circumstances. Each strategy must be available for review and comment by appropriate government bodies and interest groups in the area covered. Strategies submitted by Districts require a 30 day opportunity for review and comment by the Governor or Governors, or designee(s), of the State or States in which they are located, prior to EDA approval.

(f) If EDA identifies any deficiencies, it will notify the organization in writing and provide the organization a reasonable opportunity to remedy such deficiencies.

4. Section 303.3 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 303.3 Requirements for a strategy.

A strategy must be the result of a continuing economic development planning process, developed with broad-based and diverse community participation, and contain the following:

* * * * *

(b) Background and history of the economic development situation of the area covered, with a discussion of the economy, including as appropriate, geography, population, labor force, resources, infrastructure, transportation systems, and the environment;

* * * * *

PART 304—GENERAL SELECTION PROCESS AND EVALUATION CRITERIA

1. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 304.1 is amended by revising paragraphs (a) introductory text, (b) introductory text, and (b)(1), by redesignating paragraph (c) as (d) and revising it, and by adding a new paragraph (c) as follows:

§ 304.1 Project proposal, application, selection and evaluation for programs under PWEDA.

(a) *Local projects.* If you are or represent a party eligible to be an applicant, and are interested in a public works, economic adjustment, planning, local technical assistance or university center project grant, you should contact the appropriate Economic Development Representative (EDR) (or EDA Regional or headquarters office), identified in the NOFA. The EDR or other EDA official is available to provide program information, including the current published NOFA; provide a proposal form approved by the U.S. Office of Management and Budget (OMB), and provide assistance as needed in filling out the proposal form.

* * * * *

(b) *National technical assistance, training, research, or evaluation projects.* If you are or represent a party eligible to be an applicant, and are interested in a national technical assistance, training, research, or evaluation project under PWEDA, you should make initial contact with EDA in Washington, D.C., at locations identified in the NOFA, for information and assistance concerning proposals and to obtain program information, including a copy of the current NOFA, and OMB approved proposal form. After submission of the proposal to the appropriate EDA Washington, D.C. office, generally, three or more technically knowledgeable EDA officials will review the proposal for relevance and quality.

(1) If EDA determines that the proposal is acceptable under § 304.2, program specific sections of this chapter, and the NOFA, if applicable, EDA may by letter invite the submitter to provide an application with a more detailed and comprehensive project narrative.

* * * * *

(c) Additional criteria, or priority consideration factors for assistance, may be set forth in a NOFA.

(d) EDA expects that applications will generally be submitted within 30 days after receipt of an invitation letter. EDA's invitation to submit an application does not assure EDA funding.

3. Section 304.2 is amended by revising paragraph (a) to read as follows:

§ 304.2 How EDA evaluates proposals and applications for projects funded under PWEDA.

(a) General proposal and application evaluation criteria for projects funded under PWEDA are as follows: EDA will screen all proposals/applications for conformance to statutory and regulatory requirements, the reasonableness of the budget presented, and the following criteria:

(1) The relative severity of the economic problem of the area,

(2) The quality of the scope of work proposed to address the problem,

(3) The merits of the activity(ies) for which funding is requested, and

(4) The ability of the prospective applicant to carry out the proposed activity(ies) successfully.

* * * * *

PART 305—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

§ 305.2 [Amended]

2. Section 305.2 is amended by removing paragraph (c) and by redesignating paragraph (d) as paragraph (c).

3.–4. Section 305.5 is redesignated as § 305.24, and a new § 305.5 is added to read as follows:

§ 305.5 Pilot program.

(a) The Chicago Regional Office (CRO) has been authorized to conduct a pilot program through December of 1999 to develop simplified and streamlined procedures for monitoring approved EDA construction projects. Other EDA regional offices have been authorized to conduct their own pilot programs for monitoring compliance with the post-approval project management requirements, provided they first obtain the approval of the Deputy Assistant Secretary for Program Operations. The knowledge and efficiencies gained from the pilot programs will be evaluated and used to improve and revise EDA's post-approval project management requirements and procedures.

(b) As part of this pilot program, the procedures developed by CRO vary from those listed in this subpart B of part 305 in that they place greater reliance on a recipient's certification of compliance. No additional requirements are imposed by CRO procedures. CRO provides guidelines, in its version of the ''Requirements for Approved Projects,'' to all recipients of grants for construction projects monitored by the CRO. The recipient is not required to submit to EDA certain documentation at any set time, but is required to maintain all documentation supporting any and all certifications submitted to CRO, for the period of time provided in 15 CFR part 14 or 24, as appropriate.

5. Section 305.6 is redesignated as § 305.25, and a new § 305.6 is added to read as follows:

§ 305.6 Project management conference.

After the EDA financial assistance award has been accepted by the recipient, EDA may schedule a planning conference with the recipient's representatives to explain the post-approval requirements for administration of the EDA assisted project.

6. Section 305.7 is revised to read as follows:

§ 305.7 Selection of the Architect/Engineer.

Guidelines for the selection of the Architect/Engineer (A/E), services to be performed by the A/E, contract provisions for those services and eligible fees for the A/E are as follows:

(a) Selection of the A/E may be by sealed bids using formal advertising or by competitive proposal procedures subject to negotiation of fair and reasonable compensation. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(b) The A/E agreement shall provide for all services required by the recipient for the engineering feasibility, design and contract administration of the proposed project. Appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council, American Society of Civil Engineers, National Society of Professional Engineers, and/or the American Institute of Architects may be used where the grantee does not have standard procurement/contract documents.

(c) Exhibit A–1, Checklist for Architect/Engineer Services, in the EDA publication, *Requirements for Approved Construction Projects,* displayed at EDA's Web Site, *http//www.doc.gov/eda* (a copy of this publication is available from EDA and a copy will be furnished to an award recipient with the Offer of Financial Assistance), lists the contract provisions which EDA recommends for the A/E contract. The A/E agreement must be furnished to EDA in order for the allowability of the costs of A/E services to be determined.

(d) Eligible project costs may include, but not be limited to, costs for A/E fees, resident inspection, test borings, and the testing of materials provided under an agreement or contract with the recipient. The A/E fees should be in conformity with similar costs and projects in the area.

7. Sections 305.8 through 305.23 are added to read as follows:

§ 305.8 Project phasing.

The recipient is strongly urged to award all contracts for construction at one time.

(a) Where compelling reasons justify phasing the project, the recipient must secure the approval of EDA for phasing prior to advertising any portion for bid.

(b) The recipient's request for approval of phasing must include valid reasons justifying the request and a statement from the recipient that it can, and will, fund any overrun that arises in the later phases.

(c) Normally, EDA will not disburse funds until all construction contracts have been awarded, (an exception is the development of an underground source of water when required to determine the availability of an adequate source of water supply in terms of both quality and quantity as described in the grant application).

(d) Disbursement of grant funds by phases must be approved by EDA. Such approvals will be given only if the recipient can demonstrate that a severe hardship will result if such approval is not given and there are compelling reasons why all phases cannot be contracted for at the same time.

(e) The recipient must be capable of paying incurred costs prior to the first disbursement of EDA grant funds.

§ 305.9 Recipient furnished equipment and materials.

The recipient may wish to incorporate into the project equipment and/or materials which it will secure through its own efforts.

(a) It is the responsibility of the recipient to assure that such equipment and/or materials are adequate for the proposed use.

(b) The use of such equipment and materials must be approved by EDA to

be eligible for EDA financial participation. The recipient shall be required to submit with its request for approval either a paid invoice or current quotes from not less than three suppliers who normally distribute such equipment and/or materials. EDA may require that major equipment items be subject to a lien in favor of EDA and may also require a statement from the Recipient regarding expected useful life and salvage value.

(c) The recipient must be prepared to show that the cost claimed for such equipment and/or materials is competitive with local market costs.

(d) Acquisitions of recipient furnished equipment and/or materials under this section is subject to the requirements of 15 CFR part 24 or 15 CFR part 14.

§ 305.10 Construction Management services.

Construction Management is defined as the services of a firm with competent and experienced staff to act as the recipient's agent to perform all or part of project administration. EDA will not normally approve the use of a Construction Management firm for projects costing less than $5 million. EDA will participate in such cost only if EDA approves the contract for such services.

§ 305.11 Design/Build method of construction.

EDA discourages the use of the same entity to both design and to build EDA assisted facilities. If the recipient desires to use such a method, its use must be justified and EDA must approve the contract. The procurement of, and the compensation to, the designer/builder will be subject to the same rules as for the procurement of construction services.

§ 305.12 Advertising for bids.

In the absence of State or local law to the contrary, the advertisement for bids for construction projects should appear in publications of general circulation a minimum of four times within a 30-day period prior to the opening of bids. Additional circulation of the invitation for bids is encouraged if it is needed to obtain the coverage necessary to secure competitive bids. Generally, a minimum of 30 days should be allowed for submission of bids.

§ 305.13 Bid overrun.

If at the construction contract bid opening the lowest responsive bid less deductive alternates, if any, exceeds the funds available for construction, the recipient may reject all bids or augment the funds available in an amount sufficient to enable the award to be made to the low bidder. If available, the recipient may take deductive alternates in the order given in the Invitation for Bids until at least one of the responsive bids less deductive alternates results in a price within the funds announced as available prior to the bid opening. The award then may be made to that bidder. Additional information on the procedures to be followed is in the EDA publication, *Requirements for Approved Construction Projects.*

§ 305.14 Bid underrun.

If at the construction contract bid opening, the lowest responsive bid is less than the funds available for construction, EDA must be notified immediately to determine whether any unneeded grant funds should be deobligated.

§ 305.15 Contract award.

EDA must concur in the award of all necessary contracts for design and construction of the EDA assisted facility in order for the cost to be eligible for EDA reimbursement. Pending EDA approval of the construction contract(s), the recipient may issue the notice to proceed permitting the work to go forward. If the work does go forward prior to EDA approval, the recipient will be proceeding at its own risk pending EDA review and concurrence. The EDA regional office will advise the recipient of the documents that are required to obtain EDA approval.

§ 305.16 Construction progress schedule.

If requested by EDA, the recipient will secure from the contractor or A/E and furnish a copy to EDA of the estimated construction progress chart and a schedule of amounts for contract payments. The construction progress chart should be updated monthly by the recipient, the A/E or the contractor, and an up-to-date copy furnished to EDA quarterly throughout the construction of the project.

§ 305.17 Project sign.

The recipient shall be responsible for the construction, erection, and maintenance in good condition throughout the construction period, of a sign or signs, (recommended specifications for the sign are included as an exhibit to the EDA publication, *Requirements for Approved Construction Projects*) at the project site in a conspicuous place indicating that the Federal government is participating in the project. EDA may require more than one sign if the project's location so warrants. The recipient should confer with the EDA regional office for suggestions on where the sign(s) should be located.

§ 305.18 Occupancy prior to completion.

If the project or any part of it is to be occupied or used prior to the project's acceptance from the contractor, the recipient must notify EDA of the intent to occupy or use the facility and the effective date of the occupancy or use, secure the written consent of the contractor; secure an endorsement from the insurance carrier and consent of the surety company permitting occupancy or use during the period of construction; secure permanent fire and extended coverage insurance and, when required, secure a permit to occupy the facility from the appropriate authority, e.g. the local building inspector.

§ 305.19 Contract change orders.

After construction contracts have been executed, it may become necessary to alter them. This requires a formal contract change order, issued by the recipient and accepted by the contractor.

(a) All contract change orders must be concurred in by EDA even if the recipient is to pay for all additional costs resulting from the change or the contract price is to be reduced.

(b) The work on the project may continue pending EDA review and concurrence in the change order but the recipient should be aware that all such work will be at the recipient's risk as to whether the cost for the work will be an eligible project cost for EDA participation until EDA concurrence is received.

(c) EDA will not approve financial participation in change orders that are solely for the purpose of using excess funds resulting from an underrun of one or more of the items in the approved project budget.

(d) EDA approval of change orders must be based on a finding by EDA that the work called for in the change order is within the project scope and is required for satisfactory operation or functioning of the project.

§ 305.20 Project development time schedule.

The recipient is responsible for expeditiously prosecuting the implementation of the project in accordance with the project development time schedule contained in the EDA grant award. As soon as the recipient becomes aware that it will not be possible to meet the time schedule, it must notify the EDA Regional Office.

§ 305.21 Controlling budget.

The tabulation of estimated project costs contained in the EDA grant award is the controlling budget for the project.

(a) Budget line item revisions, including the addition of a new line item, which do not involve a change of scope may be approved by EDA if no new EDA funds are involved; another budget line item (preferably the contingency line item, although this is not mandatory) has funds which can be used without significantly adversely affecting the object of that line item; and unless the line item that is proposed to be supplemented is supplemented, the activity associated with that line item cannot be completed.

(b) The recipient shall notify EDA of any proposed transfer of funds from one budget line item to another. The recipient's attention is called to the fact that the addition of a new line item to the approved budget may involve an impermissible change of scope and, therefore, may result in such costs being excluded from EDA's participation. Accordingly, the recipient is advised to discuss the need to add a new line item to the approved budget with EDA regional office staff before any costs are incurred under such new line item.

§ 305.22 Services performed by the recipient's own forces.

The recipient may wish to have a portion or all of the design, construction, inspection, legal services or other work and/or services in connection with the project performed by personnel who are employed by the recipient either full or part time (in-house). Due to the difficulty in monitoring in-house construction and the limited EDA staff available to perform the monitoring, in-house construction is discouraged.

(a) If EDA approves the use of the recipient's in-house forces to construct all or part of the EDA assisted project and the in-house forces are to be augmented by personnel hired specifically for the EDA assisted project, the hourly wages to be paid to such personnel shall be the same as the hourly wages paid to full time personnel of the recipient doing the same or similar work. If the nature of the work is not similar and/or there is not an established wage scale, the prevailing state or county hourly wage for public employees shall be obtained from the appropriate state or county agency and used for the newly established position. However, non-profit recipients must pay all personnel employed for the construction of the EDA assisted project the prevailing hourly wages for the area as established by the U.S. Department of Labor.

(b) The use of in-house forces for construction may be approved by EDA if:

(1) The recipient has a special skill required for the construction of the project, *e.g.,* construction of unique Indian structures, or

(2) The recipient has made all reasonable efforts to obtain a contractor but has failed to do so because of uncontrollable factors such as the remoteness of the project site or an overabundance of construction work in the project area, or

(3) Substantial cost savings can be demonstrated.

§ 305.23 Public Works projects for design and engineering work.

In general, EDA prefers to award a Public Works grant that includes all of the costs required for the successful completion of a project, including the design and engineering work.

(a) When the purpose of the Public Works project is to accomplish only the design and engineering work for a proposed future construction project, EDA may award a grant for the design and engineering work with the understanding that EDA cannot make a commitment against a future fiscal year appropriation to fund the proposed construction project.

(b) The purpose of the EDA assisted project for design and engineering work is to produce all of the documents required for the construction of the proposed future project in a format and in sufficient quantity to permit a construction contract to be advertised and awarded soon after the project's construction financing has been arranged. The EDA document, *Requirements for Approved Construction Projects,* should be used to ensure that the proposed construction project meets all applicable Federal requirements.

(c) Design and engineering projects will not generally be considered unless the nature of the proposed project to be considered is complex or environmentally sensitive and EDA makes a determination that it is in the best interest of the Government to award a separate grant for design and engineering.

(d) EDA requires the design/engineering contract to be submitted to and approved by EDA before any EDA grant funds can be disbursed.

8. Redesignated § 305.24 is amended by revising paragraph (a)(4) to read as follows:

§ 305.24 Disbursements of funds for grants.

(a) * * *

(4) Upon such evidence as EDA may require that grantee's proportionate share of funds not yet expended, is on deposit;

* * * * *

9. Redesignated § 305.25 is revised to read as follows:

§ 305.25 Final inspection.

A final inspection will be scheduled by the recipient and appropriate notification given to EDA, when the project has been completed and all deficiencies have been corrected. EDA personnel may attend and participate in the final inspection and, in any event, EDA must be advised of the outcome of such final inspection and the recipient's acceptance of the work.

10. Section 305.26 is added to read as follows:

§ 305.26 Reports.

Financial and performance report requirements will be specified in the Special Award Conditions of the grant. Construction progress schedule reports will be as required in § 305.16.

PART 306—PLANNING ASSISTANCE

1. The authority citation for part 306 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 306.3 is amended by revising paragraphs (b)(1) and (2), by redesignating paragraph (b)(3) as (b)(4) and revising it, by adding a new paragraph (b)(3), and by revising paragraph (c)(1) to read as follows:

§ 306.3 Award requirements.

* * * * *

(b) * * *

(1) The maximum Federal grant rate for a project under this part for recipients other than Economic Development Districts is 50 percent, except as supplemented as provided in § 301.4(b) of this chapter.

(2) The maximum Federal grant rate for a project under this part for a district is:

(i) 50 percent, or

(ii) 75 percent, if the project meets the criteria of paragraph (b)(3) of this section.

(3) A district project is eligible for a supplemental grant increasing the Federal share up to and including 75 percent when the applicant is able to demonstrate that:

(i) The project is intended to address problems arising from actual or threatened high unemployment, low per

capita income, or a special need that qualifies an area for eligibility under § 301.2(b) of this chapter,

(ii) The project is in significant part devoted to activities addressing the needs of the most economically distressed parts of the total area served by the applicant,

(iii) The applicant is uniquely qualified to address the major causes of actual or threatened economic distress in the area served by the applicant, and

(iv) The applicant cannot provide the non-Federal share otherwise required because in the overall economic situation there is a lack of available non-Federal share due, for instance, to the pressing demand for its use elsewhere.

(4) A project receiving a supplemental grant increasing the Federal share under paragraph (b)(3) of this section is not eligible for additional Federal grant assistance under § 301.4(d) of this chapter, i.e., the 10 percent incentive increase for certain projects in districts.

(c) * * *

(1) The State must have or develop a CEDS;

* * * * *

3. The heading of § 306.4 is revised to read as follows:

§ 306.4 Post-approval requirements.

* * * * *

PART 307—LOCAL TECHNICAL ASSISTANCE, UNIVERSITY CENTER TECHNICAL ASSISTANCE, NATIONAL TECHNICAL ASSISTANCE, TRAINING, RESEARCH, AND EVALUATION

1. The authority citation for part 307 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 307.2 is amended by removing paragraph (f) and by revising paragraphs (d) and (e) to read as follows:

§ 307.2 Application evaluation criteria.

* * * * *

(d) Demonstrates innovative approaches to stimulating economic development in distressed areas; and

(e) Is consistent with the CEDS or other strategy accepted by EDA for the area in which the project is located.

3. Section 307.3 is amended by removing paragraph (b) and by redesignating paragraphs (c) and (d) as (b) and (c) accordingly, and by revising redesignated paragraph (c) to read as follows:

§ 307.3 Award and grant rate requirements.

* * * * *

(c) Grant rate:

(1) The maximum Federal grant rate for a project under this subpart is:

(i) 50 percent, except as supplemented as provided in § 301.4(b); or

(ii) Up to and including 100 percent, if the project is not feasible without, and merits, a reduction or waiver of the non-Federal share required under the rate provided in § 301.4(b).

(2) A project is eligible for a supplemental grant increasing the Federal share up to and including 100 percent when the applicant is able to demonstrate that,

(i) It cannot provide the non-Federal share otherwise required because in the overall economic situation there is a lack of available non-Federal share due, for instance, to the pressing demand for its use elsewhere;

(ii) The project is addressing major causes of distress in the service area and requires the unique characteristics of the applicant, which will not participate in the program if it must provide all or part of a 50 percent non-Federal share; or

(iii) The project is for the benefit of local, State, regional, or national economic development efforts, and will be of no or only incidental benefit to the recipient.

(3) A project receiving a supplemental grant increasing the Federal share under paragraph (c)(2) of this section is not eligible for additional Federal grant assistance under § 301.4(d) of this chapter, *i.e.,* the 10 percent incentive increase for certain projects in districts.

(4) A local technical assistance project is eligible for a Federal grant rate of more than 75 percent, up to 100 percent, only if approved by the Assistant Secretary.

4. Sections 307.7 through 307.9 are redesignated as §§ 307.9 through 307.11, respectively; §§ 307.4 through 307.6 are redesignated as §§ 307.5 through 307.7 in subpart B; and a new § 307.4 is added to read as follows:

§ 307.4 Post-approval requirements.

Financial reports, progress reports, and project products will be specified in the Special Award Conditions of the grant or cooperative agreement.

5. Redesignated § 307.6 is amended by removing paragraph (d) and by redesignating paragraphs (e) and (f) as (d) and (e) respectively.

6. Redesignated § 307.7 is amended by revising paragraph (d) and by adding a new paragraph (e) to read as follows:

§ 307.7 Award and grant rate requirements.

* * * * *

(d) Grant rate:

(1) The maximum Federal grant rate for a project under this subpart is:

(i) 50 percent, or

(ii) 75 percent, if the project is not feasible without, and merits, a reduction or waiver of the non-Federal share.

(2) A project is eligible for a supplemental grant increasing the Federal share up to and including 75 percent when the applicant is able to demonstrate that:

(i) It cannot provide the non-Federal share otherwise required because in the overall economic situation there is a lack of available non-Federal share due, for instance, to the pressing demand for its use elsewhere;

(ii) The project is addressing major causes of distress in the area serviced and requires the unique characteristics of the applicant, which will not participate in the program if it must provide all or part of a 50 percent non-Federal share; or

(iii) The project is for the benefit of local, State, regional, or national economic development efforts, and will be of no or only incidental benefit to the recipient.

(3) A project awarded under this subpart is not eligible for additional Federal grant assistance under the table in § 301.4(b) or the provisions of § 301.4(d) of this chapter, i.e., the 10 percent incentive increase for certain projects in districts.

(e) Direct costs: At least 80 percent of EDA funding must be allocated to direct costs of program delivery.

7. A new § 307.8 is added to subpart B to read as follows:

§ 307.8 Post-approval requirements.

Financial reports, progress reports, and project products will be specified in the special award conditions of the grant or cooperative agreement.

8. Redesignated § 307.11 is amended by removing paragraph (c), by redesignating paragraph (d) as paragraph (c) and by revising redesignated paragraphs (c)(1)(ii) and (c)(2) introductory text to read as follows:

§ 307.11 Award and grant rate requirements.

* * * * *

(c) * * *

(1) * * *

(ii) Up to and including 100 percent, if the project is not feasible without, and merits, a reduction or waiver of the non-Federal share required under the rate provided in § 301.4(b) of this chapter.

(2) A project is eligible for a supplemental grant increasing the Federal share up to and including 100 percent when the applicant is able to demonstrate that:

* * * * *

9. Section 307.12 is added to read as follows:

§ 307.12 Post-approval requirements.

Financial reports, progress reports, and project products will be specified in the Special Award Conditions of the grant or cooperative agreement.

PART 308—REQUIREMENTS FOR ECONOMIC ADJUSTMENT GRANTS

1. The authority citation for part 308 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 308.1 is amended by revising paragraph (b)(1) to read as follows:

§ 308.1 Purpose and scope.

* * * * *

(b) * * *

(1) Help organize and carry out a CEDS;

* * * * *

3. Section 308.4 is amended by revising paragraph (b) to read as follows:

§ 308.4 Selection and evaluation factors.

* * * * *

(b) *Strategy grants.* EDA will review strategy grant applications for assurances that the proposed activities will conform to the CEDS requirements in § 303.3 of this chapter.

* * * * *

4. Section 308.5 is amended by revising paragraph (b) to read as follows:

§ 308.5 Applicant requirements.

* * * * *

(b) Include, or incorporate by reference, if so approved by EDA, a strategy, as provided in § 301.3 of this chapter (except that a strategy is not required when a funding request is for planning assistance, *e.g.,* a strategy grant);

* * * * *

PART 314—PROPERTY

1. The authority citation for part 314 continues to read as follows:

Authority: 42 U.S.C. 3211; 19 U.S.C. 2341–2355; 42 U.S.C. 6701; 42 U.S.C. 184; Department of Commerce Organization Order 10–4.

2. Section 314.3 is amended by revising paragraph (d) to read as follows:

§ 314.3 Use of property.

* * * * *

(d) When acquiring replacement personal property of equal or greater value, the recipient may, with EDA's approval, trade-in the property originally acquired or sell the original property and use the proceeds in the acquisition of the replacement property, provided that the replacement property shall be used for the project and be subject to the same requirements as the original property. In extraordinary and compelling circumstances, EDA may allow replacement of real property, with the approval of the Assistant Secretary.

3. Section 314.4 is amended by revising paragraph (b) to read as follows:

§ 314.4 Unauthorized use.

* * * * *

(b) If property is disposed of or encumbered without EDA approval, EDA may assert its interest in the property to recover the Federal share of the value of the property for the Federal Government. To that end, EDA may take such actions as are provided in connection with loans and loan guarantees, in § 316.5(c) of this chapter. EDA may pursue its rights under both paragraphs (a) and (b) of this section to recover the Federal share, plus costs and interest.

PART 316—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. The authority citation for part 316 continues to read as follows:

Authority: 42 U.S.C. 3211; 19 U.S.C. 2391, *et. seq.,* Department of Commerce Organization Order 10–4.

2. Section 316.2 is amended by revising the definitions of ''*Beneficiary*'' and ''*Commercial product or service*'' in paragraph (a), and by revising paragraphs (e) introductory text, and (e)(1), (2), (4), (6) and (8) to read as follows:

§ 316.2 Excess capacity.

(a) * * *

Beneficiary means a firm or group of firms, a public or private enterprise or organization that provides a commercial product or service and that directly benefits from an EDA-assisted project.

* * * * *

Commercial product or service means a product or service sold on the open market in competition with another provider's product or service of the same kind.

* * * * *

(e) Unless EDA determines that circumstances require a section 208 study or report, EDA will make a finding of compliance with section 208 without doing a section 208 report or study for those projects with known beneficiaries, and which have one or more of the following characteristics:

(1) The project is primarily for the use and benefit of the community as a whole without significantly expanding the output of commercial products or services;

(2) The project is primarily to be used for non-production or non-distribution purposes;

* * * * *

(4) The project will assure the retention of physical capacity and/or employment without significantly expanding the existing supply of the same kinds of commercial products or services;

* * * * *

(6) The project will replace, rebuild or modernize, within the same commuting area, facilities which within the previous two years have been, or are to be, displaced by official governmental action, without a change in the kind or significant increase in output of the commercial product or service previously provided;

* * * * *

(8) The project is wholly or primarily for planning, technical assistance, research, evaluation, other studies, or for the training of workers, and not for the direct benefit of a firm or an industry that produces a commercial product or service; or

* * * * *

3. Section 316.11 is amended by revising the heading and paragraph (a) to read as follows:

§ 316.11 Intergovernmental review of projects.

(a) When the applicant is not a State, Indian tribe or other general-purpose governmental authority, the applicant must afford the appropriate general purpose local governmental authority of the area a minimum of 15 days in which to review and comment on a proposed project under EDA's public works and economic adjustment programs. Under these programs, applicants shall furnish the following with their application: if no comments were received, a statement of the efforts made to obtain such comments; or, if comments were received, a copy of the comments and a statement of any actions taken to address such comments.

* * * * *

PART 317—CIVIL RIGHTS

1. The authority citation for part 317 is revised to read as follows:

Authority: 42 U.S.C. 3211; 42 U.S.C. 2000d–1; 29 U.S.C. 794; 42 U.S.C. 3123; 42 U.S.C. 6709; 20 U.S.C. 1681; 42 U.S.C. 6101; Department of Commerce Organization Order 10–4.

2. Section 317.1 is amended by revising paragraph (a)(5) and adding paragraph (a)(6); by redesignating paragraph (f) as paragraph (h) and revising it; by redesignating paragraphs (b) through (e) as paragraphs (c) through (f) and revising them; and by adding new paragraphs (b) and (g) to read as follows:

§ 317.1 Civil rights.

(a) * * *

(5) 42 U.S.C. 6709 (proscribing discrimination on the basis of sex under the Local Public Works Program; and

(6) Other Federal statutes, regulations and Executive Orders as applicable.

(b) No recipient or other party shall intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, 42 U.S.C. 3123, 42 U.S.C. 6709, and the Age Discrimination Act of 1975, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

(c) Definitions:

(1) *Other Parties* means, as an elaboration of the definition in 15 CFR part 8, entities which, or which are intended to, create and/or save 15 or more permanent jobs as a result of EDA assistance provided that they are also either specifically named in the application as benefitting from the project, or are or will be located in an EDA building, port, facility, or industrial, commercial or business park prior to EDA's final disbursement of funds awarded for the project.

(2) Additional definitions are provided in EDA's Civil Rights Guidelines and 15 CFR part 8.

(d) All recipients of EDA financial assistance under PWEDA and the Trade Act, and Other Parties are required to submit the following to EDA:

(1) Written assurances that they will comply with EDA regulations and other Department of Commerce regulations, and such other requirements as may be applicable, prohibiting discrimination;

(2) Employment data in such form and manner as determined by EDA;

(3) Information on civil rights status and involvement in charges of discrimination in employment or the provision of services during the 2 years previous to the date of submission of such data as follows:

(i) Description of the status of any lawsuits, complaints or the results of compliance reviews; and

(ii) Statement indicating any administrative findings by a Federal or State agency.

(4) Whenever deemed necessary by EDA to determine that applicants and other parties are in compliance with civil rights regulations, such applicants and other parties shall submit additional information in the form and manner requested by EDA; and

(5) In addition to employment record requirements found in 15 CFR 8.7, complete records on all employees and applicants for employment, including information on race, sex, national origin, age, education and job-related criteria must be retained by employers and made accessible to the responsible Department official.

(e) To enable EDA to determine that there is no discrimination in the distribution of benefits in projects which provide service benefits, EDA may require that applicants submit a project service map and information on which to determine that services are provided to all segments of the area being assisted. Applicants may be required to submit any other information EDA may deem necessary for such determination.

(f) EDA assisted planning organizations must meet the following requirements:

(1) For the selection of representatives, EDA expects planning organizations and CEDS committees to take appropriate steps to ensure, where appropriate to the area, that there is adequate representation of minority and low-income populations, women, people with disabilities and Federal and State recognized American Indian tribes and that such representation is accomplished in a nondiscriminatory manner; and

(2) EDA assisted planning organizations and CEDS committees shall take appropriate steps to ensure that no individual will be subject to discrimination in employment because of their race, color, national origin, sex, age or disability.

(3) Prior to approval of EDA initial funding, and for district designations, each district and other planning organizations so supported by EDA is required to report to EDA the membership of its governing bodies, executive committees, and staff. This report shall include the following items:

(i) The total population and minority population of the area served by the organization;

(ii) A list of organizations in the area representing the interests of minorities, women, and people with disabilities;

(iii) A list of the membership of the governing board, executive committee indicating race, sex, national origin, age, and those who self-identify, as having disabilities;

(iv) A description of actions taken and methods used in its diversity efforts to promote, as much as possible, the participation of all segments of the areas served;

(v) Information regarding how they notified and provided organizations, including neighborhood associations representing the interests of minorities, women, and people with disabilities, the opportunity to select members and their own representatives;

(vi) A list of employees on the staff of the organization by name, position title, salary, funding source, and hiring data indicating race, sex, national origin, and age;

(vii) A brief summary of any economic development activities undertaken during the previous 12 months that may have impacted the covered persons in the area. This information is required with the initial application and annually thereafter for continuation planning funding.

(4) Prior to approval of continuation funding for a planning grant each district and other planning organization so supported by EDA is required to submit a report which includes the items outlined in paragraph (f)(3) of this section except items in paragraphs (f)(3)(ii) and (v), (although paragraph (f)(3)(v) may be required when changes to the boards and committees affecting minorities, women, people with disabilities have occurred), and a summary indicating the annual progress made in the diversity efforts including a list by name, race, national origin, sex, and age of all hires, promotions, terminations, and composition of applicant pools since the last reporting period and steps taken to ensure nondiscrimination and to provide equal employment opportunity.

(5) In order to determine whether districts and other planning organizations supported by EDA are complying with the requirements in paragraph (f)(3), EDA shall conduct annual compliance reviews of these organizations through either an in-depth desk audit or onsite review.

(g) Applicants for Revolving Loan Funds will provide information describing the make-up of the existing or proposed RLF Loan Board members by race, national origin, gender, age, and those who voluntarily self-identify as having disabilities. The reports submitted to EDA by RLF grantees will be used to monitor civil rights compliance. Additional information may be requested as needed to determine compliance. Compliance

issues which will be reviewed and monitored include, but are not limited to, the following:

(1) The representation of minorities, women, and those who voluntarily self-identify as having disabilities, as well as the age of members on the RLF Loan Board;

(2) Recipient's plans to openly market the RLF to prospective minority, disabled, and women business borrowers; and

(3) Recipient's monitoring plans for borrowers' compliance with civil rights requirements concerning employees or applicants for employment, and/or providers of goods and services.

(h) Reporting and other procedural matters are set forth in 15 CFR parts 8, 8b, 8c, and 20 and the Civil Rights Guidelines which are available from EDA's Regional Offices. See part 300 of this chapter.

PART 318—EVALUATIONS OF UNIVERSITY CENTERS AND ECONOMIC DEVELOPMENT DISTRICTS

1. The authority citation for part 318 continues to read as follows:

Authority: 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

2. Section 318.1 is amended by revising paragraphs (a)(3) and (b) to read as follows:

§ 318.1 University Center performance evaluations.

(a) * * *

(3) For peer review, ensure the participation of at least one other University Center, as appropriate, in the evaluation on a cost-reimbursement basis.

(b) A purpose of the evaluation is to determine if the University Center should continue to receive funding under the program.

3. Section 318.2 is amended by revising paragraphs (b) and (c) to read as follows:

§ 318.2 Economic Development District performance evaluations.

* * * * *

(b) Assess the Economic Development District's management standards, financial accountability, and program performance; and

(c) For peer review, ensure the participation of at least one other Economic Development District organization, as appropriate, in the evaluation on a cost-reimbursement basis.

Dated: December 6, 1999.

Chester J. Straub, Jr.,

Acting Assistant Secretary for Economic Development.

[FR Doc. 99–32024 Filed 12–13–99; 8:45 am]

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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.

S. 1418/P.L. 106–130

To provide for the holding of court at Natchez, Mississippi, in the same manner as court is held at Vicksburg, Mississippi, and for other purposes. (Dec. 6, 1999; 113 Stat. 1677)

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Gateway Visitor Center Authorization Act of 1999 (Dec. 7, 1999; 113 Stat. 1678)

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To designate a portion of Gateway National Recreation Area as ''World War Veterans Park at Miller Field''. (Dec. 7, 1999; 113 Stat. 1681)

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Arizona Statehood and Enabling Act Amendments of 1999 (Dec. 7, 1999; 113 Stat. 1682)

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To amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Park Advisory Commission. (Dec. 7, 1999; 113 Stat. 1684)

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H.R. 2079/P.L. 106–138

Terry Peak Land Transfer Act of 1999 (Dec. 7, 1999; 113 Stat. 1693)

H.R. 2886/P.L. 106–139

To amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age

may be considered a child under such Act if adopted with or after a sibling who is a child under such Act. (Dec. 7, 1999; 113 Stat. 1696)

H.R. 2889/P.L. 106–140

To amend the Central Utah Project Completion Act to provide for acquisition of water and water rights for Central Utah Project purposes, completion of Central Utah project facilities, and implementation of water conservation measures. (Dec. 7, 1999; 113 Stat. 1698)

H.R. 3257/P.L. 106–41

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H.J. Res. 65/P.L. 106–142

Commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes. (Dec. 7, 1999; 113 Stat. 1701)

S. 28/P.L. 106–143

Four Corners Interpretive Center Act (Dec. 7, 1999; 113 Stat. 1703)

S. 416/P.L. 106–144

To direct the Secretary of Agriculture to convey to the city of Sisters, Oregon, a certain parcel of land for use in connection with a sewage treatment facility. (Dec. 7, 1999; 113 Stat. 1708)

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