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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.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 93–138–4]

Imported Fire Ant Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rules as final rules.

SUMMARY: We are adopting as final rules, without change, two interim rules that amended the imported fire ant regulations. The first interim rule designated all or portions of the following as quarantined areas: 5 counties in Arkansas, 6 counties in Georgia, 6 counties in Mississippi, 17 counties in North Carolina, 4 counties in Oklahoma, 4 counties in South Carolina, and 5 counties in Tennessee. The second interim rule added Laurens County, SC, as a quarantined area and corrected the description of the quarantined area in York County, SC. The interim rules were necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

EFFECTIVE DATE: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Brittingham, Operations Officer, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on January 21, 1994 (59 FR 3313–3316, Docket No. 93–138–1), we amended the imported fire ant regulations by designating all or portions of the following counties as quarantined areas: Desha, Grant, Hempstead, Hot Springs, and Howard Counties in Arkansas; Franklin, Gilmer, Pickens, Stephens, Fannin, and Lumpkin Counties in Georgia; Bolivar, DeSoto, Marshall, Panola, Quitman, and Tate Counties in Mississippi; Anson, Cumberland, Dare, Duplin, Hoke, Lenoir, Martin, Mecklenburg, Montgomery, Pitt, Richmond, Robeson, Sampson, Scotland, Tyrrell, Union, and Washington Counties in North Carolina; Carter, Bryan, Marshall, and McCurtain Counties in Oklahoma; Abbeville, Anderson, Greenville, and York Counties in South Carolina; and Fayette, Hardeman, Hardin, McNairy, and Wayne Counties in Tennessee. Comments on the interim rule were required to be received on or before March 22, 1994. We received one comment, which was in favor of the interim rule.

In a document effective on January 21, 1994, and published in the **Federal Register** on February 11, 1994 (59 FR 6531, Docket No. 93–138–2), we corrected two editorial errors in Docket No. 93–138–1.

In an interim rule effective and published in the **Federal Register** on May 2, 1994 (59 FR 22491–22492, Docket No. 93–138–3), we amended the imported fire ant regulations by adding Laurens County, SC, as a quarantined area and by correcting the description of the quarantined area in York County, SC. Comments on this interim rule were required to be received on or before July 1, 1994. We received one comment, which was in favor of the interim rule.

The facts presented in these interim rules still provide a basis for the rules.

This action also affirms the information contained in the interim rules concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, the National Environmental Policy Act, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as final rules, without change, the interim rules that amended 7 CFR 301.81–3 and that were published at 59 FR 3313–3316 on January 21, 1994 (as corrected at 59 FR 6531 on February 11, 1994), and 59 FR 22491–22492 on May 2, 1994.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 5th day of August, 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–19632 Filed 8–10–94; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV94–985–1FIR]

Spearmint Oil Produced in the Far West; Expenses and Assessment Rate for the 1994–95 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without changes, the provisions of the interim final rule which authorized expenditures and established an assessment rate for the Spearmint Oil Administrative Committee (Committee) under Marketing Order 985 for the 1994–95 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: June 1, 1994, through May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone: (202) 720–5127; or Robert Curry, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland,

Oregon 97204, telephone: (503) 326–2724.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 985 [7 CFR Part 985] regulating the handling of spearmint oil produced in the Far West. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, spearmint oil produced in the Far West is subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable oil produced during the 1994–95 fiscal year, beginning June 1, 1994, through May 31, 1995. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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

There are approximately 8 handlers of spearmint oil regulated under the marketing order each season and approximately 260 producers of spearmint oil in the Far West. Small agricultural producers have been defined by the Small Business Administration [13 CFR § 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of these handlers and producers may be classified as small entities.

The marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable oil handled from the beginning of such year. Annual budgets of expenses are prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are handlers and producers of spearmint oil. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The Committee's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing the anticipated expenses by expected shipments of oil. Because that rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the Committee's expected expenses.

The Committee met on February 23, 1994, and unanimously recommended a total expense amount of $228,705, which is $30,705 more in expenses than in the 1993–94 fiscal year.

The Committee also unanimously recommended an assessment rate of $0.09 per pound for the 1994–95 fiscal year, which is a $0.01 increase in the assessment rate from the previous fiscal year. The assessment rate, when applied to anticipated shipments of 1,727,388 pounds, would yield $155,464.92 in assessment income. This along with $8,000 in interest income and $65,240.08 from the Committee's authorized reserves will be adequate to cover estimated expenses.

Major expense categories for the 1994–95 fiscal year include $94,200 for salaries, $30,000 for market development, and $20,000 for travel. Funds in the reserve at the end of the fiscal year, estimated at $169,166.84, will be within the maximum permitted by the order of one fiscal year's expenses.

An interim final rule was published in the **Federal Register** [59 FR 18948, April 21, 1994] and provided a 30-day comment period for interested persons. One comment was received.

The comment states that the interim final rule should be revised to comply with Executive Order 12770 directing preferential use of the metric system of measurement by Federal departments and agencies. Projects or programs that directly affect individual farmers or farm programs have been granted a general exemption from this directive. The Department has determined that Marketing Agreements and Orders fall under this exemption. The industries involved do not use the metric system in the marketing of their products. To convert their trading practices to the metric system would disrupt trade and inflate costs. Changing order regulations to accommodate the metric system would not benefit the industry or consumers.

Therefore, for the reasons stated, the Department is not making any changes in this final rule.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that the specified expenses for the marketing order covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** [5 U.S.C. 553] because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1994–95 fiscal year for the program began June 1, 1994. The marketing order requires that the rate of assessment apply to all assessable oil handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committee at a public meeting and

published in the **Federal Register** as an interim final rule. One comment was received concerning the interim final rule that is adopted in this action as a final rule without change.

List of Subjects in 7 CFR Part 985

Marketing Agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

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

2. The interim final rule adding § 985.314 which was published at 59 FR 18949, is adopted as a final rule without change.

Dated: August 4, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–19566 Filed 8–10–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 985

[FV94–985–2FIR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for "Class 3" Native Spearmint Oil for the 1993–94 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule to increase the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1993–94 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. This rule was recommended in order to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the spearmint oil market.

EFFECTIVE DATE: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, Room 369, Portland, Oregon 97204; telephone: (503) 326–2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 720–5127.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 985 (7 CFR Part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule increases the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1993–94 marketing year, which ended on May 31, 1994. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are eight spearmint oil handlers subject to regulation under the order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold "Class 1" (Scotch) oil allotment base, and 145 producers hold "Class 3" (Native) oil allotment base. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A minority of handlers and producers of Far West spearmint oil may be classified as small entities.

The interim final rule was issued on April 20, 1994, and published in the April 28, 1994, **Federal Register** (59 FR 21917), with an effective date of April 28, 1994. That rule provided a 30-day comment period which ended May 31, 1994. No comments were received.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations is not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the order). Spearmint oil is also produced in the Midwest. The production area covered by the order normally accounts for 75 percent of the annual U.S. production of spearmint oil.

This rule continues in effect the increase in the salable quantity and allotment percentage of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1993–94 marketing year, which ended on May 31, 1994. This rule

also continues in effect the increase in the salable quantity from 714,665 pounds to 772,611 pounds and the allotment percentage from 37 percent to 40 percent for Native spearmint oil.

The salable quantity is the total quantity of each class of oil which handlers may purchase from, or handle on behalf of, producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The initial salable quantities and allotment percentages for both Native and Scotch spearmint oils for the 1993–94 marketing year were recommended by the Committee at its October 15, 1992, meeting. The Committee recommended salable quantities of 714,665 pounds and 716,164 pounds for Native and Scotch oils, respectively, and allotment percentages of 37 percent and 41 percent for Native and Scotch oils, respectively.

A proposed rule incorporating the Committee's October 15, 1992, recommendation was published in the December 7, 1992, issue of the **Federal Register** (57 FR 57695). Comments on the proposed rule were solicited from interested persons until January 6, 1993. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing the Committee's recommendation as the salable quantities and allotment percentages for the 1993–94 marketing year was published in the May 13, 1993, issue of the **Federal Register** (58 FR 28340).

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the order, at its February 23, 1994, meeting in Pasco, Washington, the Committee recommended that the salable quantity and allotment percentage for Native spearmint oil for the 1993–94 marketing year be increased. The Committee vote resulted in seven members in favor and one member opposed to the recommendation. The member voting in opposition believes current demand for Native spearmint oil is not adequate enough to warrant an increase in the salable quantity and allotment percentage.

The Committee's recommendation to increase the allotment percentage for Native spearmint oil by three percent results in a 57,946 pound increase in the salable quantity, from 714,665 to 772,611 pounds. Growers currently hold in reserve 1,436,020 pounds of Native oil and 948,063 pounds of Scotch oil. However, the Committee states that not all producers have reserve oil available to fill their increase in the salable quantity. In those cases, no additional oil is made available to the market. Therefore, this rule provides an actual increase of 55,553 pounds of additional base rather than the calculated amount. This small difference between the calculated and actual amounts of released oil will not have a significant impact on the availability of marketable oil.

The Committee, in reaching its decision to recommend an increase in the 1993–94 salable quantity and allotment percentage for Native spearmint oil, took into consideration the current supply and anticipated demand for both Native and Scotch spearmint oils. The available supply of Native and Scotch spearmint oil as of February 23, 1994, is 59,599 pounds and 175,000 pounds, respectively. When considering its initial recommendation for the 1993–94 season, the Committee estimated that the recommended salable quantity and allotment percentage would result in an approximate carryover of 90,000 pounds of Native oil. This places the current available supply for the effective period of Native oil below the expected carryover.

Over the past five years, the average utilization of Native oil between March 1 and May 31 is 91,375 pounds. This figure is considerably more than the existing available supply. In addition, a majority of spearmint oil buyers indicated they will be in a position to buy additional Native spearmint oil if it is made available. By increasing the Native spearmint oil allotment percentage by three percent, the available supply (as of February 23, 1994), continues in effect with an increase by 55,553 pounds, from the original 59,599 pounds to 115,152 pounds.

In its deliberations on how best to meet the anticipated demand, Committee members and other industry participants indicated that the available Native spearmint oil supply should be increased by three to seven percent. The majority of the individuals recommending some level of increase favored three percent, indicating a higher level may push Native oil supply into a surplus situation before the end of the marketing year. The Committee did not recommend an increase in the supply of Scotch spearmint oil since it is anticipated that there will be a surplus supply of this type of oil by the end of the marketing year.

The Department, based on its analysis of available information, has determined that an allotment percentage of 40 percent should remain established for Native spearmint oil for the 1993–94 marketing year. This percentage provides an increase in the salable quantity of Native spearmint oil from 714,665 pounds to 772,611 pounds.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including that contained in the prior proposed and final rules in connection with the establishment of the salable quantities and allotment percentages for Native and Scotch spearmint oils for the 1993–94 marketing year, the Committee's recommendation and other available information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (59 FR 21917, April 28, 1994), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. The interim final rule amending 7 CFR Part 985, which was published at 59 FR 21917 on April 28, 1994, is adopted as a final rule without change.

Dated: August 4, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–19559 Filed 8–10–94; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Part 1435

RIN 0560–AC91

Sugar Marketing Assessments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The proposed rule on sugar marketing assessments, published December 31, 1992, (57 FR 62486) is adopted as final, with certain changes as required by amendments made by the

Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act) to the Agricultural Act of 1949 (1949 Act). This final rule reflects changes required by amendments to the statutory provisions which authorize the assessments, clarifies the regulations, and enhances the collection of the assessments.

EFFECTIVE DATE: September 9, 1994.

FOR FURTHER INFORMATION CONTACT: Robert D. Barry, Director, Sweeteners Analysis Division, Agricultural Stabilization and Conservation Service, room 3739, South Agriculture Building, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013–2415; telephone: 202–720–3391.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. OMB has determined that this rule is significant.

Regulatory Flexibility Act

The Executive Vice President, Commodity Credit Corporation (CCC), certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Consequently, a Regulatory Flexibility Analysis is not required under the provisions of the Regulatory Flexibility Act.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule do not preempt State law to the extent such laws are not inconsistent with the provisions of this final rule. This final rule is not retroactive. Before any action may be brought regarding the provisions of this final rule, the administrative appeal rights set forth at 7 CFR part 780 must be exhausted.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed for this final rule.

Paperwork Reduction Act

This final rule does not impose new information collection or recordkeeping requirements on the public. The information collection requirements of the current rule at 7 CFR Part 1435 have been approved through July 31, 1995, by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and has been assigned OMB No. 0560–0138.

Executive Order 12372

The program covered by this final rule is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Background

Section 1105(c) of the Omnibus Budget Reconciliation Act of 1990 amended section 206(i) of the 1949 Act to provide that, only for the 1991 through 1995 crops of sugarcane and sugar beets, the first processor of sugarcane or sugar beets shall remit to CCC a nonrefundable marketing assessment in an amount equal to 0.18 cents per pound of raw cane sugar processed by the processor from domestically produced sugarcane and an amount equal to 0.193 cents per pound of beet sugar processed by the processor from domestically produced sugar beets. The amendment also provided for the imposition of civil penalties if any persons were to fail to remit such assessments or to comply with such requirements for recordkeeping which are required to carry out section 206(i).

Because the 1991 crop year was to begin on July 1, 1991, an interim rule was promulgated to implement these assessments, which became effective on June 19, 1991 (56 FR 28034). Based on consideration of the comments received, a final rule was promulgated effective on November 1, 1991 (56 FR 55606).

Subsequently, the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (the 1991 Act, also known as the technical corrections to the 1990 Farm Act), which became effective on December 13, 1991, amended section 206(i) of the 1949 Act, to:

(1) Provide that the assessments would apply only for marketings of raw cane sugar and beet sugar during the 1992 through 1996 fiscal years,

(2) Specify the timing of collections of marketing assessments, and

(3) Clarify that the assessments would apply to sugar derived from sugar beet molasses or sugarcane molasses.

A proposed rule was promulgated on December 31, 1992 (57 FR 62486) to reflect the statutory amendments enacted in the 1991 Act and, at the same time, to ease the regulatory burden of the assessments and to further clarify certain provisions of the regulations.

Section 1107 (a) of the Reconciliation Act (Pub. L. 103–66), which became effective on August 10, 1993, amended section 206 of the 1949 Act, to provide that:

(1) Assessments would apply to the marketings of raw cane sugar and beet sugar for two additional fiscal years, through fiscal 1998,

(2) The assessments for fiscal years 1995 through 1998 would be 10 percent higher per pound of sugar than assessments for fiscal years 1992 through 1994, and

(3) Processors who knowingly market sugar in excess of the allocation of the processor shall pay an assessment which is double the applicable assessment required per pound of sugar marketed.

In this final rule, CCC is adding amendments to the regulations to reflect the statutory amendments enacted in the Reconciliation Act.

Summary of Comments

One national and two State sugar associations commented on the proposed rule. All three were critical of § 1435.203(e) which requires remitting the marketing assessment fee by October 30 on the quantity of sugar produced during the preceding fiscal year but not marketed by September 30. Even though such sugar would not be subject to a second assessment when it is marketed, the payment on sugar inventories was considered an unfair burden on the processors. Two of the commenters recommended that the marketing assessment should be imposed only when the sugar is actually marketed, except that in the last fiscal year (fiscal 1998), any (1991- through 1997-crop) sugar not marketed by September 30, would be subject to the marketing assessment fee. Regardless of the merits of the recommendation, CCC is required by statute to implement § 1435.203(e) as written in the proposed rule and therefore adopts the section as final. The third commenter agrees that current statutes uphold the need for § 1435.203(e), but asks CCC to acknowledge the inequity and thereby pave the way for remedial legislation.

One commenter contended that Hawaiian producers should be permitted credit for assessments paid on sugar processed during July 1 through September 30, 1991 "as was done for beet processors." CCC addressed this issue extensively in the proposed rule and maintains that the assessment rules were applied consistently among all processors, both beet and cane.

Thus, CCC adopts the provisions as provided in the proposed rule, except for revisions to §§ 1435.200, 1435.202, and 1435.204 to reflect statutory requirements of § 1107 (a) of the Reconciliation Act.

List of Subjects in 7 CFR Part 1435

Loan programs/agriculture, Marketing allotments, Price support programs, Reporting and recordkeeping requirements, Sugar.

Accordingly, 7 CFR part 1435 is amended as follows:

PART 1435—SUGAR

1. The authority citation for 7 CFR part 1435 continues to read as follows:

Authority: 7 U.S.C. 1359aa–1359jj, 1421, 1423, 1446g; 15 U.S.C. 714b and 714c.

2. Subpart—Sugar Marketing Assessments, consisting of §§ 1435.200–1435.206, is revised to read as follows:

Subpart—Sugar Marketing Assessments

Sec.
1435.200 General statement.
1435.201 Definitions.
1435.202 Amount of the marketing assessment.
1435.203 Remittance.
1435.204 Civil penalties and interest.
1435.205 Maintenance and inspection of records.
1435.206 Refunds.

Subpart—Sugar Marketing Assessments

§ 1435.200 General statement.

(a) This subpart sets forth the terms and conditions for the payment to CCC of marketing assessments for beet sugar and raw cane sugar produced during the 1991 through 1997 crop years and marketed during the 1992 through 1998 fiscal years.

(b) The marketing assessment applies to: (1) The marketing by first processors of all raw cane sugar produced from the 1991 through 1997 crops of domestically produced sugarcane or sugarcane molasses and marketed during the 1992 through 1998 fiscal years; and

(2) The marketing by first processors of all beet sugar produced from the 1991 through 1997 crops of domestically produced sugar beets or sugar beet molasses and marketed during the 1992 through 1998 fiscal years.

(c) All first processors of sugar beets and sugarcane are responsible to remit the marketing assessments.

(d) The marketing assessments shall be due and payable to CCC by the thirtieth calendar day following the end of the month in which the beet sugar or raw cane was marketed.

§ 1435.201 Definitions.

Beet sugar means sugar, whether or not principally of crystalline structure, which is processed directly or indirectly from domestically produced sugar beets (including sugar produced from sugar beet molasses).

Crop year and *crop* shall have the same meanings as are ascribed to such terms in § 1435.3 of this part, with the customary allowance for a continuous harvest as provided for in § 1435.5(a)(2) of this part. In addition, beet sugar or raw cane sugar processed from molasses or thick juice produced from domestically produced sugar beets or sugarcane shall be considered to have been produced during the crop year in which such sugar beets or sugarcane was harvested.

First processor means a person who commercially produces beet sugar or raw cane sugar, directly or indirectly, from domestically produced sugar beets or sugarcane, or from molasses or thick juice derived from domestically produced sugar beets or sugarcane.

Fiscal year means CCC's fiscal year which runs from October 1 to September 30.

Integrated processor-refiner means a first processor of raw cane sugar who also refines raw cane sugar into refined sugar.

Market or marketing means the sale or disposition of raw cane sugar or beet sugar in commerce in the 50 United States, the several territories, the District of Columbia, and Puerto Rico, including, with respect to any integrated processor-refiner, the movement of raw cane sugar into the refining process. For purposes of this subpart, the forfeiture to the CCC of raw cane sugar or beet sugar used as collateral for a price support loan is also considered a marketing.

Raw cane sugar means any sugar, cane syrup or edible molasses, whether or not principally of crystalline structure, processed from domestically produced sugarcane or sugarcane molasses.

Raw value shall have the same meaning as is ascribed to such term in § 1435.401 of this part.

§ 1435.202 Amount of the marketing assessment.

(a) The amount of the beet sugar marketing assessment to be remitted shall be the sum determined by multiplying the number of pounds of beet sugar marketed in a calendar month by the assessment rate. The assessment rate for fiscal years 1992 through 1994 shall be 1.0722 percent of the loan level for raw cane sugar, but not more than 0.193 cents per pound. For marketings during each of fiscal years 1995 through 1998, the assessment rate per pound of beet sugar shall be 1.1794 percent of the loan level established for raw cane sugar, but not more than 0.2123 cents per pound of beet sugar.

(b) The amount of the marketing assessment on raw cane sugar to be remitted to CCC shall be the sum determined by multiplying the number of pounds, raw value, of raw cane sugar marketed, or estimated to be marketed in accordance with § 1435.203(c)(1) of this subpart, in a calendar month by the assessment rate. The rate for fiscal years 1992 through 1994 shall be 1.0 percent of the loan level for raw cane sugar, but not more than 0.18 cents per pound. For marketings during each of fiscal years 1995 through 1998, the assessment rate per pound of raw cane sugar shall be 1.1 percent of the loan level established for raw cane sugar but not more than 0.198 cents per pound of raw cane sugar.

§ 1435.203 Remittance.

(a)(1) First processors shall remit marketing assessments to CCC by the thirtieth calendar day following the end of the month in which the beet sugar or cane sugar subject to the assessment was marketed.

(2) Mailed remittances will be considered timely if they are postmarked not later than the thirtieth calendar day following the month in which the beet sugar or cane sugar subject to the assessment was marketed.

(3) Electronic remittances must be received by CCC by the thirtieth calendar day following the month in which the beet sugar or cane sugar subject to the assessment was marketed.

(4) Any processor who fails to file a remittance by the date on which it is due shall be assessed a civil penalty and interest in accordance with § 1435.204 of this subpart.

(b)(1) First processors shall prepare and submit a fully and accurately completed form CCC–80 each month that shows the quantity of:

(i) Beet sugar marketed during the previous calendar month, and

(ii) Raw cane sugar, raw value, marketed during the previous calendar month.

(2) First processors who do not operate on a calendar month basis may pay their assessments based on marketings that include several extra days or fewer days than the calendar month reporting period, consistent with the processor's standard accounting months. However:

(i) Assessments must be paid on all marketings of specific crop year sugar in the fiscal year it is due, and

(ii) The marketing assessments must be remitted monthly and by the dates specified in paragraph (a) of this section.

(3) The entire assessment that is due and payable shall be remitted with the Form CCC–80.

(c)(1) If, when a raw sugar assessment is due and payable, the first processor cannot determine the exact raw value of such sugar, an estimate of raw value based on the recent experience of the processor shall be made and the assessment submitted on the estimated quantity.

(2) Whenever an assessment is based on an estimate of raw value pursuant to paragraph (c)(1) of this section, any necessary adjustments to the quantity of raw sugar subject to the assessment shall be made by filing a corrected CCC–80 no later than 30 calendar days after the last day of the month in which the estimated assessment was paid. If, according to the corrected CCC–80:

(i) The assessment was underpaid, the first processor shall remit the additional assessment due with the corrected CCC–80, and

(ii) If the assessment was overpaid, the first processor shall subtract the overpayment from any assessment due at the time the corrected CCC–80 is filed, or if none is due at that time, from the assessment next due.

(d) Any first processor, who paid an assessment on beet sugar or raw cane sugar processed during the first three months of the 1991 crop year (July 1 through September 30, 1991) and then paid another assessment upon the marketing of the same sugar after September 30, 1991, may receive a credit for any assessment paid on such sugar prior to fiscal year 1992. The credits will be handled by procedures to be developed by the Controller, CCC.

(e) By October 30 of each year, first processors shall determine the quantity of beet sugar or raw cane sugar on hand that was produced during the preceding fiscal year but not marketed by September 30 of such preceding fiscal year and shall remit a marketing assessment to CCC as if the sugar had been marketed in September of such preceding fiscal year. Such sugar shall not be subject to a second assessment when it is marketed.

(f) First processors shall send remittances and CCC–80 forms as specified by CCC.

§ 1435.204 Civil penalties and interest.

(a) A first processor shall be liable for a civil penalty of up to 100 percent of the relevant national average price-support loan rate times the quantity of raw cane sugar or beet sugar involved in the violation if the processor:

(1) Fails to remit, on a timely basis, the entire amount of any marketing assessment in accordance with this subpart;

(2) Fails to submit form CCC–80 fully and accurately completed; or

(3) Fails to maintain and permit inspection of records as required by § 1435.205 of this subpart.

(b) Also, a processor who knowingly markets sugar in excess of the allocated allotment of the processor under section 359d of the Agricultural Adjustment Act of 1938 shall pay an assessment in an amount that is double the applicable assessment required under § 1435.202 of this subpart.

(c) In addition to any civil penalty assessed in accordance with paragraphs (a) and (b) of this section, interest on unpaid assessments or deficiencies in assessments paid shall be due and payable at the rate specified in part 1403 of this chapter, beginning on the first day of the month after the marketing assessment was due in accordance with § 1435.203 of this subpart. Such interest shall continue to accrue until such amount is paid. However, if full payment of an assessment is received within 30 calendar days of the date on which the assessment was due, no interest shall apply.

(d) The Controller, CCC, shall assess civil penalties and interest.

(e) Affected first processors may appeal civil penalties by filing a notice of appeal within 15 calendar days of receipt of certified written notification by the Controller, CCC, of such assessment of civil penalties. Such notice of appeal shall be sent to the Director, National Appeals Division, ASCS, P.O. Box 2415, Washington, DC 20013–2415.

§ 1435.205 Maintenance and inspection of records.

Representatives of CCC shall have the right to have access to the premises of the first processor in order to inspect, examine, and make copies of the books, records, accounts, and other data as are deemed necessary by CCC or CCC's agents to verify compliance with the requirements of this subpart. Such books, records, accounts, and other written data shall be retained by the first processor for not less than three years from the date the remittance is made to CCC.

§ 1435.206 Refunds.

Marketing assessments are nonrefundable. However, upon presentation of evidence acceptable to the Controller, CCC, adjustments to an assessment may be made by CCC to reflect the actual marketings of beet sugar or raw cane sugar, or a first processor may adjust the amount of the assessment due in accordance with § 1435.203 of this subpart.

Signed at Washington, DC, on July 20, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–19630 Filed 8–10–94; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–SW–24–AD; Amendment 39–8968; AD 93–24–13]

Airworthiness Directives; The Enstrom Helicopter Corporation Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 93–24–13 that was sent previously to all known U.S. owners and operators of The Enstrom Helicopter Corporation Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters by individual letters. This AD requires inspecting the trim motor, wiring, and relays (trim system) for failure, rewiring the trim system, and replacing the trim actuator circuit breaker. This amendment is prompted by three reports of trim system failures resulting in inadvertent trim motor operation due to struck relays. A stuck relay could cause the trim motor to deploy to the full trim position, resulting in high cyclic control forces that significantly reduce the controllability of the helicopter. The actions specified by this AD are intended to prevent failure of the trim motor relay that could result in full deployment of the trim system, high cyclic control forces, and loss of control of the helicopter.

DATES: Effective August 26, 1994, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 93–24–13, issued on December 6, 1993, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of August 26, 1994.

Comments for inclusion in the Rules Docket must be received on or before September 26, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–24–AD, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas 76137–4298.

The applicable service information may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Joe McGarvey, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018, telephone (708) 294–7136, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION: On December 6, 1993, the FAA issued Priority Letter AD 93–24–13, applicable to The Enstrom Helicopter Corporation Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters, which requires inspecting the trim motor, wiring, and relays (trim system) for failure, rewiring the trim system, and replacing the trim actuator circuit breaker. That action was prompted by three reports of trim system failures resulting in inadvertent trim motor operation due to stuck relays. A stuck relay could cause the trim motor to deploy to the full trim position, resulting in high cyclic control forces that significantly reduce the controllability of the helicopter. The cyclic control is a critical part of the rotorcraft flight control system. The cyclic control tilts the tip-path plane of the rotating main rotor in the direction of the desired horizontal movement, either forward, sideward, or backward. Therefore, any uncontrolled trim force applied to the cyclic control creates an unsafe condition. This condition, if not corrected, could result in failure of the trim motor relay that could result in full deployment of the trim system, high cyclic control forces, and loss of control of the helicopter.

The FAA has reviewed and approved The Enstrom Helicopter Corporation Service Directive Bulletin No. 0082, Revision A, dated March 18, 1993, that describes procedures for inspecting the trim system for failure; replacing any failed trim system part; rewiring of the trim system to preclude trim overtravel; replacing the trim actuator circuit breaker; and, verifying proper operation of the trim system and the limit switch stop position.

Since the unsafe condition described is likely to exist or develop on other helicopters of the same type design, the FAA issued Priority Letter AD 93–24–13 to prevent failure of the trim motor relay that could result in full deployment of the trim system, high cyclic control forces, and loss of control of the helicopter. The AD requires inspecting the trim system for failure; replacing any failed trim system part; rewiring of the trim system to preclude trim overtravel; replacing the trim actuator circuit breaker; and, verifying proper operation of the trim system and the limit switch stop position. The actions are required to be accomplished in accordance with The Enstrom Helicopter Corporation Service Directive Bulletin No. 0082, Revision A, dated March 18, 1993, described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on December 6, 1993, to all known U.S. owners and operators of The Enstrom Helicopter Corporation Model F–28C, F–28C–2, F–28F, 280C, 280F, and 280FX series helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–SW–24–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

AD 93-24-13 The Enstrom Helicopter Corporation: Amendment 39-8968. Docket Number 93-SW-24-AD.

Applicability: Model F-28C, F-28C-2, F-28F, 280C, 280F, and 280FX series helicopters, equipped with a 24 volt D.C. electrical system, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the trim motor relay that could result in full deployment of the trim system, high cyclic control forces, and loss of control of the helicopter, accomplish the following:

(a) Within the next 5 hours' time-in-service (TIS) after the effective date of this airworthiness directive (AD), inspect the trim motor, wiring, and relays (trim system) for failure in accordance with the Compliance Section of The Enstrom Helicopter Corporation Service Directive Bulletin No. 0082 (SDB 0082), Revision A, dated March 18, 1993.

(1) Rewire the trim system and replace the trim actuator circuit breaker in accordance with paragraph 5.3 of SDB 0082, Revision A, dated March 18, 1993, to preclude trim overtravel.

(2) After rewiring the trim system in accordance with paragraph (a)(1) of this AD, verify proper operation of the trim system and the limit switch stop position in accordance with the applicable maintenance manual.

(b) When installing a replacement or zero-time relay or circuit breaker, install in accordance with paragraph 5.3 of SDB 0082, Revision A, dated March 18, 1993. After wiring the trim system in accordance with SDB 0082, Revision A, dated March 18, 1993, verify proper operation of the trim system at the limit switch stop position in accordance with the applicable maintenance manual.

(c) Inspect the trim system for failure in accordance with the Compliance Section of SDB 0082, Revision A, dated March 18, 1993, at intervals not to exceed 100 hours' TIS from the last inspection or at each annual inspection, whichever occurs first.

(d) Replace any unairworthy trim system part with an airworthy part in accordance with the applicable maintenance manual.

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

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

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

(g) The inspection, rewiring, and replacement shall be done in accordance with The Enstrom Helicopter Corporation Service Directive Bulletin No. 0082, Revision A, dated March 18, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on August 26, 1994, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 93-24-13, issued December 6, 1993, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on June 30, 1994.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94-18934 Filed 8-10-94; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 94-SW-01-AD; Amendment 39-8978; AD 94-15-07]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 206A, 206B, 206L, 206L-1, 206L-3, and 206L-4 Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. Model 206A, 206B, 206L, 206L-1, 206L-3, and 206L-4 series helicopters. This action requires a one-time inspection for cracks in a portion of the main rotor blade (blade) trailing edge and the inboard trim tab, and replacement of the blade or trim tab as necessary. This amendment is prompted by reports of cracks in the blade trailing edge near the inboard trim tab. The actions specified in this AD are intended to prevent failure of a main rotor blade and subsequent loss of control of the helicopter.

DATES: Effective August 26, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 26, 1994.

Comments for inclusion in the Rules Docket must be received on or before October 11, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94-SW-01-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137-4298.

The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Miles, Aerospace Engineer, Rotorcraft Certification Office, FAA, Rotorcraft Directorate, ASW-170, 2601 Meacham Blvd., Fort Worth, Texas 76137-4298, telephone (817) 222-5172, fax (817) 222-5959.

SUPPLEMENTARY INFORMATION: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206B, 206L, 206L-1, 206L-3, and 206L-4 series helicopters. Reports indicate that cracks have occurred in the blade trailing edge at the inboard trim tab radius affecting the upper and lower trim tabs. In one instance, the crack propagated through the trailing edge strip, through both the upper and lower blade skins, and forward to the blade spar. Field and laboratory investigations revealed that the cracks started at sanding or grinding marks in the trim tab radius areas. The FAA has reviewed the reports and determined that cracks in the blade trailing edge or the inboard trim tab could create an unsafe condition. This condition, if not corrected, could result in failure of a main rotor blade and subsequent loss of control of the helicopter.

The FAA has reviewed and approved BHTI Alert Service Bulletin 206-93-77 and Alert Service Bulletin 206L-93-92, both dated November 17, 1993, which

describe procedures for a one-time inspection for cracks in a portion of the blade trailing edge and the inboard trim tab within 50 hours' time-in-service (TIS), and replacing the blade or inboard trim tab as necessary; or reworking the blade trailing edge and trim tab.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTI Model 206A, 206B, 206L, 206L-1, 206L-3, and 206L-4 series helicopters of the same type design, this AD is being issued to prevent failure of a main rotor blade and subsequent loss of control of the helicopter. This AD requires, within 50 hours' TIS, a one-time inspection for cracks in each blade's trailing edge and inboard trim tab, and replacement of the blade or inboard trim tab as necessary or rework of the blade trailing edge and trim tab. The actions are required to be accomplished in accordance with the service bulletins described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-SW-01-AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

AD 94-15-07 Bell Helicopter Textron, Inc. (BHTI): Amendment 39-8978. Docket Number 94-SW-01-AD.

Applicability: Model 206A and 206B helicopters, equipped with main rotor blade (blade), part number (P/N) 206-010-200-133, having a serial number with prefix "A", and Model 206L, 206L-1, 206L-3, and 206L-4 helicopters, equipped with blade, P/N 206-015-001-107, having a serial number beginning with prefix "A", except for those blades with serial numbers listed as exempt in the "Helicopters Affected" section of BHTI Alert Service Bulletin 206-93-77, for Models 206A and 206B and in Alert Service Bulletin 206L-93-92, for Models 206L, 206L-1, 206L-3, and 206L-4, both dated November 17, 1993, certificated in any category.

Compliance: Required within 50 hours' time-in-service after the effective date of this airworthiness directive (AD), unless accomplished previously.

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

(a) Conduct a one-time inspection for cracks in each blade's inboard trim tab and trailing edge in accordance with steps 1, 2, and 3 of Part I of the Accomplishment Instructions of applicable Alert Service Bulletin (ASB) 206-93-77 or ASB 206L-93-92, both dated November 17, 1993.

(1) If the blade skin is cracked, remove the blade and replace it with an airworthy blade before further flight.

(2) If only the trim tab is cracked, remove the affected blade from the helicopter. Remove the trim tab and adhesive from the blade and inspect the upper and lower blade skins with a 10-power or higher magnifying glass in accordance with Part II of the Accomplishment Instructions of the applicable ASB, dated November 17, 1993.

(i) If the blade skin under the trim tab is cracked, remove the blade and replace it with an airworthy blade before further flight.

(ii) If no crack is detected in the blade skin, polish out all marks on the blade in accordance with Part II, step 4 of the Accomplishment Instructions of the applicable ASB, dated November 17, 1993, and inspect and install a new trim tab in accordance with Part II, steps 5-9 of the Accomplishment Instructions of the applicable ASB, dated November 17, 1993.

(3) If no crack is found in the inboard trim tab or the blade trailing edge by the inspections required by paragraphs (1) and (2), before further flight, inspect the plan-form radii of the trim tab where the trim tab intersects the trailing edge in accordance with Part I, steps 4-6, of the Accomplishment Instructions of the applicable ASB, dated November 17, 1993.

(i) If a crack is found in the plan-form radii of the inboard trim tab, before further flight, remove the blade and replace it with an airworthy blade.

(ii) If no crack is found in the plan-form radii of the trim tab, polish and refinish the blade in accordance with Part I, steps 8-11,

of the Accomplishment Instructions of the applicable ASB, dated November 17, 1993.

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

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

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

(d) The inspection, rework, and replacement, if necessary, shall be done in accordance with BHTI Alert Service Bulletin 206–93–77 or Alert Service Bulletin 206L–93–92 as applicable, both dated November 17, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 26, 1994.

Issued in Fort Worth, Texas, on July 14, 1994.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–18906 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–178–AD; Amendment 39–8993; AD 94–16–03]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped with Pratt & Whitney JT9D–7R4 or General Electric CF6–80A Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires inspections, adjustments, and functional tests of the thrust reverser system. This amendment adds a requirement for installation of an additional thrust reverser system locking feature, periodic functional tests of that locking feature following its installation, and repair of any discrepancy found. This amendment is prompted by the identification of a modification that ensures that the level of safety inherent in the original type design of the thrust reverser system is further enhanced. The actions specified by this AD are intended to prevent possible discrepancies in the thrust reverser control system that can result in inadvertent deployment of a thrust reverser during flight.

DATES: Effective September 12, 1994.

The incorporation by reference of Boeing Service Bulletin 767–78–0060, Revision 2, dated August 19, 1993, and Boeing Service Bulletin 767–78–0061, Revision 1, dated August 5, 1993, as listed in the regulations, is approved by the Director of the Federal Register as of September 12, 1994.

The incorporation by reference of Boeing Service Bulletin 767–78–0054, dated December 13, 1991, and Boeing Service Bulletin 767–78–0053, dated December 13, 1991, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 27, 1992 (57 FR 3004, January 27, 1992).

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

FOR FURTHER INFORMATION CONTACT: Richard Simonson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2683; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 92–03–03, amendment 39–8157 (57 FR 3004, January 27, 1992), which is applicable to certain Boeing Model 767 series airplanes, was published in the **Federal Register** on February 2, 1994 (59 FR 4870). The action proposed to require inspections, adjustments, and functional tests of the thrust reverser system; installation of an additional thrust reverser system locking feature; periodic functional tests of that locking feature following its installation; and repair of any discrepancy found.

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

One commenter supports the proposed rule.

The Air Transport Association (ATA) of America, on behalf of its members, requests that a note or provision be added to the proposal to indicate that relief provided by the Master Minimum Equipment List (MMEL) is not revoked by the adoption of this AD. The commenter states that deactivation of a thrust reverser is not considered to be an unsafe procedure and is, therefore, not the subject of the proposed rule.

The FAA concurs. The FAA agrees that certain relief may be provided to operators as requested by the commenter, and finds that the airplane may be operated in accordance with the provisions and limitations specified in the FAA-approved MMEL, provided that no more than one thrust reverser on an airplane is inoperative and that no synch-lock on that airplane is in an unlocked position. The FAA has revised paragraph (e) of the final rule accordingly.

The ATA also questions the requirement contained in paragraph (e) of the proposal for repetitive functional tests of the synch-lock installation. The ATA states that its members are not opposed to accomplishing the proposed tests as part of their maintenance programs, but are opposed to accomplishing the tests as part of the requirements of an AD. The ATA reasons that the "intent" of the proposed rule is to terminate the tests required by AD 92–03–03.

The ATA questions the rationale for the proposed repetitive functional tests of the synch-lock installation, since the synch-lock configuration has not been shown to be unsafe. The ATA acknowledges the FAA's statement in the Discussion section of the proposal that the synch-lock is a new design whose reliability has not been adequately proven through service experience. The ATA states that, under this rationale, an operator's maintenance program for newly certificated airplanes would simply consist of Certification Maintenance Requirement (CMR) items, since the reliability of newly designed systems has not been adequately proven through service experience. The ATA believes that AD control of the proposed repetitive tests is justified only if it can be shown that the tests cannot be

administered safely within an operator's maintenance program.

The ATA acknowledges that without issuance of an AD, the proposed repetitive tests may not be incorporated into every operator's maintenance program in a common manner at common intervals. In light of this consideration, the ATA requests that an alternative to accomplishment of the repetitive tests be provided in the final rule. The suggested alternative for paragraph (e) of the AD follows: Within 3 months after accomplishing the synch-lock installation, revise the FAA-approved maintenance inspection program to include a functional test of the synch-lock. The initial test would be accomplished within 1,500 hours time-in-service after modification. The AD would no longer be applicable to operators that have acceptably revised their maintenance programs. Operators choosing this alternative could use an alternative recordkeeping method in lieu of that required by section 91.417 or section 121.380 of the Federal Aviation Regulation (14 CFR 91.417 or 121.380). The FAA would be defined as the cognizant Principal Maintenance Inspector (PMI) for operators electing this alternative.

The ATA believes that its proposal should be adopted because the proposed repetitive tests will likely continue for as long as Model 767 series airplanes are operated. The ATA adds that, while there are numerous AD's that require repetitive inspections that would continue for the life of the aircraft, in such cases, either a satisfactory terminating action has not been developed or service experience has shown that control of the inspections cannot be safely administered through an operator's maintenance program. The ATA's proposal is intended to minimize the impact of the AD process on an operator's maintenance program.

The FAA recognizes the concerns of the commenter regarding the requirement for periodic functional tests of the synch-lock following its installation, as required by paragraph (e) of this AD. However, the FAA has determined that such tests are necessary in order to provide an adequate level of safety and to ensure the integrity of the synch-lock installation. The actions required by this AD are consistent with actions that have been identified by an industry-wide task force as necessary to ensure adequate safety of certain thrust reverser systems installed on transport category airplanes. Representatives of the Aerospace Industries Association (AIA) of America, Inc., and the FAA comprise that task force. Representatives from other organizations, such as the ATA, have participated in various discussions and work activities resulting from the recommendations of the task force.

The FAA acknowledges that the functional tests specified in paragraph (e) of this AD and CMR items are similar in terms of scheduled maintenance and recordkeeping. However, this AD addresses an unsafe condition and requires installation of the synch-lock to correct that unsafe condition. The FAA has determined that the requirement for functional tests is necessary in order to ensure the effectiveness of that installation in addressing that unsafe condition. As discussed in the preamble of the proposal, this determination is based on the fact that the synch-lock is a new design whose reliability has not been adequately proven through service experience. In addition, service experience to date has demonstrated that failures can occur within the synch-lock that may not be evident during normal operation of the thrust reverser system and may not result in activation of the synch-lock "unlock" indicator. The FAA notes that the ATA's suggested alternative to accomplishment of the functional tests would permit each operator to determine whether and how often these tests should be conducted. In light of the severity of the unsafe condition, however, the FAA has determined that allowing this degree of operator discretion is not appropriate at this time. Therefore, this AD is necessary to ensure that operators accomplish tests of the integrity of the synch-lock installation in a common manner and at common intervals.

The ATA also requests that the proposed interval of 1,000 hours time-in-service for accomplishment of the repetitive functional tests specified in paragraph (e) of the proposal be extended to 1,500 hours time-in-service. The ATA explains that Boeing has recommended an interval of 4,000 hours time-in-service for inclusion in the next Maintenance Review Board (MRB) report. If the FAA denies an extension of the proposed interval, the ATA requests that the FAA explain why its analysis is so stringent in comparison with Boeing's recommendation. The ATA believes that AD compliance times should be consistent with operators' regularly scheduled maintenance unless a risk analysis requires otherwise. The ATA reasons that compliance times that are inconsistent with scheduled maintenance holds force operators to reschedule maintenance actions at considerable expense and disruption to their operations.

The FAA has reconsidered the proposed interval of 1,000 hours time-in-service for accomplishment of the initial and repetitive functional tests required by paragraph (e) of this AD. The FAA recognizes that an initial and repetitive interval of 4,000 hours time-in-service for accomplishment of these functional tests, as recommended by Boeing, corresponds more closely to the interval at which most of the affected operators conduct regularly scheduled "C" checks. In light of the safety implications of the addressed unsafe condition and the practical aspects of accomplishing orderly functional tests of the fleet during regularly scheduled maintenance where special equipment and trained maintenance personnel will be readily available, the FAA finds that accomplishment of the tests at intervals of 4,000 hours time-in-service will provide an acceptable level of safety. Paragraph (e) of the final rule has been revised accordingly.

The ATA also requests that the cost of parts be included in the economic impact information, below, in order to present a total cost impact of the rule on the "U.S. public." The ATA recognizes that Boeing plans to supply parts at no cost to operators; however, the ATA suspects the parts costs borne by Boeing would be substantial. The FAA does not concur with the commenter's request. The total cost impact figures shown in the economic impact information, below, represent the costs for time necessary to perform the inspections, adjustments, tests, and modification required by this AD. The cost analysis in AD rulemaking actions typically does not include parts costs when those parts are provided by the manufacturer at no cost to operators. Such costs are not attributable to the AD; the manufacturer would incur these costs even if no AD were issued.

The FAA has revised paragraph (d) of the final rule to specify that the correct reference for Boeing Service Bulletin 767–78–0061 is Revision 1, rather than Revision 2, as cited in the proposal. The issue date of Revision 1 (August 5, 1993) appeared correctly in the proposed rule.

The FAA also has revised paragraphs (a) and (b) of the final rule to clarify the appropriate compliance time. Those paragraphs restate requirements for accomplishment of certain actions required by AD 92–03–03. The FAA's intent is that the tests, inspections, and adjustments required by those paragraphs would have been accomplished within 60 days after January 27, 1992 (the effective date of AD 92–03–03).

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

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

There are approximately 119 Model 767 series airplanes equipped with General Electric CF6–80A series engines of the affected design in the worldwide fleet. The FAA estimates that 69 airplanes of U.S. registry will be affected by this AD. The inspections, adjustments, and functional tests required currently by AD 92–03–03 require approximately 16 work hours per airplane to accomplish the required actions, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of those actions on U.S. operators of Model 767 series airplanes equipped with General Electric CF6–80A series engines is estimated to be $60,720, or $880 per airplane.

For U.S. operators of Model 767 series airplanes equipped with General Electric CF6–80A series engines, the FAA estimates that it will take approximately 786 work hours per airplane to accomplish the modification required by this AD, and 1 work hour to accomplish the required functional tests, at an average labor rate of $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of those actions on U.S. operators of Model 767 series airplanes equipped with General Electric CF6–80A series engines is estimated to be $2,986,665, or $43,285 per airplane.

There are approximately 95 Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 series engines of the affected design in the worldwide fleet. The FAA estimates that 30 airplanes of U.S. registry will be affected by this AD. The inspections, adjustments, and functional tests required currently by AD 92–03–03 require approximately 16 work hours per airplane to accomplish the required actions, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of those actions on U.S. operators of Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 series engines is estimated to be $26,400, or $880 per airplane.

For U.S. operators of Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 series engines, the FAA estimates that it will take approximately 812 work hours per airplane to accomplish the modification required by this AD, and 1 work hour to accomplish the required functional tests, at an average labor rate of $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of those actions on U.S. operators of Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 series engines is estimated to be $1,341,450, or $44,715 per airplane.

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

The number of required work hours for accomplishing the required functional tests, as indicated above, is presented as if the accomplishment of those tests required by this AD were to be conducted as "stand alone" actions. However, in actual practice, those tests for the most part will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours for accomplishment of the functional tests will be minimal in many instances. Additionally, any costs associated with special airplane scheduling will be minimal.

The FAA recognizes that the required modification will require a large number of work hours to accomplish. However, the 5-year compliance time specified in paragraph (d) of this AD should allow ample time for the synch-lock installation to be accomplished coincidentally with scheduled major airplane inspection and maintenance activities, thereby minimizing the costs associated with special airplane scheduling.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8157 (57 FR 3004, January 27, 1992), and by adding a new airworthiness directive (AD), amendment 39–8993, to read as follows:

94–16–03 Boeing: Amendment 39–8993. Docket 93–NM–178–AD. Supersedes AD 92–03–03, Amendment 39–8157.

Applicability: Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 or General Electric CF6–80A series engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the integrity of the fail-safe features of the thrust reverser system, accomplish the following:

Restatement of Actions Required by AD 92–03–03

(a) For airplanes equipped with Pratt & Whitney JT9D–7R4 series engines: Within 60 days after January 27, 1992 (the effective date of AD 92–03–03, amendment 39–8157), and thereafter at intervals not to exceed 3,000 flight hours, perform the tests, inspections, and adjustments described in Boeing Service Bulletin 767–78–0054, dated December 13, 1991.

(1) Following any maintenance action that could affect the thrust reverser system: Repeat the tests, inspections, and adjustments required by paragraph (a) of this AD on the affected engine, prior to further flight, in accordance with the service bulletin.

(2) Thereafter, following any maintenance action, continue to perform the repetitive tests, inspections, and adjustments required by paragraph (a) of this AD on the affected engine at intervals not to exceed 3,000 flight hours.

(b) For airplanes equipped with General Electric CF6–80A series engines: Within 60 days after January 27, 1992 (the effective date of AD 92–03–03, amendment 39–8157), and thereafter at intervals not to exceed 3,000 flight hours, perform the tests, inspections, and adjustments described in Boeing Service Bulletin 767–78–0053, dated December 13, 1991.

(1) Following any maintenance action that could affect the thrust reverser system, repeat the tests, inspections, and adjustments required by paragraph (b) of this AD on the affected engine, prior to further flight, in accordance with the service bulletin.

(2) Thereafter, following any maintenance action, continue to perform the repetitive tests, inspections, and adjustments required by paragraph (b) of this AD on the affected engine at intervals not to exceed 3,000 flight hours.

(c) If any test, inspection, and/or adjustment required by paragraph (a) or (b) of this AD cannot be successfully performed, or if any test, inspection, and/or adjustment results in findings that are unacceptable in accordance with Boeing Service Bulletin 767–78–0054, dated December 13, 1991, or Boeing Service Bulletin 767–78–0053, dated December 13, 1991, as applicable, accomplish paragraphs (c)(1) and (c)(2) of this AD.

(1) Prior to further flight, deactivate the associated thrust reverser in accordance with Section 78–31–1 of Boeing Document D630T002, "Boeing 767 Dispatch Deviation Guide," Revision 9, dated May 1, 1991. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph.

(2) Within 10 days after deactivation of any thrust reverser in accordance with this paragraph, the thrust reverser must be repaired in accordance with Boeing Service Bulletin 767–78–0054, dated December 13, 1991, or Boeing Service Bulletin 767–78–0053, dated December 13, 1991, as applicable; the tests and/or inspections required by paragraph (a) or (b) of this AD must be successfully accomplished; and the thrust reverser must then be reactivated.

New Actions Required By This AD:

(d) Within 5 years after the effective date of this AD, install an additional thrust reverser system locking feature (synch-lock installation) in accordance with Boeing Service Bulletin 767–78–0060, Revision 2, dated August 19, 1993 (for Model 767 series airplanes equipped with General Electric CF6–80A series engines), or Boeing Service Bulletin 767–78–0061, Revision 1, dated August 5, 1993 (for Model 767 series airplanes equipped with Pratt & Whitney JT9D–7R4 series engines), as applicable. Installation of the additional thrust reverser system locking feature, as required by this paragraph, constitutes terminating action for the requirements of paragraphs (a) through (c) of this AD.

(e) Within 4,000 hours time-in-service after installing the synch-lock required by paragraph (d) of this AD (either in production or by retrofit), or within 4,000 hours time-in-service after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,000 hours time-in-service: Perform functional tests of the synch-lock in accordance with the "Thrust Reverser Synch-Lock Test" procedures specified below. If any discrepancy is found during any test, prior to further flight, correct it in accordance with procedures described in the Boeing 767 Maintenance Manual. The airplane may be operated in accordance with the provisions and limitations specified in the FAA-approved Master Minimum Equipment List (MMEL), provided that no more than one thrust reverser on an airplane is inoperative and that no synch-lock on that airplane is in an unlocked position.

Thrust Reverser Synch-Lock Test

1. General

A. There are two thrust reverser synch-locks on each engine. The thrust reverser synch-locks are installed on the lower non-locking hydraulic actuator of each thrust reverser sleeve.

B. This task has two parts that must be accomplished:

(1) The first part does a test of the electrical circuit which controls the operation of each thrust reverser synch-lock.

(2) The second part does a test of the mechanical condition of each thrust reverser synch-lock.

C. The thrust reverser synch-lock is referred to as the "synch-lock" in this procedure.

2. Thrust Reverser Synch-Lock Integrity Test

A. Equipment

(1) Multi-meter, Simpson 260 or equivalent—commercially available.

B. Prepare to do the integrity test for the synch-locks.

(1) Supply electrical power.

(2) For the left engine, make sure these circuit breakers on the overhead circuit breaker panel, P11, are closed:

(a) L ENG T/R CONT
(b) L ENG T/R IND
(c) L ENG T/R SSL CONT

(3) For the right engine, make sure these circuit breakers on the overhead circuit breaker panel, P11, are closed:

(a) R ENG T/R CONT
(b) R ENG T/R IND
(c) R ENG T/R SSL CONT
(d) AIRPLANES WITH HYDRAULIC MOTOR-DRIVEN GENERATORS (ETOPS): R ENG T/R CONT ALTN
(e) AIRPLANES WITH HYDRAULIC MOTOR-DRIVEN GENERATORS (ETOPS): R ENG T/R IND ALTN

(4) Open the fan cowl panels.

C. Do the electrical test for the synch-locks.

(1) Do these steps to make sure there are no "hot" short circuits in the electrical system which can accidentally supply power to the synch-locks:

(a) Remove the applicable L(R) electrical connectors, D20194(D20196), from the L(R) synch-locks, V170(V171).

Note: You can find the synch-locks attached to the lower non-locking hydraulic actuators on the applicable thrust reverser sleeves.

(b) Use a multi-meter on the plug end of the applicable electrical connector to make sure that these conditions are correct:

From equipment	To equipment	Condition
D20194 PIN 1.	D20194 PIN 2 .	−3 TO +1 VDC and continuity (less than 5 OHMS).
D20196 PIN 1.	D20196 PIN 2 .	−3 TO +1 VDC and continuity (less than 5 OHMS).

(c) If you did not find these conditions to be correct, you must do these steps:

(1) Make a careful visual inspection of all the electrical wires and connectors between the synch-lock and its applicable power circuit breaker.

(2) Repair all the unserviceable electrical wire and connectors that you find.

(3) Use the multi-meter again to make sure there are no "hot" short circuits in the electrical system which can accidentally supply power to the synch-locks.

(d) If you find the correct conditions when you use the multi-meter, continue on and do the mechanical test of the synch-locks.

Note: Make sure the circuit breakers shown above continue to be set to the closed position. Do not install the electrical connectors on the synch-locks at this time.

D. Do the mechanical test for the synch-locks.

(1) Supply hydraulic power.

WARNING: MAKE SURE ALL PERSONS AND EQUIPMENT ARE CLEAR OF THE AREA BEHIND EACH THRUST REVERSER. IF YOU DO NOT OBEY THIS INSTRUCTION, INJURIES TO PERSONS OR DAMAGE TO EQUIPMENT CAN OCCUR IF THE SYNCH–LOCKS DO NOT OPERATE CORRECTLY AND THE THRUST REVERSER EXTENDS.

(2) Move the reverse thrust levers for the two engines to try to extend the thrust reversers with hydraulic power.

Note: If the thrust reversers do not extend, the synch-locks are serviceable. If the thrust reversers extend, the applicable synch-locks did not operate correctly.

(3) Replace the applicable synch-locks on the thrust reverser that extended when you moved the reverse thrust levers.

(4) Make sure the reverse thrust levers are in the fully stowed position.

(5) Install the applicable L(R) electrical connectors, D20194(D20196), on the L(R) synch-locks, V170(V171).

WARNING: MAKE SURE ALL PERSONS AND EQUIPMENT ARE CLEAR OF THE AREA BEHIND THE THRUST REVERSERS. IF YOU DO NOT OBEY THIS INSTRUCTION, INJURIES TO PERSONS OR DAMAGE TO EQUIPMENT CAN OCCUR WHEN THE THRUST REVERSERS ARE EXTENDED.

(6) Move the reverser thrust levers for the two engines to extend the thrust reversers with hydraulic power.

Note: If the thrust reversers extend, the synch-locks are serviceable. If the thrust reversers do not extend, the applicable synch-locks did not operate correctly.

(7) Replace the applicable synch-locks on the thrust reverser that did not extend when you moved the reverse thrust levers.

E. Put the airplane back to its usual condition.

(1) Move the reverse thrust levers to fully retract the thrust reversers on the two engines with hydraulic power.

(2) Remove the hydraulic power if it is not necessary.

(3) Remove the electrical power if it is not necessary.

(4) Close the fan cowl panels.

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

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

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

(h) The installation shall be done in accordance with Boeing Service Bulletin 767–78–0060, Revision 2, dated August 19, 1993; and Boeing Service Bulletin 767–78–0061, Revision 1, dated August 5, 1993; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Certain other actions shall be done in accordance with Boeing Service Bulletin 767–78–0054, dated December 13, 1991; and Boeing Service Bulletin 767–78–0053, dated December 13, 1991; as applicable. The incorporation by reference of these documents was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of January 27, 1992 (57 FR 3004, January 27, 1992). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(i) This amendment becomes effective on September 12, 1994.

Issued in Renton, Washington, on July 28, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–18840 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 93–NM–174–AD; Amendment 39–8989; AD 94–15–18]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires that the FAA-approved maintenance inspection program include inspections which will give no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI). This amendment requires the inclusion of additional airplanes to the candidate fleet. This amendment is prompted by a recommendation from the Airworthiness Assurance Working Group, Model 747 Structures Task Group. The actions specified by this AD are intended to ensure the continued structural integrity of the total Boeing Model 747 fleet.

DATES: Effective September 12, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 12, 1994.

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

FOR FURTHER INFORMATION CONTACT: Steven Fox, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2777; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93–06–01, amendment 39–8526 (58 FR 19571, April 15, 1993), which is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on January 4, 1994 (59 FR 265). The action proposed to require that the FAA-approved maintenance inspection program be revised to include inspections which will give no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI). That action was prompted by a recommendation from the Airworthiness Assurance Working Group, Model 747 Structures Task Group (STG). The requirements of that AD are intended to ensure the continued structural integrity of the total Boeing Model 747 fleet.

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

One commenter supports the proposed rule.

Several commenters request that the selection of airplanes in the candidate fleet be determined by the STG, which is comprised of representatives from various operators, the FAA, and Boeing. The FAA does not concur. The FAA has determined that retired airplanes, hull losses, or parked airplanes that are in the current candidate fleet must be replaced with in-service airplanes to maintain the candidate fleet size of 117 in-service airplanes. In selecting replacement airplanes for the candidate fleet, the FAA evaluates, among other factors, age and service history of in-service airplanes. The FAA will continue to consider recommendations from the STG for replacement airplanes; however, the responsibility for determining the suitability of airplanes for the candidate fleet ultimately rests with the FAA.

One commenter questions the validity for including Boeing Model 747SR series airplanes in the Supplemental Structural Inspection Document (SSID) candidate fleet. This commenter states that the FAA's justification for including these airplanes was based upon the conversion of these airplanes from passenger operations to cargo operations, which the commenter alleges is incorrect. The commenter further states that the FAA needs to consider the inclusion of airplanes based upon maintenance requirements, especially airplanes that have been modified in accordance with supplemental type certificates (STC). The FAA does not concur. The FAA points out that it included certain Boeing Model 747SR series airplanes because these airplanes were no longer operated as Model 747SR series airplanes (at low gross weights and at reduced engine thrusts), not because they were converted from passenger operations to cargo operations. Since those airplanes are now operated similarly to other airplanes that are in the Boeing Model 747 SSID candidate

fleet and that are operated as both freighter and passenger airplanes, the FAA has determined that they, too, should be included in the SSID candidate fleet. As noted above, the FAA considers many factors when selecting airplanes for inclusion into the candidate fleet, including age and service history of the airplane, which may be affected by modifications that were performed in accordance with STC's.

Since AD 86–19–01 requires structural inspections and repairs or replacements on certain Model 747–100SR series airplanes, a number of commenters request that AD 86–19–01, Amendment 39–5395 (51 FR 29212, August 15, 1986), be revised to exclude Model 747SR series airplanes that are now included in this rulemaking action to avoid redundant requirements for inspection. One of these commenters requests that the requirement to inspect SSI's, required by AD 86–19–01, be exempt from the requirements of this AD. The FAA concurs. The FAA will, in a separate rulemaking action, revise AD 86–19–01 to exclude Model 747–100SR series airplanes that have been included in this final rule.

One commenter requests an extension in the compliance time until such time that a review of the damage tolerance rating (DTR) check forms has been completed and a revised SSID has been issued. The FAA does not concur. To extend the compliance time for this action would be inappropriate, since the FAA has determined that an unsafe condition exists and that inspections must be conducted to ensure continued safety. Additional rulemaking may be considered, however, once the DTR check forms have been reviewed and incorporated into the revised SSID.

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

There are approximately 128 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 87 airplanes of U.S. registry and 8 U.S. operators will be affected by this AD. Incorporation of the SSID program into an operator's maintenance program, as required by AD 93–06–01, and retained in this AD, is estimated to necessitate 1,000 work hours (per operator) at an average labor rate of $55 per work hour. Based on these figures, the total cost to the 8 affected U.S. operators to incorporate the SSID program is estimated to be $440,000, or $55,000 per U.S. operator.

The recurring inspections cost, as required by AD 93–06–01, and retained in this AD, is estimated to be 1,275 work hours per airplane at an average labor rate of $55 per work hour. Based on these figures, the annual recurring cost required by AD 93–06–01, and retained in this AD, is estimated to be $6,100,875 for the affected U.S. fleet, or $70,125 per airplane.

Since no new operators have been added by this AD, there will be no new costs associated with incorporating the SSID program into an operator's maintenance program. Therefore, the future economic cost impact of this AD on U.S. operators is now only the cost of the recurring inspections for these additional airplanes.

The number of required work hours for the recurring inspections in this AD, as indicated above, is presented as if the accomplishment of the actions were to be conducted as "stand alone" action. However, in actual practice, these actions, for the most part, will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours will be minimal in many instances. Additionally, any costs associated with special airplane scheduling will be minimal.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8526 (58 FR 19571, April 15, 1993), and by adding a new airworthiness directive (AD), amendment 39–8989, to read as follows:

94–15–18 Boeing: Amendment 39–8989. Docket 93–NM–174–AD. Supersedes AD 93–06–01, Amendment 39–8526.

Applicability: Model 747 series airplanes, as listed in Section 3.0 of Boeing Document No. D6–35022, Volumes 1 and 2, "Supplemental Structural Inspection Document (SSID) for Model 747 Airplanes," Revision E, dated June 17, 1993; and manufacturer's line numbers 42, 174, 221, 231, 234, 239, 242, and 254; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continued structural integrity of the total Boeing Model 747 fleet, accomplish the following:

(a) For airplanes listed in Boeing Document No. D6–35022, Volumes I and II, "Supplemental Structural Inspection Document (SSID)," Revision D, dated February 1992: Within 12 months after May 17, 1993 (the effective date of AD 93–06–01, Amendment 39–8526), incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required Damage Tolerance Rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document No. D6–35022, Revision D, dated February 1992. (The required DTR value for each SSI is listed in the document.) The revision to the maintenance program shall include Sections 5.0 and 6.0 of the SSID and shall be implemented in accordance with the procedures contained in those sections. Revision to the maintenance program shall be in accordance Revision D of the SSID, until Revision E of the SSID is incorporated into the FAA-approved maintenance inspection program in accordance with the requirements of paragraph (b) of this AD.

(b) For airplanes listed in Boeing Document No. D6–35022, Volumes 1 and 2, "Supplemental Structural Inspection

Document (SSID) for Model 747 Airplanes," Revision E, dated June 17, 1993; and manufacturer's line numbers 42, 174, 221, 231, 234, 239, 242, and 254: Within 12 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD with a revision that provides no less than the required DTR for each SSI listed in Boeing Document No. D6-35022, Volumes 1 and 2, "Supplemental Structural Inspection Document (SSID) for Model 747 Airplanes," Revision E, dated June 17, 1993. (The required DTR value for each SSI is listed in the document.) The revision to the maintenance program shall include Sections 5.0 and 6.0 of the SSID and shall be implemented in accordance with the procedures contained in those sections.

(c) Cracked structure must be repaired, prior to further flight, in accordance with an FAA-approved method.

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

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

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

(f) The incorporation of the revision shall be done in accordance with Boeing Document No. D6-35022, Volumes 1 and 2, "Supplemental Structural Inspection Document (SSID) for Model 747 Airplanes," Revision E, dated June 17, 1993, which contains the following list of effective pages:

Page No.	Revision letter shown on page
List of Active Pages ..... Pages 1 through 21.1.	E

(Note: The issue date is indicated only on the title page of Volume 1.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on September 12, 1994.

Issued in Renton, Washington, on July 22, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-18454 Filed 8-10-94; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 39

[Docket No. 94-NM-115-AD; Amendment 39-8997; AD 94-17-02]

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all British Aerospace Model BAC 1-11 200 and 400 series airplanes. This action requires a one-time inspection to determine the tension of the control cables of the thrust reversers, and correction of the tension, if necessary; a one-time inspection of the cables to detect breakage, damage, wear, or signs of corrosion, and replacement of discrepant cables with serviceable cables; lubrication of the cables; and reporting the results of the inspections to the manufacturer. This amendment is prompted by a report of a frayed and corroded control cable. The actions specified in this AD are intended to prevent failure of the control cables, which may lead to the inability of the thrust reversers to deploy, and subsequently, adversely affect stopping distances and controllability of the airplane on the runway during landing.

DATES: Effective August 26, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 26, 1994.

Comments for inclusion in the Rules Docket must be received on or before October 11, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-115-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from British Aerospace, Inc., 22070 Broderick Drive, Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model BAC 1-11 200 and 400 series airplanes. The CAA advises that it has received a report from an operator of Model BAC 1-11 500 series airplanes that the control cable of the thrust reverser was severely corroded and frayed. Severely corroded and frayed control cables of the thrust reverser could result in failure of the control cable. This condition, if not corrected, could result in the inability of the thrust reversers to deploy, and subsequently, adversely affect stopping distances and controllability of the airplane on the runway during landing.

Since the thrust reverser system on Model BAC 1-11 500 series airplanes is similar in design to that on the Model BAC 1-11 200 and 400 series airplanes, these airplanes are also subject to the same unsafe condition.

British Aerospace Airbus, Ltd., has issued Campaign Wire 76-CW-PM6031, dated May 12, 1994, which describes procedures for performing an inspection to determine the tension of the control cables of the thrust reversers and correction of the tension, if necessary; a detailed visual inspection of the control cables to detect breakage, damage, wear, or signs of corrosion (swelling), and replacement of discrepant control cables with serviceable cables; lubrication of the cables; and reporting the results of the inspections to the manufacturer. The CAA classified this campaign wire as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

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

for products of this type design that are certificated for operation in the United States.

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, this AD is being issued to prevent failure of the control cables, which may lead to the inability of the thrust reversers to deploy, and subsequently, adversely affect stopping distances and controllability of the airplane on the runway during landing. This AD requires a one-time inspection of the control cables of the thrust reversers to determine the tension of the control cable, and correction of the tension, if necessary; a one-time inspection of the control cables to detect breakage, damage, wear, or signs of corrosion, and replacement of discrepant control cables with serviceable cables; lubrication of the cables; and reporting the results of the inspections to the manufacturer. The actions are required to be accomplished in accordance with the campaign wire described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–115–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

94–17–02 British Aerospace Airbus Limited (Formerly British Aerospace, PLC): Amendment 39–8997. Docket 94–NM–115–AD.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the control cables, which may lead to the inability of the thrust reversers to deploy, and subsequently, adversely affect stopping distances and controllability of the airplane on the runway during landing, accomplish the following:

(a) Within 100 hours time-in-service or 1 month after the effective date of this AD, whichever occurs earlier, perform an inspection to determine the tension of the control cables of the thrust reverser, in accordance with British Aerospace Airbus, Ltd., Campaign Wire 76–CW–PM6031, dated May 12, 1994. If the tension of any control cable is outside the limits specified in Chapter 76–11–0 of the Airplane Maintenance Manual (AMM), prior to further flight, correct the tension of that cable, in accordance with the campaign wire.

(b) Within 100 hours time-in-service or 1 month after the effective date of this AD, whichever occurs earlier, perform an inspection to detect breakage, damage, wear, or signs of corrosion (swelling) of the control cable of the thrust reverser, in accordance with British Aerospace Airbus, Ltd., Campaign Wire 76–CW–PM6031, dated May 12, 1994.

(1) If the control cables are free of discrepancies, prior to further flight, lubricate the cables in accordance with the campaign wire.

(2) If any control cable is broken, damaged, worn beyond the limits specified in Chapter 27–00, Figure 201, of the AMM, or corroded, prior to further flight, replace the discrepant cable with a serviceable cable and lubricate the cables, in accordance with British Aerospace Airbus, Ltd. Campaign Wire 76–CW–PM6031, dated May 12, 1994.

(c) Within 72 hours after completion of the inspections required by this AD, submit a report of the findings of those inspections to: British Aerospace Airbus, Ltd., Manager, Service Support, Bristol BS 99 7AR, England; fax 44–272–364491. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators

shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(f) The tightening, inspections, lubrication, and replacement shall be done in accordance with British Aerospace Airbus, Ltd., Campaign Wire 76–CW–PM6031, dated May 12, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, Inc., 22070 Broderick Drive, Sterling, Virginia 20166. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on August 26, 1994.

Issued in Renton, Washington, on August 4, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–19478 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–CE–27–AD; Amendment 39–8991; AD 94–16–02]

Airworthiness Directives: Luscombe Model 8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes AD 79–25–05, which currently requires repetitively inspecting the existing aluminum vertical stabilizer forward attach fitting for cracks on Luscombe Model 8 series airplanes, and replacing any cracked parts. Steel fittings are now available that, when installed, will eliminate the need for repeated removal and inspection of the aluminum fitting, which could result in damage to the fastener holes. This action requires replacing the existing aluminum fitting with a steel vertical stabilizer forward attach fitting on Luscombe Model 8 series airplanes that have round-tipped vertical stabilizer installations. The actions specified by this AD are intended to prevent failure of the vertical stabilizer as a result of a cracked fitting, which could result in loss of control of the airplane.

DATES: Effective September 19, 1994.

The incorporation by reference of certain publications listed in the regulations as approved by the Director of the Federal Register as of September 19, 1994.

ADDRESSES: Service information that applies to this AD may be obtained from the Don Luscombe Aviation History Foundation, P.O. Box 63581, Phoenix, Arizona 85082; telephone (602) 693–4312. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Lirio Liu, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3229 E. Spring Street, Long Beach, California 90806; telephone (310) 988–5229; facsimile (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Luscombe Model 8 series airplanes was published in the **Federal Register** on January 12, 1994 (59 FR 1676). The action proposed to supersede AD 79–25–05 with a new AD that would require replacing the existing aluminum vertical stabilizer forward attach fitting, P/N 28444 or P/N 28453, with a steel fitting manufactured by the Univair Aircraft Corporation (P/N U28444) or FAA-approved equivalent part.

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

Two commenters propose including Luscombe part number (P/N) 28415 in the list of vertical stabilizer attach fittings that should be replaced as specified in paragraph (a) of the proposal. The FAA concurs and has changed paragraph (a) of the AD to include this P/N as well as P/N 28444 and P/N 28453.

These same two commenters request including Luscombe P/N 28455 as a replacement part for the vertical stabilizer attach fittings. This part has type design approval from the FAA, and the Don Luscombe Aviation History Foundation (DLAHF) holds a Parts Manufacturer Approval (PMA). The FAA concurs that this part should be referenced in the AD and has changed paragraph (a) of the AD to include the following:

> Replace the aluminum vertical stabilizer forward attach fitting, * * * with either Luscombe P/N 28455 manufactured by the DLAHF; a welded steel fitting manufactured by the Univair Aircraft Corporation, P/N U28444; or an FAA-approved equivalent part.

Both of these commenters request replacing the installation instructions referenced as Figure 1 in the proposal with DLAHF Service Recommendation #1, dated November 28, 1993. The commenters state that this publication is basically identical to Figure 1. The FAA concurs that this action should be accomplished in accordance with DLAHF Service Recommendation #1, dated November 28, 1993, and has changed the AD accordingly.

The third commenter recommends that the FAA more clearly state the Applicability of the proposal by only incorporating those Luscombe Model 8 series airplanes with round tip vertical stabilizers. This commenter states that all the applicable service difficulty history is based upon those stabilizers with round tips and there is no service difficulty history for those with square tips. The FAA concurs and has changed the Applicability statement of the AD to include: "Model 8 Series airplanes (all serial numbers) that have round-tipped vertical stabilizer installations, certificated in any category."

After careful review of all available information including the comments referenced above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for (1) the addition of the part numbers to the listing of the existing and replacement parts for the AD; (2) the incorporation of the DLAHF Service Recommendation #1, dated November 28, 1993, into the AD; (3) the Applicability change to the AD that limits the action to only those affected airplanes with round-tipped vertical stabilizer installations; and (4) minor editorial corrections. The FAA has determined that none of the AD modifications described above will change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 2,029 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $121 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,097,689. This figure is based on

the assumption that no affected operator has accomplished this action.

The Univair Aircraft Corporation has informed the FAA that 194 Luscombe P/N U–28444 tail fin fittings have been sold since 1984. Based on the assumption that each of these 194 fittings is installed on an affected airplane, the future cost impact estimate for this AD is reduced by $66,154 (4 hours labor × $55+$121 parts × 194 airplanes) from $1,097,689 to $1,031,535.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 79–25–05, Amendment 39–3630, and by adding a new airworthiness directive to read as follows:

94–16–02 Luscombe: Amendment 39–8991; Docket No. 93–CE–27–AD. Supersedes AD 79–25–05, Amendment 39–3630.

Applicability: Model 8 Series airplanes (all serial numbers) that have round-tipped vertical stabilizer installations, certificated in any category.

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

To prevent failure of the vertical stabilizer as a result of a cracked fitting, which could result in loss of control of the airplane, accomplish the following:

(a) Replace the aluminum vertical stabilizer forward attach fitting, Luscombe part number (P/N) 28415, P/N 28444, or P/N 28453, with either Luscombe P/N 28455 manufactured by the Don Luscombe Aviation History Foundation (DLAHF); a welded steel fitting manufactured by the Univair Aircraft Corporation, P/N U28444; or an FAA-approved equivalent part. Accomplish this replacement in accordance with the procedures included in DLAHF Service Recommendation #1, dated November 28, 1993.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), 3229 E. Spring Street, Long Beach, California 90806. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(d) The replacement required by this AD shall be done in accordance with the Don Luscombe Aviation History Foundation Service Recommendation #1, dated November 28, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Don Luscombe Aviation History Foundation, P.O. Box 63581, Phoenix, Arizona. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–8991) supersedes AD 79–25–05, Amendment 39–3630.

(f) This amendment (39–8991) becomes effective on September 19, 1994.

Issued in Kansas City, Missouri, on July 26, 1994.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–18841 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 93–SW–13–AD; Amendment 39–8969; AD 94–14–20]

Airworthiness Directives; Sikorsky Aircraft Model S–76A Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Sikorsky Aircraft Model S–76A series helicopters, that currently requires an initial and repetitive inspections of the tail rotor (T/R) blade spar elliptical centering plug (centering plug) for disbonding and adds a retaining pad between the T/R gearbox output shaft and the inboard T/R spar. This amendment requires the same design changes and procedures as the previous AD, except that it would eliminate the 500 hours' time-in-service repetitive inspections for centering plug disbonding. This amendment is prompted by an improved bonding and repair procedure and the lack of reports concerning the movement or disbonding of the centering plug. The actions specified by this AD are intended to prevent the centering plug from disbonding and moving out of position, which could result in loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Effective September 15, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 15, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from Sikorsky Aircraft, Commercial Customer Support, 6900 Main Street, Stratford, Connecticut 06601–1381. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Thompson, Aerospace Engineer, Airframe Section, ANE–152,

FAA, Boston Aircraft Certification Office, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 238–7162, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 84–06–02, Amendment 39–4829 (49 FR 10922, March 23, 1984) which is applicable to Sikorsky Aircraft Model S–76A series helicopters, was published in the **Federal Register** on August 4, 1993 (58 FR 41442). That action proposed to require the same design changes and procedures as the previous AD, except that it would eliminate the 500 hours' time-in-service repetitive inspections for centering plug disbonding. This amendment is prompted by an improved bonding and repair procedure and the lack of reports concerning the movement or disbonding of the centering plug.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. However, for consistency of word usage throughout the AD and to make the language more consistent with the Sikorsky Aircraft Alert Service Bulletin 76–65–35A, Revision A, dated February 29, 1984, the word "pressure" that describes the part has been changed to "retaining" and all forms of the word "debond" have been changed to "disbond." Other minor editorial changes were made, also. Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 190 Sikorsky Aircraft Model S–76A series helicopters of the affected design in the worldwide fleet. The FAA estimates that 150 helicopters of U.S. registry will be affected by this AD, that it will save approximately 4 work hours per helicopter by discontinuing the current 500 hours' time-in-service repetitive inspections, and that the average labor rate is $55 per work hour. Based on these figures, the annual cost savings of the proposed elimination of these AD inspections on U.S. operators is estimated to be $33,000 annually.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–4829, (49 FR 10922, March 23, 1984), and by adding a new airworthiness directive (AD), Amendment 39–8969, to read as follows:

AD 94–14–20 Sikorsky Aircraft: Amendment 39–8969. Docket Number 93–SW–13–AD. Supersedes AD 84–06–02, Amendment 39–4829.

Applicability: Model S–76A Series helicopters, certificated in any category.

Compliance: Required within the next 25 hours' time-in-service after the effective date of this AD, unless accomplished previously.

To prevent the tail rotor blade (T/R) spar elliptical centering plug (centering plug) from disbonding and moving out of position, which could result in loss of tail rotor control and loss of control of the helicopter, accomplish the following for blades, part numbers (P/N) 76101–05001 and 76101–05101 series, with more than 130 hours' time-in-service:

(a) Remove the blades in accordance with the maintenance manual and inspect the centering plug for disbonding of the polyurethane filler that fills the space between the aluminum centering plug and the graphite T/R spar in accordance with Sikorsky Aircraft Alert Service Bulletin 76–65–35A, Revision A, dated February 29, 1984 (ASB).

(1) If the inspection of the centering plug shows no evidence of disbonding greater than one-half inch in length, install a retaining pad in accordance with paragraph 2.C. of the Accomplishment Instructions of the ASB.

(2) For disbonds greater than one-half inch, but less than 2 inches in length, repair the blade in accordance with paragraph 2.B.(1) of the Accomplishment Instructions of the ASB.

(3) For disbonds equal to or greater than 2 inches in length, but not complete disbonds, or for disbonded centering plugs with the polyurethane filler excessively cracked or deteriorated to the extent of breaking away from the T/R spar or the centering plug, remove the blade from service and replace with an airworthy blade.

(4) For T/R spars with complete T/R spar to centering plug disbond in which the polyurethane filler is intact and remains fully bonded to the centering plug, repair in accordance with paragraph 2.B.(2) of the Accomplishment Instructions of the ASB.

(5) For T/R spars with complete polyurethane filler to centering plug disbond in which the polyurethane filler is intact and remains fully bonded to the T/R spar, repair in accordance with paragraph 2.B.(3) of the Accomplishment Instructions of the ASB.

(b) Install retaining pad, P/N 76102–05004–111, in accordance with paragraph 2.C. of the Accomplishment Instructions of the ASB.

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

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

(d) Special flight permits 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 helicopter to a location where the requirements of this AD can be accomplished if a retaining pad has been installed.

(e) The inspections and repair shall be done in accordance with Sikorsky Aircraft Alert Service Bulletin 76–65–35A, Revision A, dated February 29, 1984. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Sikorsky Aircraft, Commercial Customer Support, 6900 Main Street, Stratford,

Connecticut 06601–1381. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 15, 1994.

Issued in Fort Worth, Texas, on June 30, 1994.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–18933 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Melengestrol Acetate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of 12 supplemental new animal drug applications (NADA's) filed by The Upjohn Co. The applications concern the use of Type A medicated articles containing melengestrol acetate (MGA) (alone and in combination) to manufacture certain combination drug Type B and Type C medicated feeds for heifers fed in confinement for slaughter. The supplements provide for a revised tolerance of 25 parts per billion (ppb) MGA residues, which is a change in the regulation of medicated feed applications to a Category I drug, and the removal of the requirement for a 48-hour preslaughter withdrawal period.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed 12 supplemental NADA's revising the conditions of use of melengestrol acetate (MGA) Type A medicated articles to make Type B and Type C medicated feeds for heifers being fed in confinement for slaughter. The NADA's supplemented are:

(1) NADA 34–254: MGA 100/200.

(2) NADA 39–402: MGA Liquid 500.

(3) NADA 124–309: MGA 100/200 plus Monensin.

(4) NADA 125–476: MGA 500 Liquid plus Monensin.

(5) NADA 138–792: MGA 100/200 plus Monensin and Tylosin.

(6) NADA 138–870: MGA 500 Liquid plus Monensin and Tylosin.

(7) NADA 138–904: MGA 100/200 plus Lasalocid and Tylosin.

(8) NADA 138–992: MGA 500 Liquid plus Lasalocid and Tylosin.

(9) NADA 138–995: MGA 100/200 plus Tylosin.

(10) NADA 139–192: MGA 500 Liquid plus Tylosin.

(11) NADA 139–876: MGA 100/200 plus Lasalocid.

(12) NADA 140–288: MGA 500 Liquid plus Lasalocid.

The supplements provide for the following actions: (1) Deleting the 48-hour preslaughter withdrawal period for use in heifers being fed in confinement for slaughter for increased rate of weight gain, improved feed efficiency, and suppression of estrus; (2) amending the classification in § 558.4 *Medicated Feed Applications* (21 CFR 558.4) from Category II to Category I because the use of the drug no longer requires a withdrawal period; and (3) revising the tolerance for residues of MGA in uncooked, edible cattle tissues from no residue to a finite tolerance of 25 ppb. The tolerance was set based on the determination that the endpoint of toxicological concern is hormonal activity and that residues of MGA at or below 25 ppb in edible tissues of treated animals will not elicit a hormonal response.

Also, § 556.380 (21 CFR 556.380) includes a gas-liquid chromatographic (GLC) method of analysis for residues of MGA in tissues. That method was in the regulation recodified from food additives to animal drugs in 1970. The Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC), 15th ed., 1990, in section 976.36 (pp. 629–631) provides an updated GLC method for determining MGA residues in animal tissues. The procedure is also published in the *Journal of the Association of Official Analytical Chemists*, JAOAC 59: 507–515, 1976. FDA is removing the analytical method in § 556.380 and relying on the AOAC for the method of analysis for MGA.

These are new animal drugs used in Type A medicated articles to make Type B and C medicated feeds. With approval of these supplements, MGA is a Category I drug which, as provided in § 558.4, does not require an approved form FDA 1900 for making a Type B or C medicated feed from a Type A medicated article. Approved form FDA 1900's may be withdrawn at the request of the sponsor.

The supplements are approved as of June 29, 1994. 21 CFR 556.380 is revised to remove the existing text and provide for a finite tolerance. Section 558.4 is revised to remove the MGA entry from the Category II table and add it to the Category I table. 21 CFR 558.342 is amended by revising paragraphs (c)(1)(ii), (c)(2)(ii), (c)(3)(ii), (c)(4)(ii), (c)(5)(ii), and (c)(6)(ii), and 21 CFR 558.355 is amended by revising paragraphs (f)(3)(iv)(*b*) and (f)(3)(viii) to remove the 48-hour preslaughter withdrawal statement.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), these supplements for food-producing animals do not qualify for marketing exclusivity because the supplements do not contain new clinical or field investigations (other than bioequivalence or residue studies) and new human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

2. Section 556.380 is revised to read as follows:

§ 556.380 Melengestrol acetate.

A tolerance of 25 parts per billion is established for residues of the parent compound, melengestrol acetate, in fat of cattle.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

4. Section 558.4 is amended in paragraph (d) in the "Category I" table by alphabetically adding a new entry for "melengestrol acetate" and in the "Category II" table by removing the entry for "melengestrol acetate" to read as follows:

§ 558.4 Medicated feed applications.

* * * * *

(d) * * *

* * * * *

CATEGORY I

Drug	Assay limits percent[1] type A	Type B maximum (200x)	Assay limits percent[1] type B/C[2]
*	*	*	*
Melengestrol acetate	90–110	10.0 g/ton (0.0011%)	70–120
*	*	*	*

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make Type C medicated feed.

* * * * *

§ 558.342 [Amended]

5. Section 558.342 *Melengestrol acetate* is amended in paragraphs (c)(1)(ii), (c)(2)(ii), (c)(3)(ii), (c)(4)(ii), (c)(5)(ii), and (c)(6)(ii), by removing the sentence "Withdraw melengestrol acetate 48 hours prior to slaughter." each time it appears.

§ 558.355 [Amended]

6. Section 558.355 *Monensin* is amended in paragraph (f)(3)(iv)(*b*) by removing the sentence "Withdraw melengestrol acetate 48 hours prior to slaughter.", and in paragraph (f)(3)(viii) by removing the last sentence "Medicated feeds containing melengestrol acetate are required to be withdrawn 48 hours prior to slaughter."

Dated: August 4, 1994.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 94–19656 Filed 8–10–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

28 CFR Part 0

A.G. Order No. 1904–94

Revision of Delegations of Settlement Authority for Administrative Claims Against the Federal Bureau of Investigation

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Final rule.

SUMMARY: The Attorney General is revising a delegation of authority she has made to the Director of the Federal Bureau of Investigation ("FBI"), to settle certain administrative claims under the Federal Tort Claims Act and 31 U.S.C. 3724, so as to allow redelegation to the primary legal advisors of FBI field offices.

EFFECTIVE DATE: July 30, 1994.

FOR FURTHER INFORMATION CONTACT: Howard M. Shapiro, General Counsel, FBI, Washington, DC 20535, (202) 324–6829.

SUPPLEMENTARY INFORMATION: Under 28 CFR 0.89a, the Attorney General has delegated to the Director of the FBI the authority to determine and settle administrative claims against the FBI pursuant to the Federal Tort Claims Act for amounts not exceeding $10,000 in any one case, and pursuant to 31 U.S.C. 3724 for amounts not exceeding $50,000 in any one case. The Attorney General has also authorized the Director of the FBI to redelegate this authority to the Assistant Director, Legal Counsel Division, or his designee within that division, and has provided that this authority shall not be further redelegated.

Restructuring of FBI Headquarters and efficient processing of the large volume of administrative claims against the FBI will be enhanced by further redelegation. This rule revises the current delegation to allow the General Counsel of the FBI to exercise the Director's delegated authority, and to allow for redelegation of the General Counsel's authority to the primary legal advisors of the FBI field offices.

Public comment will not be necessary on this rule because its subject is limited to a matter of internal Departmental procedure. This rule is not a significant regulatory action within the meaning of Executive Order 12866 and has not been reviewed by the Office of Management and Budget pursuant to that order. As required by the Regulating Flexibility Act, 5 U.S.C. 605(b), it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees,

Organizations and functions (Government agencies), Whistleblowing

For the reasons set forth in the preamble, 28 CFR Part 0 is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–19.

2. Section 0.89a is amended by revising paragraph (c) to read as follows:

§ 0.89a Delegations respecting claims against the FBI.

* * * * *

(c) The Director of the Federal Bureau of Investigation is authorized to redelegate to the General Counsel of the FBI or his designee within the Office of the General Counsel or to the primary legal advisors of the FBI field offices, any of the authority, functions, or duties vested in him by paragraphs (a) and (b) of this section. This authority shall not be further redelegated.

Dated: July 30, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–19573 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

Office of the Attorney General

28 CFR Part 0

A.G. Order No. 1906–94

Redelegation of Authority of Assistant Attorney General, Criminal Division, to Act as Central Authority or Competent Authority Under Treaties and Executive Agreements on Mutual Assistance in Criminal Matters

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 0.64–1 of Title 28, Code of Federal Regulations, authorizes the Assistant Attorney General in charge of the Criminal Division to act as the Central or Competent Authority under treaties and executive agreements between the United States and other countries on mutual assistance in criminal matters. Section 0.64–1 also authorizes the Assistant Attorney General in charge of the Criminal Division to redelegate her authority to her Deputy Assistant Attorneys General and to the Director of the Office of International Affairs. This final rule amends § 0.64–1 to include Deputy Directors of the Office of International Affairs among those in the Criminal Division to whom such authority of the Assistant Attorney General may be redelegated.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: George W. Proctor, Director, Office of International Affairs, Criminal Division, Department of Justice, Washington, D.C. 20530; 202–514–0000.

SUPPLEMENTARY INFORMATION: Over the past several years, the United States has entered into an increasing number of treaties and executive agreements regarding mutual assistance in criminal matters. Examples of agreements which have come into force recently are mutual legal assistance treaties with Spain, Thailand, Uruguay and Mexico, and narcotics-related executive agreements with the United Kingdom and Hong Kong.

The expansion of international cooperation in criminal matters has led to a significant increase in the number of formal requests either made or received by the United States under treaties or executive agreements. These requests are often time sensitive, and are forwarded to foreign Central Authorities in aid of federal, state and local law enforcement authorities.

Under the current rule, when the Director of the Office of International Affairs is unavailable to act as Central Authority, a request must be forwarded for action by a Criminal Division Deputy Assistant Attorney General or by the Assistant Attorney General for the Criminal Division. Including Deputy Directors of the Office of International Affairs among the Criminal Division officials to whom the authority of the Assistant Attorney General may be redelegated will promote more effective and efficient processing of requests for assistance made pursuant to such treaties and agreements.

This rule is a matter of internal Department management. It has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. It has been determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Attorney General has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, International agreements, Organization and functions (Government agencies), Treaties, Whistleblowing.

For the reasons stated in the preamble, Title 28, Chapter I, Part 0, of the Code of Federal Regulations is amended as set forth below.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. In section 0.64–1, the second sentence is revised to read as follows:

§ 0.64–1 Central or Competent Authority under treaties and executive agreements on mutual assistance in criminal matters.

* * * The Assistant Attorney General, Criminal Division, is authorized to redelegate this authority to the Deputy Assistant Attorneys General, Criminal Division, and to the Director and Deputy Directors of the Office of International Affairs, Criminal Division.

Dated: August 2, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–19575 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

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28 CFR Part 68

[A.G. Order No. 1905–94]

Executive Office for Immigration Review; Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens and Unfair Immigration-Related Employment Practices

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule amends 28 CFR part 68, which contains the rules of practice and procedure for administrative hearings conducted to enforce sections 274A, 274B, and 274C of the Immigration and Nationality Act

("INA"). These amendments are necessary to bring the practices and provisions established in part 68 into conformity with the provisions of the INA. Specifically, these amendments clarify the amount of time a party has to appeal to the United States Court of Appeals an Administrative Law Judge's order in a section 274A or a section 274C proceeding.

EFFECTIVE DATE: This final rule is effective August 11, 1994.

FOR FURTHER INFORMATION CONTACT: Gerlad S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, (703) 305–0470.

SUPPLEMENTARY INFORMATION: Sections 274A, 274B, and 274C of the INA require that hearings be held before Administrative Law Judges in cases involving allegations that a person or other entity has:

(1) Hired, or recruited or referred for a fee, for employment in the United States an alien knowing that the alien is unauthorized to work in the United States; or has so hired or referred or recruited for a fee, any individual when the hiring person or entity fails to comply with the employment eligibility verification requirements (8 U.S.C. 1324a(a)(1));

(2) Continued to employ an alien in the United States knowing that the alien is or has become unauthorized with respect to such employmnet (8 U.S.C. 1324a(a)(2));

(3) Imposed, in the hiring, recruiting, or referring for employment of any individual, any requirement that the individual post a bond or security, pay or agree to pay any amount, or otherwise guarantee or indemnify against any potential liability under 8 U.S.C. 1324a for unlawful hiring, recruiting or referring of such individual (8 U.S.C. 1324a(g)(1));

(4) Engaged in unfair immigration-related employment practices (8 U.S.C. 1324b); or

(5) Knowingly participated in activities involving fraudulent creation or use of documents for the purposes of satisfying, or complying with, a requirement of the INA (8 U.S.C. 1324c).

On November 24, 1987, the Department of Justice published an interim final rule establishing administrative practices and procedures to implement sections 274A and 274B of the INA. 52 FR 44972. After receiving comments, the Department published the final rule on November 24, 1989. 54 FR 48593. That rule governed all cases properly brought before an Administrative Law Judge that complied with the requirements of the INA. Then, on November 28, 1990, Congress enacted the Immigration Act of 1990, which amended sections 274A and 274B of the INA, and added section 274C. These amendments necessitated certain revisions to the practices and procedures established by part 68, which were set forth in an interim rule with request for comments, published October 3, 1991. 56 FR 50049. After receiving comments, the Department published the final rule on December 7, 1992. 57 FR 57669. The final rule, however, did not distinguish between the time the Administrative Law Judge issues an order and the time a final order is issued. This distinction is critical in clarifying the amount of time a party has to appeal a final agency order in a section 274A or a section 274C proceeding to the United States Court of Appeals. A proposed rule clarifying this time period was published in the **Federal Register** on January 18, 1994. 59 FR 2548. Although comments were requested, none were received. Based upon experience gained by the Office of the Chief Administrative Hearing Officer in implementing the hearing procedures and the statutory language regarding the Chief Administrative Hearing Officer's review authority found at sections 274A(e)(7) and 274C(d)(4), § 68.2 paragraph (i) is revised to reflect the reference made to the definition of "entry" in the revised definition of "issued" at § 68.2(k), and § 68.2 paragraph (k) is amended to account for the thirty (30) days the Chief Administrative Hearing Officer has to modify or vacate an Administrative Law Judge's order in a section 274A or 274C proceeding after the Administrative Law Judge enters the order.

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b). The Attorney General has determined that this rule is not a significant regulatory action under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 68

Administrative practice and procedure, Aliens, Citizenship and naturalization, Civil rights, Discrimination in employment, Employment, Equal employment opportunity, Immigration, Nationality, Non-discrimination.

For the reasons set forth in the preamble, 28 CFR part 68 is amended as follows:

PART 68—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES IN CASES INVOLVING ALLEGATIONS OF UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

1. The authority citation for part 68 continues to read as follows:

Authority: 5 U.S.C. 301, 554; 8 U.S.C. 1103, 1324a, 1324b, and 1324c.

2. Section 68.2 paragraphs (i) and (k) are revised to read as follows:

§ 68.2 Definitions.

* * * * *

(i) *Entry* as used in section 274B(i)(1) of the INA and § 68.2(k) means the date the Administrative Law Judge signs the order;

* * * * *

(k) *Issued* as used in section 274A(e)(8) and section 274C(d)(5) of the INA means thirty (30) days subsequent to the entry of an order or, if the Chief Administrative Hearing Officer vacates or modifies the order, the date the Chief Administrative Hearing Officer signs such vacation or modification.

* * * * *

Dated: July 26, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94–19574 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–5028–7]

Ocean Dumping; Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA designates a deep ocean dredged material disposal site (SF–DODS) located off San Francisco, California, for the disposal of suitable dredged material removed from the San Francisco Bay region and other nearby harbors or dredging sites. EPA has determined that the site selected in the Final EIS as the preferred site will be the site designated as SF–DODS in this Final Rule. The center of the SF–DODS is located approximately 49 nautical miles (91 kilometers) west of the Golden Gate and occupies an area of 6.5 square nautical miles (22 square kilometers). Water depths within the area range between 8,200 to 9,840 feet (2,500 to 3,000 meters). The center coordinates of the oval-shaped site are: 37°39.0′ North latitude by 123°29.0′ West longitude (North American Datum from 1983), with length (north-south axis) and width (west-east axis) dimensions of approximately 4 nautical miles (7.5 kilometers) and 2.5 nautical miles (4.5 kilometers), respectively. This action is necessary to provide an acceptable ocean dumping site for disposal of suitable dredged material; the suitability of proposed dredged material is determined by appropriate sediment testing protocols. The designation of SF–DODS is for a period of 50 years, with an interim capacity of 6 million cubic yards of dredged material per calendar year until December 31, 1996. Site capacity following December 31, 1996 will be determined based on either a comprehensive long-term management strategy for management of dredged materials from San Francisco Bay or on a separate alternatives-based EPA evaluation of the need for ocean disposal. Disposal operations at the site will be prohibited if the site management and monitoring program is not implemented.

EFFECTIVE DATE: This rule is effective September 12, 1994.

ADDRESSES: The supporting document for this designation is the Final Environmental Impact Statement (EIS) for Designation of a Deep Water Ocean Dredged Material Disposal Site off San Francisco, California, August 1993, which is available for public inspection at the following locations:

A. EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC.

B. EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California.

C. ABAG/MTC Library, 101 8th Street, Oakland, California.

D. Alameda County Library, 3121 Diablo Avenue, Hayward, California.

E. Bancroft Library, University of California, Berkeley, California.

F. Berkeley Public Library, 2090 Kittredge Street, Berkeley, California.

G. Daly City Public Library, 40 Wembley Drive, Daly City, California.

H. Environmental Information Center, San Jose State University, 125 South 7th Street, San Jose, California.

I. Half Moon Bay Library, 620 Correas Street, Half Moon Bay, California.

J. Marin County Library, Civic Center, 3501 Civic Center Drive, San Rafael, California.

K. North Bay Cooperative Library, 725 Third Street, Santa Rosa, California.

L. Oakland Public Library, 125 14th Street, Oakland, California.

M. Richmond Public Library, 325 Civic Center Plaza, Richmond, California.

N. San Francisco Public Library, Civic Center, Larkin & McAllister, San Francisco, California.

O. San Francisco State University Library, 1630 Holloway Avenue, San Francisco, California.

P. San Mateo County Library, 25 Tower Road, San Mateo, California.

Q. Santa Clara County Free Library, 1095 N. Seventh Street, San Jose, California.

R. Santa Cruz Public Library, 224 Church Street, Santa Cruz, California.

S. Sausalito Public Library, 420 Litho Street, Sausalito, California.

T. Stanford University Library, Stanford, California.

FOR FURTHER INFORMATION CONTACT: Mr. Allan Ota, Ocean Disposal Coordinator, U.S. Environmental Protection Agency, Region IX (W–3–3), 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744–1980.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. Sections 1401 *et seq.*, gives the Administrator of EPA authority to designate sites where ocean dumping may be permitted. On October 1, 1986 the Administrator delegated authority to designate ocean dredged material disposal sites (ODMDS) to the Regional Administrator of the EPA Region in which the sites are located. The SF–DODS designation action is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR 228.4) state that ocean dumping sites will be designated by publication pursuant to 40 CFR part 228. This site designation is being published as final rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material.

The center of the SF–DODS is located approximately 49 nautical miles (91 kilometers) west of the Golden Gate and occupies an area of approximately 6.5 square nautical miles (22 square kilometers). Water depths within the area range between approximately 8,200 to 9,840 feet (2,500 to 3,000 meters). The center coordinates of the oval-shaped site are: 37°39.0′ North latitude by 123°29.0′ West longitude (North American Datum from 1983), with length (north-south axis) and width (west-east axis) dimensions of approximately 4 nautical miles (7.5 kilometers) and 2.5 nautical miles (4.5 kilometers), respectively. EPA Region IX now designates SF–DODS as an ocean dredged material disposal site for continued use for a period of 50 years, with an interim capacity of 6 million cubic yards of dredged material per calendar year until December 31, 1996.

Site use is subject to implementation of the specific site management and monitoring requirements contained in this Final Rule, which are now identified as the Site Monitoring and Management Plan (SMMP) for the SF–DODS. The Proposed Rule designating the SF–DODS did not set forth specific management and monitoring requirements in the Rule itself. Instead, Region 9 had proposed that provisions concerning site management and monitoring would be contained in a separate Site Management and Monitoring Plan (SMMP) document. Though this separate SMMP document would not, strictly, have been part of the Rule designating the SF–DODS, Region 9 did signal its intent in the Preamble accompanying the Proposed Rule that implementation of the provisions of the SMMP document would have been mandatory. The Proposed Rule specifically would have required that the SMMP be implemented as a condition of site use. Comments received on the proposed Rule have convinced Region 9 that the mandatory nature of site management and monitoring would be placed on a clearer legal footing if the SMMP were made a part of the Rule instead of being set forth in a separate planning document.

The SMMP provisions in the Final Rule are closely related to Region 9's previous proposals on site monitoring and management. These proposals have been put forth for public review and comment on at least two occasions. First, Region 9 outlined its proposals concerning site monitoring and management in the Preamble accompanying the Proposed Rule

designating the SF-DODS. Region 9 published the Proposed Rule in the **Federal Register** on February 17, 1994 (59 FR 7952), and held open a public comment period on the Proposed Rule until March 18, 1994. Second, Region 9 completed a draft of a separate SMMP document and made this document available for public review and comment. Region 9 published this SMMP document as an EPA Public Notice on April 20, 1994 and accepted comments on this document until June 6, 1994. The SMMP provisions in the Final Rule were drafted after considering the public comment received in response to the Proposed Rule Preamble and the SMMP document. *See* Responses to Comments, Section F. below.

Region 9 is also preparing a Site Management and Monitoring Plan Implementation Manual (SMMP Implementation Manual). This manual will provide detailed guidance on practical aspects of implementing the SMMP provisions in the Final Rule.

B. EIS Development

Section 102(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. Sections 4321 *et seq.*, requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the agency decision-making process careful consideration of all environmental aspects of proposed actions, including evaluation of reasonable alternatives to the proposed action.

A Notice of Availability of the Draft EIS was published in the **Federal Register** on December 11, 1992 discussing EPA's intent to designate a deep water ocean dredged material disposal site off San Francisco (57 FR 58805). The Draft EIS, titled: Draft Environmental Impact Statement (EIS) for San Francisco Bay Deep Water Dredged Material Disposal Site Designation, evaluated a range of potential alternative disposal sites as summarized below. The comment period closed on January 25, 1993. EPA received 35 comment letters on the Draft EIS and incorporated changes where appropriate. On September 10, 1993, notice of availability for public review and comment on the Final EIS was published in the **Federal Register** (58 FR 47741). The comment period for the Final EIS closed on October 29, 1993.

EIS Alternatives Analysis

Several million cubic yards of dredged material are generated annually in the San Francisco Bay area. Traditionally, most of this dredged material has been disposed at sites within the San Francisco Bay estuary. However, existing upland and in-bay sites have limited capacity for disposal of large volumes of dredged material, and concerns about the potential environmental impacts of continued large-scale disposal within the estuary have grown steadily in recent years.

EPA's analysis of alternatives included detailed examination of several potential ocean dump sites for dredged materials from San Francisco Bay and a preliminary, less-detailed review of potential alternative means of handling these dredged materials other than disposal at an ocean dump site. For EPA's present purposes, a limited review of alternatives to ocean dumping of dredged materials was appropriate. EPA needed only to determine whether alternatives to ocean dumping now appear to offer sufficient capacity for all dredged material that will be generated in the future. Greater detail concerning alternatives to ocean dumping of dredged material is not necessary at this stage because designation of an ocean dumping site under 40 CFR part 228 is essentially a preliminary, planning-like measure. The practical effect of such a designation is only to require that if future ocean dumping activity is permitted under 40 CFR part 227, such dumping should normally be consolidated at the designated site. Designation of an ocean dumping site does not authorize any actual dumping and does not preclude EPA or the U.S. Army Corps of Engineers from finding that alternative means of managing dredged materials from San Francisco Bay are available and environmentally preferable.

EPA has determined that it is appropriate to designate an ocean dumping site for dredged materials from San Francisco Bay site now, even if alternatives to ocean dumping should eventually prove to be available, because it appears unlikely that alternative means of managing dredged material will accommodate all of this dredged material that will be generated in the future. As discussed in the Final EIS, there are many substantial obstacles involved with the potential alternatives to ocean dumping of dredged material. As noted, one alternative that is currently being employed is disposal of dredged material within San Francisco Bay itself. Several resource and regulatory agencies, however, have indicated that disposal of dredged material within San Francisco Bay may be endangering the Bay ecosystem, and some of these agencies have suggested or are working towards setting low ceilings on the annual volume of dredged material that may be placed in the Bay. Disposing of dredged materials in upland locations or employing them for various beneficial uses are other alternatives which may prove feasible. Current information, however, which is recited in the Final EIS, suggests that it is unlikely that these alternatives will feasibly accommodate all dredged materials likely to be generated from San Francisco Bay in the future.

EPA and several other agencies are currently participating in a comprehensive evaluation of management of dredged materials from San Francisco Bay, known as the "Long-Term Management Strategy" ("LTMS"). As part of this LTMS effort, all disposal options, including beneficial reuse, upland, in-bay, and ocean disposal alternatives, are being further evaluated in a separate LTMS Policy EIS/EIR. The LTMS agencies intend to set forth policies for the ongoing development of such alternatives, and for comprehensive management of all such sites, in the Policy EIS/EIR.

EPA's site designation decision reflects this LTMS effort. Today, EPA is setting an interim site capacity for the SF–DODS of six million cubic yards of dredged material per year, which shall be in effect only until December 31, 1996. As the LTMS is completed, EPA will reexamine the appropriate site capacity for the SF–DODS and will establish in a separate rulemaking a capacity for the SF–DODS that reflects the LTMS policy. In addition, in all cases (now, and in the future under a comprehensive management plan for the region), the disposition of dredged materials from individual projects will be evaluated by EPA Region IX and the Corps' San Francisco District on a case-by-case basis and EPA, taking into account all the alternatives available at the time of permitting. Beneficial reuse alternatives will be preferred over ocean disposal whenever they are practicable and would cause less adverse impacts than ocean disposal.

The following ocean disposal alternatives were evaluated in detail in the Final EIS:

1. No Action

Failure to designate a permanent ocean disposal site pursuant to Section 102 of the MPRSA would have significant negative consequences. First, the continued foreseeable need to have an appropriate site for disposal of suitable sediments from various San Francisco Bay dredging projects would place pressure on the Corps and EPA to approve on a project-by-project basis the

use of existing in-Bay or temporary ocean dumping locations pursuant to either Clean Water Act Section 404 or MPRSA Section 103. Continued, exclusive reliance on existing in-bay disposal sites would not address concerns about environmental impacts of in-bay disposal, and would not address concerns about economic impacts due to delays and uncertainty associated with limited capacity at these existing sites. Second, the Water Resources Act of 1992 prohibits the continued use of ocean dump sites which have not been designated by EPA as Section 102 dump sites by the end of 1997. If EPA fails to designate the SF-DODS by that date, then ocean disposal of dredged materials taken from San Francisco Bay projects will be effectively precluded.

2. Deepwater Alternative Site 3

This site is located approximately 47 nautical miles (87 kilometers) from the Golden Gate in an area where depths range approximately 4,590 to 6,230 feet (1,400 to 1,900 meters). EPA has eliminated this site from further consideration, primarily because of its proximity to Pioneer Canyon and associated hardbottom areas. This site would have greater impacts to benthic organisms than the preferred alternative (Site 5), and would affect relatively scarce hardbottom habitats.

3. Deepwater Alternative Site 4

This site is located approximately 50 nautical miles (93 kilometers) from the Golden Gate in an area where depths range approximately from 6,230 to 6,900 feet (1,900 to 2,100 meters). EPA has eliminated this site from further consideration, primarily because of its proximity to Half Moon Bay and its high usage as commercial fishing grounds as compared to Alternative Site 5. This site would also have greater impacts to benthic organisms than the preferred alternative (Site 5).

4. Deepwater Alternative Site 5 (Preferred Alternative)

The Final EIS identified this site as the preferred alternative based on comparison to the alternative sites listed above, and to the specific selection criteria listed in 40 CFR 228.6(a). Alternative Site 5 is located furthest from the coast (approximately 49 nautical miles west of the Golden Gate) and in the deepest depth range (approximately 8,200 to 9,840 feet, or 2,500 to 3,000 meters). The 6.5 square nautical mile site represents approximately one percent of the total area encompassing the slope region studied by EPA Region IX. Bathymetric and sediment surveys indicate Alternative Site 5 is located in a depositional area which, because of existing topographic containment features, is likely to retain dredged material which reaches the sea floor. No significant impacts to other resources or amenity areas, such as marine sanctuaries, are expected to result from designation of Alternative Site 5. Existing and potential fisheries resources within Alternative Site 5 are minimal and the site is removed from more important fishing grounds located closer to the other alternative sites. Abundances and biomass of demersal fishes and megafaunal invertebrates, as well as abundances and diversity of infaunal invertebrates, at Alternative Site 5 are lower than those at the other alternative sites. Conservative modeling predicted only localized detectable perturbations following disposal of dredged materials within the disposal site. Therefore, potential impacts to surface and mid-water dwelling organisms, such as seabirds, mammals, and midwater fishes, are expected to be insignificant. Finally, disposal of low-level radioactive wastes and chemical and conventional munitions occurred historically in the vicinity of Alternative Site 5. Disposal within the site has also occurred as part of a Navy MPRSA Section 103 permit approved for up to 1.2 million cubic yards of suitable dredged material. Therefore, designation of this site also minimizes cumulative effects compared to the alternative ocean disposal sites.

EPA has determined that Alternative Site 5, identified in the Final EIS as the preferred site, will be the site designated as SF-DODS in this Final Rule. This site represents the environmentally preferred alternative for designation of a deep ocean disposal site for the San Francisco Bay area. Its selection, along with the specific restrictions on site use adopted and described in this Final Rule, avoids and minimizes environmental harm from ocean disposal of suitable dredged material to the maximum extent practicable. A Record of Decision (ROD) will not be issued as a separate document; instead this Final Rule serves as the ROD for designation of the SF-DODS.

C. Regulatory Requirements

Consistency With the Coastal Zone Management Act

EPA prepared a Coastal Consistency Determination (CCD) document based on the evaluations presented in the Final EIS. The CCD evaluated whether the proposed action—designation of Alternative Site 5 as described in the Final EIS as an ocean disposal site for up to 50 years, and with an annual capacity of 6 million cubic yards of dredged material meeting ocean disposal criteria—would be consistent with the provisions of the Coastal Zone Management Act. The CCD was formally presented to the California Coastal Commission at their public hearing on April 12, 1994. The Commission staff report recommended that the Commission concur with EPA's CCD, and the Commission voted unanimously to concur on the CCD without revision.

Endangered Species Act Consultation

During the EIS development process, EPA consulted with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) pursuant to provisions of the Endangered Species Act, regarding the potential for designation and use of any of the alternative ocean disposal sites under study to jeopardize the continued existence of any federally listed threatened or endangered species. This consultation process is fully documented in the Final EIS. NMFS and FWS concluded that none of the three alternative disposal sites, including Alternative Site 5, if designated and used for disposal of dredged material meeting ocean disposal criteria as described in the EIS, would jeopardize the continued existence of any federally listed threatened or endangered species.

Compliance With Ocean Dumping Criteria

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use (40 CFR 228.5). First, sites must be selected to minimize interference with other activities, particularly avoiding fishery areas or major navigation areas. Second, sites must be situated such that temporary (during initial mixing) water quality perturbations caused by disposal operations would be reduced to normal ambient levels before reaching any beach, shoreline, sanctuary, or geographically limited fishery area. Third, if site designation studies show that any interim disposal site does not meet the site selection criteria, use of such site shall be terminated as soon as an alternate site can be designated. Fourth, disposal site size must be limited in order to localize for identification and control any immediate adverse impacts, and to facilitate effective monitoring for long-range effects. Fifth, EPA must, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and where historical disposal has occurred. As described in the Final EIS,

SF–DODS was specifically selected to comply with these general criteria.

The SF–DODS meets these 5 general criteria. First, as discussed further below in discussing the 11 specific site selection criteria, the SF–DODS is not a significant fishery area, is not a major navigation area and otherwise has no geographically limited resource values that are not abundant in other parts of this coastal region. Second, as also discussed further below, dredged material deposited at the site is not expected to reach any significant area such as a marine sanctuary, beach, or other important natural resource area. Third, the SF–DODS is not an interim disposal site. Fourth, the site has an appropriately limited size and has been selected to allow for effective monitoring. Fifth, the site is beyond the continental shelf and is located in an area historically used for dumping.

In addition to the 5 general criteria, 11 specific site selection criteria are listed in 40 CFR 228.6(a) of the EPA Ocean Dumping Regulations for evaluation of all candidate disposal sites. The 5 general criteria and the 11 specific factors overlap to a great degree. The SF–DODS site, as discussed below, is also acceptable under each of the 11 specific criteria.

1. Geographical Position, Depth of Water, Bottom Topography and Distance From Coast [40 CFR 228.6(a)(1).

The center of the SF–DODS is located approximately 49 nautical miles (91 kilometers) west of the Golden Gate and occupies an area of 6.5 square nautical miles (22 square kilometers). Water depths within the area range between 8,200 to 9,840 feet (2,500 to 3,000 meters). Bathymetric and sediment surveys indicate that the site is located in a depositional area with natural topographic containment features. The site's depositional nature and natural topography will minimize the extent of potential impacts to the benthos, and will facilitate long-term containment of deposited material as well as site monitoring activities.

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

The SF–DODS site provides feeding and breeding areas for common resident benthic species. Floating larvae and eggs of various species are expected to be found at and near the water surface at the site as well as the alternative sites evaluated. However, designation of the site will not affect any geographically limited (*i.e.*, unique) habitats, breeding sites, or critical areas that are essential to rare or endangered species. Both in comparison to on-shelf areas and to the other alternative sites evaluated, the site has the least potential for adverse impact to commercially important species.

3. Location in Relation to Beaches and Other Amenity Areas [40 CFR 228.6(a)(3)]

The SF–DODS site is approximately 49 nautical miles (91 kilometers) west of the Golden Gate, 30 nautical miles (56 kilometers) from Pioneer Canyon, 6 nautical miles (11 kilometers) from the Gulf of the Farallones National Marine Sanctuary (GFNMS) boundary, and 24 nautical miles (45 kilometers) from the Farallon Islands. Ocean currents flow primarily to the northwest in the upper 2,600 to 3,000 feet (800 to 900 meters) of the water column, although periodic reversals in flow occur. Currents below 3,000 feet (900 meters) are generally weaker than near-surface currents. Therefore, any residual suspended solids from the SF–DODS site will move primarily in the north-northwest direction. Water column modeling results using a conservative approach and assuming disposal of 6 million cubic yards of dredged sediments per year indicate that suspended solid levels would decrease to background levels by the time the plume reaches the nearest amenity area (GFNMS boundary). Deposition modeling using a conservative approach and assuming disposal of 6 million cubic yards of dredged sediments per year indicates that the bulk of the disposed material would be deposited within the disposal site. For the above reasons, EPA has determined that aesthetic impacts of plumes, transport of dredged material to any shoreline, and alteration of any habitat of special biological significance or marine sanctuary will not occur if this site is designated.

4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if any [40 CFR 228.6(a)(4)]

EPA is setting an interim site capacity for the SF–DODS of six million cubic yards of dredged material per calendar year, which shall be in effect only until December 31, 1996. As the LTMS comprehensive dredged material management planning effort is completed, EPA will reexamine the appropriate site capacity for the SF–DODS and will establish in a separate rulemaking a final capacity. Typical composition of dredged material disposed at the site is expected to range between two types: predominantly "clay-silt" versus "mostly sand". These material types are based on data from historical projects from the San Francisco Bay region. The expected disposal method would involve split-hull barges, with capacities ranging between 1,000 to 6,000 cubic yards, which would be towed by ocean-going tugboats. Dredged material would not be packaged. All dredged material proposed for disposal at the site must be suitable for ocean disposal. This determination will be made by EPA Region IX and the Corps' San Francisco District based upon the results of physical, chemical and biological tests before a MPRSA Section 103 permit can be issued. Dumping of prohibited materials or other industrial or municipal wastes will not be permitted at the site [40 CFR 227.5 and 227.6(a)].

Existing information and modeling analysis suggests that it is appropriate to dispose, via split hull barges, of the type of dredged material that will be removed from San Francisco Bay at the SF–DODS. The dredged material can be predicted mostly to settle rapidly to the ocean bottom within the dump site boundaries and not to create plumes which will reach significant areas such as marine sanctuaries, recreational areas, or geographically limited habitats at greater than background concentrations. Disposing dredged material at the site which meets regulatory criteria for ocean dumping will create some limited alteration or destruction of benthic habitat within site boundaries, but should not create substantial adverse impacts extending beyond site boundaries. For these reasons, no significant adverse impacts are expected to be associated with the types and quantities of dredged material that may be disposed at the site.

5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5)]

EPA Region IX and the Corps' San Francisco District share the responsibilities of managing and monitoring the disposal site, and, with the on-site assistance of the U.S. Coast Guard (USCG), to enforce permit conditions within the limits of their jurisdiction. Although SF–DODS would be the deepest and farthest off shore of any ocean disposal site so far designated in the U.S., standardized equipment and techniques would be used for surveillance and monitoring activities. In addition, recent Navy mid-project monitoring activities confirmed the feasibility of surveillance and monitoring at the SF–DODS. EPA has therefore determined that the Site Management and Monitoring provisions

of the Final Rule are fully feasible to implement.

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if any [40 CFR 228.6(a)(6)]

Current meter studies indicate that any residual suspended solids from disposal operations at SF–DODS will move primarily north-northwest, away from the continental shelf and the GFNMS. Water column modeling results, as indicated in the Final EIS, using a conservative approach (*e.g.*, modeling parameters adjusted for worst case conditions) and assuming disposal of 6 million cubic yards of dredged sediments per year, indicate that suspended solid would decrease to background levels by the time the plume reaches the nearest amenity area (GFNMS boundary). Deposition modeling using a conservative approach and assuming disposal of 6 million cubic yards of dredged sediments per year indicate that the bulk of the disposed material would deposit within the disposal site. For these reasons, EPA has determined that the dispersal, transport and mixing characteristics of the site, and its current velocities and directions, are appropriate for its designation as a dredged material disposal site.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

Under an MPRSA Section 103 permit, the Navy is discharging up to 1.2 million cubic yards of dredged material at their Navy disposal site which is contained within the EPA-preferred Alternative Site 5. No other documented disposal of dredged material has occurred within the site. However, disposal of radioactive waste containers was conducted in the vicinity of Alternative Site 5 from 1951–1954. Likewise, chemical and conventional munitions were disposed in the general area from approximately 1958 to the late 1960's at the Chemical Munitions Disposal Area. Therefore, EPA has determined that potential cumulative effects of designating a dredged material disposal site are less at SF–DODS than at the alternative sites evaluated, which did not have these historic impacts.

In addition, no other discharges occur in the immediate vicinity of SF–DODS. The effects of municipal discharges from the San Francisco Southwest Ocean Outfall (5.4 nautical miles or 10.2 kilometers from shore), the City of Pacifica Outfall (0.4 nautical miles or 0.8 kilometers from shore), and Northern San Mateo County Outfall (0.4 nautical miles or 0.8 kilometers from shore) are limited to local areas near the outfalls and do not extend to the vicinity of the dredged material disposal site. Discharge of dredged sand at the Channel Bar ODMDS (3.0 nautical miles or 5.6 kilometers from shore) is also limited to that local area and is not expected to result in impacts in the vicinity of the SF–DODS. Therefore, EPA has determined that cumulative effects of dredged material disposal are minimized by designation of SF–DODS.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean [40 CFR 288.6(a)(8)]

In evaluating whether dumping activity at the site could interfere with shipping, fishing, recreation, mineral extraction, desalination, areas of scientific importance and other legitimate uses of the ocean, EPA considered both the direct effects from depositing millions of cubic yards of dredged material on the ocean bottom within the SF–DODS boundaries and the indirect effects associated with increased vessel traffic that will result from transportation of dredged material to the dump site. Existing information indicates that the site is not a significant fisheries area, is not used for water contact recreation and is not otherwise a significant recreational area, contains no harvestable minerals, is not a potential staging ground or intake area for desalination activity, is not scientifically important in itself, and otherwise has no geographically limited resource values that are not abundant in other parts of this coastal region. Accordingly, depositing dredged material at the site will not interfere with these activities.

Increased vessel traffic involved in transportation of dredged material to the SF–DODS should also cause no substantial interference with any of the activities discussed above. Even with around-the-clock disposal operations (assuming 3 trips in a 24-hour period), disposal operations would augment existing vessel traffic in the region by less than 2 percent. In addition, the potential interference with recreational and scientific boat traffic and marine resources (e.g., birds and mammals) near the Farallon Islands should be prevented by requirements that barges remain at least 3 nautical miles from the Islands.

9. The Existing Water Quality and Ecology of the Site as Determined by Available Data or by Trend Assessment or Baseline Surveys [40 CFR 228.6(a)(9)]

Existing information and regional studies described in the Final EIS provide the following determinations: Water quality at the SF–DODS is indistinguishable from the water quality of nearby areas. Sediments contain background levels or low concentrations of trace metal and organic contaminants. The demersal fish community within Alternative Site 5 has lower numbers of species and lower abundances than the other alternative sites. Alternative Site 5 contains moderate numbers of megafaunal invertebrate species (sea cucumbers, brittlestars, sea pens) but lower overall abundances compared to the other alternative sites. Infaunal invertebrates (polychaetes, amphipods, isopods, tanaids) within Alternative Site 5 also show lower diversity and abundance compared to Alternative Sites 3 and 4. Although there have been higher numbers of marine bird and mammal sightings, and mid-water organisms including juvenile rockfishes are more abundant seasonally relative to the other alternative sites evaluated, Alternative Site 5 is not considered to have geographically limited resource values that are not abundant in other alternative sites or other parts of this coastal region. Based on these Final EIS conclusions EPA has determined that, compared to the alternative sites evaluated, this is the environmentally preferred location for ocean disposal site designation.

10. Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10)]

Local opportunistic benthic species characteristic of disturbed conditions are expected to be present and abundant at any ODMDS in response to physical deposition of sediments. Opportunistic polychaetes, such as *Capitella*, may colonize the disposal site. However, these worms can become food items for local bottom-feeding fish and are not directly harmful to other species. No recruitment of species capable of harming human health or the marine ecosystem is expected to occur at the site. In addition, recruitment of nuisance species from within the dredged material disposed at the site is unlikely, due to significant differences in water depth and environment at the disposal site as compared to the relatively shallow dredging sites in the San Francisco Bay region.

11. Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance [40 CFR 228.6(a)(11)]

The California State Historic Preservation Officer has determined there are no known historic shipwrecks nor any known aboriginal artifacts at the SF–DODS or in the vicinity.

D. Action

EPA Region IX has concluded that the SF–DODS may appropriately be designated for use over a period of 50 years, with an interim capacity of 6 million cubic yards of dredged material per calendar year until December 31, 1996. After this date, site capacity shall be reevaluated based on the results of comprehensive regional dredged material management planning underway at the time of this rulemaking, or independently by EPA if a comprehensive management plan is not yet completed. No disposal shall occur after December 31, 1996 unless and until EPA establishes a new site capacity.

Designation of the SF–DODS complies with the general and specific criteria used for site evaluation. The designation of the SF–DODS as an EPA-approved Ocean Dumping Site is being published as a final rulemaking. Management of this site will be the responsibility of the Regional Administrator of EPA Region IX in cooperation with the Corps' South Pacific Division Engineer and the San Francisco District Engineer, based on requirements defined in the Final Rule. Operational details for carrying out the Rule's required management and monitoring activities will be contained in a SMMP Implementation Manual prepared by EPA following the opportunity for public review. Subsequent revisions of the SMMP Implementation Manual will also be proposed through separate Public Notices.

It is emphasized that ocean dumping site designation does not constitute or imply EPA Region IX's or the Corps' San Francisco District's approval of actual ocean disposal of dredged materials. Before ocean dumping of dredged material at the site may begin, EPA Region IX and the Corps' San Francisco District must evaluate permit applications according to EPA's Ocean Dumping Criteria. EPA Region IX or the Corps' San Francisco District will deny permits if either agency determines that the Ocean Dumping Criteria of MPRSA have not been met. The requirement for compliance with the Ocean Dumping Criteria of the MPRSA may not be superseded by the provisions of any future comprehensive regional management plan for dredged material.

E. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all Rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a major Rule. Consequently, this Rule does not necessitate preparation of a Regulatory Impact Analysis.

F. Responses to Comments on the Site Designation Proposed Rule and the Proposed SMMP Public Notice

EPA received 37 letters in support of the Proposed Rule and 14 letters critical of the Proposed Rule. Many of these 37 letters contained specific comments regarding the proposed SMMP. EPA also received, after the close of the comment period for the site designation Final EIS, a mass mailing of 105 similar letters containing some comments relating to site designation. Finally, EPA received 11 additional comment letters in response to the separate proposed SMMP Public Notice. All these comments have been carefully considered, and appropriate changes have been made in the Final Rule based on them. The comments have been grouped into similar categories for the purposes of preparing the following responses.

1. Site Designation Process

Commentors participating in the mass-mailing were concerned that EPA was "fast-tracking" the designation process for the ocean disposal site off San Francisco.

Response

EPA has expended considerable effort to ensure adequate opportunities for public input in the site designation process. This site designation process is now in its fifth year, as public scoping meetings began in 1989. The Ocean Studies Plan (OSP), which was the blueprint for the extensive biological and oceanographic studies that characterized the study region, was developed with the consensus of the Long Term Management Strategy (LTMS) Ocean Studies Work Group (OSWG). The LTMS is comprised of Federal and State agencies, regional scientific experts, public interest and environmental groups. Based on the studies performed, EPA evaluated alternative sites and selected the preferred alternative site with the consensus of the OSWG. The Draft EIS was then noticed in the **Federal Register** and issued for public comment in December, 1992. Following revisions to the EIS based on comments received, the Final EIS was prepared and noticed in the **Federal Register** in September, 1993. A Proposed Rule to designate the preferred alternative site as described in the Final EIS was noticed in the **Federal Register** and issued for public comment on February 17, 1994. In addition, the proposed Site Management and Monitoring Plan (SMMP) for this ocean disposal site was issued for public comment under a separate EPA Public Notice on April 20, 1994. The comment period for this Public Notice ended on June 6, 1994. Therefore, EPA believes that ample opportunities have been provided for interested parties to comment throughout the site designation process.

2. Need for Ocean Dumping

Several commentors stated that the proposal to designate the site for a 50-year period and for up to 300 million cubic yards of dredged material was not based on an evaluation of the actual need for ocean disposal based on comprehensive regional planning. Other commentors stated that it is unlikely that as much as 6 million cubic yards per year of sediments meeting ocean dumping criteria could be dredged from the contaminated San Francisco Bay.

Response

The Final Rule has been significantly revised regarding site capacity. An interim site capacity of 6 million cubic yards per calendar year is being established from the date of site designation until December 31, 1996, only. Site capacity following December 31, 1996 will be determined based on either a comprehensive long-term management strategy for management of dredged materials from San Francisco Bay (a Long Term Management Strategy draft EIS is currently under development, and is expected to be issued for public review in the spring of 1996) or, should a comprehensive Long Term Management Strategy not be available by that date, on a separate alternatives-based EPA evaluation of the need for ocean disposal. This new site

capacity will be established via a separate formal rulemaking process.

The volume of sediment assumed in the site designation Final EIS and Proposed Rule to be dredged from San Francisco Bay over the next 50 years (400 million cubic yards total) represents a planning estimate provided by the Corps. The actual volumes dredged over the next 50 years cannot be accurately predicted because the overall need for dredging will depend on many factors, including: Commercial shipping trends (i.e., continued use of Oakland as a major cargo port); decisions to initiate port expansions (i.e., for larger deep-draft vessels); changes in the use of closing military facilities; and resources available to undertake these projects (i.e., availability of funds or Congressional authorizations for specific projects). However, for ocean site evaluation purposes, EPA assumed that 6 million cubic yards per year (which equates to 80% of the assumed dredging average of 8 million cubic yards per year) would meet EPA Ocean Dumping criteria, and used this volume for modeling the fate of dredged material disposed at the alternative ocean disposal sites. The results indicated that disposal of this volume would not result in significant impacts at the proposed disposal site; therefore, this site is being designated with an interim capacity of up to 6 million cubic yards per year. Additional modelling would be necessary if a greater annual disposal volume were to be proposed.

No matter the nominal site capacity at any time, it should be noted that site designation is not a blanket approval for disposal of any dredged material at the site. The actual need for ocean dumping is determined on a project-by-project basis at the time of permitting: Each and every project must be individually reviewed to determine both its need for ocean disposal and the suitability of its proposed dredged material for disposal.

3. Alternatives Analysis

Several commentors stated that EPA has failed to consider a range of alternatives to ocean dumping of dredged material. Other commentors recommended that the ocean site designation be delayed until other disposal alternatives can be made available (*e.g.*, via the LTMS process).

Response

EPA has determined that there is an overall need to designate an ocean disposal site for the San Francisco Bay region at the present time, based on the present lack of available upland and beneficial reuse sites, policies of the state agencies to generally further restrict disposal at in-Bay sites to maintenance dredging projects, impending plans for large new-work dredging projects, and limited existing in-Bay disposal site capacity. However, as discussed above, the ocean site is now being designated with an interim capacity only, which will be reevaluated based on the results of comprehensive management planning efforts now underway.

4. Consistency Wth International Agreements

Several commentors wrote that the ocean disposal site designation ignores the precautionary approach which the U.S. has adopted in the context of several international agreements, because the site designation is unconditional except for a very large annual dumping limit for the 50-year period. These commentors recommended that there should be precautionary conditions for site use, including: (1) A waste audit to evaluate all possible options to reduce the amount of dredged materials to be dumped at the ocean site and reduce the contamination of those sediments; (2) implementation of pollution prevention measures for San Francisco Bay and its drainage basin to guarantee that less contaminated sediments would be destined for the ocean site in the future; and (3) specific limitations on the contamination levels in sediments to be dumped at the site, with progressive reduction in those levels over 50 years so that the site will eventually only receive uncontaminated sediments.

Response

The Final Rule has been revised to establish an interim site capacity only. In addition, even this interim annual dumping limit is only one of many conditions for site use. As noted above, site designation is not in itself a permit for ocean disposal of dredged material. Each project must be reviewed on a case-by-case basis to determine suitability of the proposed dredged material for ocean disposal and to determine the need for ocean dumping (including the availability of alternatives that reduce the amount of dredging). Alternatives such as beneficial use will be encouraged wherever practicable. This process of evaluating disposal options already occurs and will continue during permit reviews. Nevertheless, in addition to project-by-project alternatives analyses, overall dredged material management alternatives are being evaluated via the State/Federal LTMS process on a programmatic basis. The project-by-project need for ocean disposal will be reduced as alternatives to ocean disposal (including beneficial re-use sites) become available.

Pollution prevention is an important aspect of sediment management, as it is for most environmental issues. A variety of federal, state, and local pollution prevention efforts are underway that should result in long-term reductions in the degree to which sediments become contaminated. However, sediments also act as "sinks" for contaminants discharged in the past, and dredging projects by their very nature can expose this historic contamination. Therefore pollution prevention efforts in the foreseeable future are not expected to eliminate the dredging of contaminated sediments. Finally, there is no need to systematically tighten ocean suitability criteria because existing criteria do not allow toxic or highly contaminated sediments to be disposed at the site (suitability criteria are not tied to existing levels of contamination in area sediments).

5. Compliance Wth Ocean Site Selection Criteria

Two commentors disagreed with EPA's determination that the regulatory requirements of the MPRSA were fully satisfied by the proposed site designation, particularly regarding the assessment of impacts to existing and potential fisheries, fish habitat and marine sanctuaries.

Response

EPA's determination of insignificant impacts to fisheries used conservative modelling of the worst case (highly dispersive) disposal scenarios. The evaluation indicated only localized impacts within the disposal site boundaries, based on: the highly mobile nature of the fish species present; the fact that the disposal site has relatively low abundances of commercially important fish species; and the fact that the site does not comprise unique fish habitat within the slope and shelf region.

With respect to impacts to marine sanctuaries, the Final EIS documented that the expected increase in vessel traffic and resultant increased chance for accidents (*i.e.*, dredged material spills) during transportation through the sanctuaries will not be significant. Nevertheless, specific requirements to minimize any such risks are incorporated in the Final Rule.

6. Requirement to Implement Site Management and Monitoring

Several commentors were concerned that the Proposed Rule did not clearly

state that implementation of the site management and monitoring provisions is a strict condition for site use.

Response

EPA intends that full implementation of the SMMP is a strict requirement of site use, and revisions have been be incorporated into the Final Rule to emphasize this and remove any ambiguity.

7. Unique Nature of the Disposal Site

Several commentors stated that they were not satisfied that the SMMP as summarized in the Proposed Rule accounts for risks associated with a site which is the deepest and farthest from shore of any so far designated in the U.S., or that there is sufficient information on how dredged material will behave following disposal at such a deep site.

Response

EPA recognizes that the proposed SF–DODS, as well as the potential alternative ocean sites evaluated in the Final EIS, is the deepest and the farthest from shore of any ocean disposal site so far designated in the U.S. However, EPA has expended considerable effort to adequately characterize this previously not well-studied region of the California coast. Studies were conducted in accordance with an Ocean Studies Plan which was developed with input from Federal and State agencies as well as environmental and public interest groups. Because of the deep depths and distance from shore, EPA performed conservative (worst case) modeling to assess the fate of dredged material disposal at the alternative sites. The modeling results indicate that the bulk (75 to 90 percent) of the dredged material would be deposited on the seafloor within the disposal site boundaries, and that residual suspended material in the water column would be dissipated to background concentration levels within the disposal site boundaries, as well. These modeling predictions were confirmed by recent monitoring of actual dredged material disposal in the vicinity of the SF–DODS by the U.S. Navy, performed as a requirement of their MPRSA Section 103 project-specific site designation. Preliminary results of their field studies confirmed that plumes in the water column could be tracked until they dissipated to background levels, and that the plumes dissipated to background levels within the disposal site boundaries. Furthermore, their findings confirmed that the sediment deposit footprint on the seafloor could be mapped, and that the sediment deposited within the disposal site boundary as predicted by the modeling performed for EPA's site designation EIS. Finally, the SMMP was developed to address the uncertainties and risks associated with use of this disposal site.

8. Impacts to Nearby Marine Sanctuaries

One commentor stated that past disposal of chemical munitions, explosives, radioactive materials, sulfuric acid, and oil refinery waste at the site or nearby locations does not justify designating a disposal site near federally protected marine sanctuaries such as the Gulf of the Farallones National Marine Sanctuary and the Monterey Bay National Marine Sanctuary.

Response

National marine sanctuaries are continuous along the coastline of the study region. The ocean disposal site is located off the continental shelf, at the extreme point of the Zone of Siting Feasibility established by the U.S. Army Corps of Engineers, and several miles beyond the outer boundary of the nearest sanctuary. It is therefore as far removed from sanctuary boundaries as practicable. Furthermore, extensive oceanographic and modelling studies indicate that suspended sediment plumes should dissipate to background levels within the disposal site boundaries, and that under prevailing conditions (currents predominately to the north-northwest) the probability of any detectable sediment plumes drifting into the marine sanctuaries is extremely remote. The seafloor in the vicinity of the site has already been somewhat degraded by historic disposal of military munitions and other wastes so that, compared to alternative sites evaluated, cumulative effects to the deep benthos are minimized at this site. Indeed, there may even be a long-term beneficial effect within the disposal site as a result of cleaner (ocean suitable) dredged material being deposited on a previously degraded seafloor. Finally, designation of this site is consistent with guidance in the Ocean Dumping Regulations [40 CFR § 228.5(e)] to locate disposal sites beyond the continental shelf and in areas of historical dumping where possible.

9. Long Term Impacts

Several commentors noted that the Final EIS stated that significant long-term impacts at the proposed dump site are likely to occur from ocean disposal of dredged material.

Response

The Final EIS classified physical impacts to benthos within the disposal site boundaries as significant (*e.g.*, potential changes in sediment texture, and some smothering of infauna are unavoidable). Other significant (e.g., toxicological) impacts are not expected because of requirements for extensive pre-disposal physical, chemical, and biological testing of proposed dredged material. In addition, controls will be implemented through permit conditions and the provisions of the SMMP to prevent any significant impacts occurring outside the disposal site boundaries.

10. Exclusion From Testing

One commentor expressed concern that certain materials, based upon their physical characteristics and their location in relation to sources of contamination, would be dumped into the ocean without chemical and biological testing. They also expressed concern that the person who determines this exclusion not be an employee of the dredging or dumping company.

Response

The ocean dumping regulations [40 CFR 227.13(b)] set forth conditions under which dredged material may be determined to be suitable for ocean disposal without chemical and biological testing ("exclusion criteria"). The determination of exclusion from testing is made by EPA and the Army Corps of Engineers in accordance with these criteria, and not by the dredging company or the permit applicant.

11. Need for Mitigation for Disposal Site Use

One commentor estimated, based on a draft Habitat Evaluation Procedure (HEP) analysis, that at least 60 acres of habitat would be needed to replace habitat value losses at the 6.5 square nautical mile ocean disposal site, and stated that EPA should consider including compensatory mitigation as a component of the site designation and monitoring process.

Response

The commentor's draft analysis is based in part on a misunderstanding of the site designation EIS, and incorrectly assumes that significant impacts will occur well beyond the boundaries of the disposal site. EPA does not share the commentor's conclusion that compensatory mitigation is needed for use of the ocean disposal site in part because: (1) The site location has been selected specifically to minimize any off-site impacts due to disposal of

dredged material, as documented in the Final EIS; (2) only suitable non-toxic sediments may be disposed at the site, in accordance with EPA's Ocean Dumping Criteria; (3) unlike upland or wetland "fills," disposed sediments will not alter the site's basic habitat type (e.g., disposal of suitable dredged material at the site is not the same as permanently changing a wetland into an upland, or a seasonal wetland into a tidal wetland); and (4) ongoing site monitoring, and management actions as necessary, will ensure that no significant off-site adverse impacts will occur or persist during the 50-year period of site use.

12. Sea Surface Microlayer

Several commentors stated that EPA has ignored concerns raised about contamination of the sea surface microlayer as a result of dredged material disposal at the site, and has missed opportunities to resolve this issue through field studies.

Response

EPA has fully considered comments regarding potential contamination of the sea surface microlayer. In addition, EPA consulted with the LTMS technical review panel (see listing in Table 5.2–1 of the Final EIS) on this issue. Based on the available information regarding the sea surface microlayer, EPA has determined that the potential for significant contamination of or impacts to the sea surface microlayer as a result of disposal site use is not significant. The specific characteristics of this deep ocean disposal site (including its location in a turbulent open ocean environment approximately 50 miles offshore), and the characteristics of the dredged material that is expected to be disposed there (suitability for ocean disposal established by extensive physical, chemical, and biological testing), support this conclusion. The LTMS technical review panel view was consistent with EPA's determination. Consequently, monitoring of the sea surface microlayer is not included in the SMMP at this time. However, EPA does not discourage independent sampling in the vicinity or submission of any data collected in or near the site.

13. Discussion of "Alternative Site 2"

One commentor recommended that EPA emphasize that significant commercial fish abundances and fish habitats exist in this area which would have precluded designation of a site in this area, even if the Monterey Bay National Marine Sanctuary did not exist.

Response

The site designation Final EIS describes the greater importance of the continental shelf, including Study Area 2, for commercially important fish species relative to SF–DODS and the other off-shelf alternative sites. The Final EIS also notes that since Study Area 2 is within the boundaries of the Monterey Bay National Marine Sanctuary, it would not comply with EPA's site designation criteria and therefore could not be designated.

14. Inclusion of SMMP in the Site Designation Rule

Several commentors recommended that the entire SMMP be included as part of the regulation designating the site.

Response

The Final Rule has been revised to include specific provisions governing site monitoring and site management. These provisions establish the legal basis for requiring site monitoring and site management and establish the basic criteria for adequate site monitoring and management measures. These provisions further establish the basic criteria for using site monitoring data to make adjustments to site management or site use. The provisions of the Final Rule are sufficient, in EPA's view, to create environmentally appropriate and legally enforceable site monitoring and site management regimes.

On April 20, 1994, EPA published a Public Notice in the **Federal Register** indicating the availability of a proposed SF–DODS Site Monitoring and Management Plan ("SMMP") and soliciting public comment on the SMMP. As noted above, EPA has now incorporated the major aspects of the proposed SMMP directly into the Rule. In addition, EPA will publish the "SMMP Implementation Manual" based upon the SMMP. The SMMP Implementation Manual will provide operational details concerning site monitoring and management measures that are not necessary or appropriate for inclusion in EPA's Final Rule designating the SF–DODS (also see response to comment number 25, below). The SMMP Implementation Manual will serve to document EPA's interpretation of the specific measures that are appropriate for implementing the provisions required in the Final Rule. EPA intends to notify the public and solicit public comments if any future changes are made to the SMMP Implementation Manual.

15. Feasibility and Validity of the Site Monitoring

Several commentors wrote that the details of the SMMP should be known before the Final Rule is issued in order to assess its scientific validity and the feasibility of surveillance and monitoring.

Response

In the Public Notice accompanying the Proposed Rule designating the SF–DODS, EPA discussed the broad outlines of site surveillance and monitoring envisioned by EPA. EPA subsequently supplemented this step by making available for public review and comment the proposed SMMP (see response above), and by incorporating many specific site management and monitoring requirements into the Final Rule itself as requested by several commentors. In EPA's view, the public has had ample opportunity to comment upon the scientific validity and the feasibility of EPA's proposed site surveillance and monitoring measures, and as a result these measures have been strengthened.

In EPA's view, the surveillance and monitoring measures that EPA will require for the SF–DODS are feasible and will provide the necessary scrutiny of site use for a full evaluation of the potential for adverse environmental impacts. The monitoring and surveillance measures for the SF–DODS are based upon successful measures taken at other designated disposal sites in Region 9 and other parts of the United States, including those required by EPA to be implemented by the U.S. Navy on a project involving the disposal of dredged sediments at a temporary dump site in the vicinity of the SF–DODS. The monitoring measures for the SF–DODS were further developed with the benefit of conservative (environmentally protective) modeling of post-disposal dispersion of dredged sediments at the site. This modeling, discussed in the Final EIS, has been demonstrated at other ocean disposal sites to have a high degree of accuracy in predicting dispersion of dumped sediments.

16. Management Action Trigger Levels and Significance Criteria

Several commentors stated that the trigger levels or criteria for determining when site use can be modified or terminated were inappropriate or too vague in the site designation Proposed Rule, and appear to limit EPA's ability to take action to restrict ocean dumping until significant adverse impacts have already occurred.

Response

EPA's authority to protect marine resources in the vicinity of a disposal site is described in the Ocean Dumping regulations at 40 CFR 220.4, 228.3, 228.7, 228.8, 228.9, 228.10, and 228.11. EPA can require that site use be modified or terminated based on several factors, including: (1) exceedance of Federal water quality criteria after disposal within the site or beyond the SF-DODS boundary; (2) significant movement of disposed material toward important biological resource areas or marine sanctuaries; (3) significant adverse changes in the structure of the benthic community outside the disposal site boundary; (4) significant adverse bioaccumulation in organisms collected from the disposal site or areas adjacent to the site boundary, compared to the reference site; and (5) significant adverse impacts upon commercial or recreational fisheries resources near the site. EPA can take action based on these criteria at any time; the site designation Rule in no way restricts EPA's authorities in this regard.

In addition to these existing authorities, the Final Rule now includes additional authority for determining management actions, such as site use modifications or even site use termination, as warranted by site monitoring results. For example, clarifications have been made to how sediment chemistry monitoring results would "trigger" management actions.

With respect to EPA taking actions before significant adverse impacts have occurred, monitoring data will be collected periodically (*i.e.*, there will be annual sampling of monitoring stations) and any corrective management action taken following an annual review of monitoring data could therefore occur after some impacts have already occurred. However, because of extensive physical, chemical, and biological testing of the sediments proposed for ocean disposal, potential adverse impacts, if any, are expected to be physical in nature (*i.e.*, sediment textural changes and smothering of some infauna) and confined within the boundaries of the disposal site. Furthermore, if warranted by onboard observations (*i.e.*, direct observations of significant disturbance of marine birds and mammals near disposal operations) more immediate action can be taken.

17 Frequency of Monitoring

One commentor wrote that the proposed frequency of monitoring (after a period of one year or after 6 million cubic yards have been dumped), is not adequate and that monitoring should be more frequent to determine seasonal differences in the plume and sediment footprint.

Response

EPA's conservative modeling of the fate of dredged material disposed at the alternative sites utilized current meter data from a full year's deployment. Seasonal variability of oceanographic conditions is therefore generally known, and was considered in the site designation Final EIS and in development of the SMMP. The existing seasonal data, together with the monitoring requirements of the Final Rule, are adequate to address seasonal variation in oceanographic conditions.

18. Need for Periodic Review

Several commentors objected to the designation of the site for a full 50 years without any stringent requirement for periodic review.

Response

The Final Rule now more clearly states that there will be periodic review of monitoring data to determine if the site is performing as predicted (*i.e.*, no significant adverse impacts outside of the disposal site boundaries), if site modifications are necessary, or if site use should be terminated. Necessary changes in site management can be made based on any of these reviews. Site monitoring will be a strict requirement of site use. If site monitoring is not implemented, disposal of dredged material will be prohibited at the ocean site.

19. Baseline Data

Several commentors wrote that the proposed SMMP, as summarized in the Proposed Rule, is flawed because of inadequate baseline data. These commentors urged a rigorous monitoring program during the first year of dumping in order to develop a more scientifically sound baseline for the site.

Response

Although the site designation studies were broad in geographic scope, the data collected in these studies serve as an appropriate baseline given the variability of biological parameters which is typical of this oceanic area. The region, overall, is significantly affected by many factors, including: interannual changes in regional climate; climate-induced variability in abundance and spatial distribution of biological populations, and human-induced impacts such as heavy vessel traffic and substantial commercial and recreational fishing. A focussed, localized one-year study of the site itself ignores the temporal and spatial complexity of the area, and would not produce a meaningful "baseline" for the site.

20. Preliminary Drafts of the Proposed SMMP

One commentor stated that the Proposed Rule does not reflect comments received by the agency on various preliminary drafts of the SMMP.

Response

As indicated above, on April 20, 1994, EPA issued a Public Notice soliciting comment on its proposed SMMP which set forth proposed monitoring and management measures for the SF–DODS. In addition, the Public Notice accompanying the Proposed Rule designating the SF–DODS broadly outlined EPA's proposed site monitoring and management measures for the SF–DODS. The provisions in the Final Rule setting forth site monitoring and management requirements for the SF–DODS now being promulgated by EPA reflect the public comments received in response to these two Public Notices, as well as all other comments EPA previously received concerning preliminary drafts of the SMMP.

21. Enforceability of the Proposed SMMP

One commentor stated that both permit conditions and the site management and monitoring provisions themselves must be enforceable not only by EPA, but by members of the public with standing to represent the marine resources at risk.

Response

As indicated above, the Final Rule has been revised to include specific provisions governing site monitoring and site management. These provisions establish the legal basis for requiring site monitoring and site management and establish the basic criteria for adequate site monitoring and management measures. These provisions will be enforceable by EPA as well as by citizens who meet the requirements for filing suit under MPRSA section 105(g), 33 U.S.C. 1415(g).

22. Performance of Site Monitoring Field Work

Some commentors were concerned that reliable information may not be collected if site monitoring field work could be conducted by the permittee or, for federal projects, by the Corps of Engineers. These commentors recommended that all site monitoring

work be conducted by EPA and/or by independent third parties.

Response

The Final Rule has been revised to clarify that monitoring information required to be submitted by permittees must be collected and/or certified as being accurate by independent Quality Control contractors, who are not employees of the permittee. However, the Corps of Engineers shares site management and enforcement authority with EPA and, for disposal operations conducted by or for the Corps of Engineers, the Corps of Engineers may directly collect and submit the required information. EPA and the Corps of Engineers retain the authority to independently monitor, and conduct surveillance and enforcement operations on, all permitted disposal operations at the site. In addition, EPA may independently monitor Corps of Engineers disposal operations.

23. Relevance of Navy Monitoring Data

One commentor recommended that the U.S. Navy mid-point monitoring data should not be used or cited because a final report has not yet been received on this monitoring.

Response

References to the Navy mid-point monitoring have been retained, since this work entails the only monitoring of actual dredged material disposal to date in the vicinity of the SF–DODS. Given concerns expressed in public comments about the actual (versus modeled) behavior of disposed dredged material at what will be the deepest ocean disposal site so far designated in the U.S., EPA believes that the information is very relevant. Although the Navy's final monitoring report has not yet been received, the results contained in the preliminary reports reviewed by EPA are adequate to reach basic conclusions about site performance regarding plume behavior and deposition of dredged material on the bottom.

24. Corps of Engineers Site Designation Authority

One commentor requested that the Final Rule include more specific and accurate language regarding the responsibilities of the Army Corps of Engineers in issuing permits for dredging projects and managing the disposal site, and questioned whether the prohibition on site use (if the site management and monitoring provisions are not implemented) affects the Army Corps of Engineers' independent authority to designate temporary (project-specific) disposal sites under Section 103 of the MPRSA.

Response

Nothing in the Rule affects the independent authorities of other agencies. The Corps' authority to issue permits for ocean disposal is fully described in 40 CFR part 225. Also, under Section 103 of the MPRSA, the Army Corps of Engineers may designate temporary, project-specific ocean disposal sites if an EPA-designated (Section 102) ocean disposal site is unavailable. If, due to a lack of funding to implement the site management and monitoring provisions required in the Final Rule, EPA's SF–DODS site were technically "unavailable" for use, the Army Corps of Engineers could propose to designate a temporary site. However, under these circumstances, it is likely that the SF–DODS site itself is the only location that could be justified or designated for temporary use, since EPA's Final EIS identified it as the best overall location for disposal. Proposed use of any other location would likely require the collection of substantial supplemental data, and could result in greater cumulative impacts than continued use of SF–DODS. It is EPA's position that responsibility to implement all monitoring requirements for use of a temporary Corps-designated site would rest with the Corps, and that temporary designation of the SF–DODS site by the Corps would require them to fully implement the site's existing monitoring requirements.

25. Detailed Comments on the Proposed SMMP

Several comments were received regarding specific details of the proposed SMMP as summarized in the site designation Proposed Rule. These included comments regarding methods for monitoring impacts to particular marine resources, and specific methods (including specific instrumentation) for tracking the dispersal and migration of sediments suspended in the water column.

Response

The SMMP included in the Final Rule incorporates overall requirements for site monitoring and management. However, all the operational details for achieving the SMMP requirements are not included in the Rule itself. This is because there are in many cases more than one methodology or technology that could be used to achieve the SMMP goals. It would be unreasonable to require more specific methodologies in the Rule itself, since the ability to select alternate approaches that may be more effective or efficient would be restricted by the requirement to first go through formal rulemaking. EPA believes that the degree of specificity in the SMMP is appropriate for the Final Rule. In addition, particular technologies and methodologies to be used at any time will be specified in the separate SMMP Implementation Manual, which will be subject to ongoing public review (also see response to comment number 14, above).

List of Subjects in 40 CFR Part 228

Environmental protection, Water Pollution Control.

Dated: July 15, 1994.

Nora L. McGee,

Acting Regional Administrator, EPA Region IX.

In consideration of the foregoing, subchapter H of chapter I of title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. Sections 1412 and 1418.

2. Section 228.12 is amended by adding paragraph (b)(70) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(70) San Francisco Deepwater Ocean Site (SF–DODS) Ocean Dredged Material Disposal Site—Region IX.

Location: Center coordinates of the oval-shaped site are: 37° 39.0′ North latitude by 123° 29.0′ West longitude (North American Datum from 1983), with length (north-south axis) and width (west-east axis) dimensions of approximately 4 nautical miles (7.5 kilometers) and 2.5 nautical miles (4.5 kilometers), respectively.

Size: 6.5 square nautical miles (22 square kilometers).

Depth: 8,200 to 9,840 feet (2,500 to 3,000 meters).

Use Restricted to Disposal of: Dredged materials.

Period of Use: Continuing use over 50 years from date of site designation, subject to restrictions and provisions set forth below.

Restrictions/Provisions: The remainder of this Rule constitutes the required Site Management and Monitoring Plan (SMMP) for the SF–DODS. This SMMP shall be supplemented by a Site Management and Monitoring Plan Implementation Manual (SMMP Implementation

Manual) containing more detailed operational guidance. The SMMP Implementation Manual may be periodically revised as necessary; proposed revisions to the SMMP Implementation Manual shall be made following opportunity for public review and comment. SF–DODS use shall be subject to the following restrictions and provisions:

(i) *Type and capacity of disposed materials.* The interim site disposal capacity shall be 6 million cubic yards of suitable dredged material per year until December 31, 1996. Thereafter, the capacity of the SF–DODS shall be set in a separate rulemaking based on either a comprehensive long-term management strategy for management of dredged materials from San Francisco Bay (reflected in an EPA-prepared dredged material management planning document) or a separate alternatives-based EPA evaluation of the need for ocean disposal. This separate rulemaking will identify the appropriate site capacity for the remaining life of this site designation. No disposal at the SF–DODS may occur after December 31, 1996 without subsequent promulgation by Rule of appropriate annual site disposal capacity.

(ii) *Permit/project conditions.* Paragraph (b)(70)(ii)(A) of this section sets forth requirements for inclusion in permits to use the SF–DODS, and in all Army Corps of Engineers federal project authorizations. Paragraph (b)(70)(ii)(B) of this section describes additional project-specific conditions that will be required of disposal permits and operations as appropriate. Paragraph (b)(70)(ii)(C) of this section describes how alternative permit conditions may be authorized by EPA and the Corps of Engineers. All references to "permittees" shall be deemed to include the Army Corps of Engineers when implementing a federal dredging project.

(A) *Mandatory Conditions.* All permits or federal project authorizations authorizing use of the SF–DODS shall include the following conditions, unless approval for an alternative permit condition is sought and granted pursuant to paragraph (b)(70)(ii)(C) of this section:

(1) Transportation of dredged material to the SF–DODS shall only be allowed when weather and sea state conditions will not interfere with safe transportation and will not create risk of spillage, leak or other loss of dredged material in transit to the SF–DODS. No disposal vessel trips shall be initiated when the National Weather Service has predicted combined seas in excess of eighteen feet or has issued a gale warning for local waters during the time period necessary for the disposal vessel to complete dumping operations.

(2) All vessels used for dredged material transportation and disposal must be load-lined at a level at which dredged material is not expected to be spilled in transit under anticipated sea state conditions. Disposal vessels shall not be filled above their load limitations. Before any disposal vessel departs for the SF–DODS, an independent quality control inspector must certify that it is filled correctly. For purposes of paragraph (b)(70)(ii) of this section, "independent" means not an employee of the permittee; however, the Corps of Engineers may provide inspectors for Corps of Engineers disposal operations.

(3) Dredged material shall not be leaked or spilled from disposal vessels during transit to the SF–DODS.

(4) Disposal vessels in transit to and from the SF–DODS shall remain at least three nautical miles from the Farallon Islands at all times.

(5) When dredged material is discharged within the SF–DODS, no portion of the vessel from which materials are released (for example, a hopper dredge vessel or a towed barge) can be further than 3,200 feet from the center of the target area, centered at 37°39′N, 123°29′W.

(6) No more than one disposal vessel may be present within the permissible dumping target area referred to in paragraph (b)(70)(ii)(A)*(5)* of this section at any time.

(7) Disposal vessels shall use an appropriate navigation system capable of indicating the position of the vessel carrying dredged material (for example, a hopper dredge vessel or a towed barge) with a minimum accuracy and precision of 100 feet during all disposal operations. If the positioning system fails, all disposal operations must cease until the navigational capabilities are restored.

(8) The permittee shall maintain daily records of the amount of material dredged and loaded into barges for disposal, the times that disposal vessel depart for, arrive at and return from the SF–DODS, the exact locations and times of disposal, and the volumes of material disposed at the SF–DODS during each vessel trip. The permittee shall further record wind and sea state observations at intervals to be established in the permit.

(9) For each disposal vessel trip, the permittee shall maintain a computer printout from a Global Positioning System or other acceptable navigation system showing transit routes and disposal coordinates, including the time and position of the disposal vessel when dumping was commenced and completed.

(10) An independent quality control inspector (as defined in paragraph (b)(70)(ii)(A)*(2)* of this section) shall observe all dredging and disposal operations. The inspector shall verify the information required in paragraphs (b)(70)(ii)(A)*(8)* of this section and *(9)*. The inspector shall promptly inform permittees of any inaccuracies or discrepancies concerning this information and shall prepare summary reports, which summarize all such inaccuracies and discrepancies, from time to time as shall be specified in permits. Such summary reports shall be sent by the permittee to the District Engineer and the Regional Administrator within a time interval that shall be specified in the permit.

(11) The permittee shall report any anticipated or actual permit violations to the District Engineer and the Regional Administrator within 24 hours of discovering such violations. In addition, the permittee shall prepare and submit reports, certified accurate by the independent quality control inspector, on a frequency that shall be specified in permits, to the District Engineer and the Regional Administrator setting forth the information required by paragraphs (b)(70)(ii)(A)*(8)* and *(9)*.

(12) Permittees shall allow observers from the Point Reyes Bird Observatory or other appropriate independent observers as specified in permits to be present on disposal vessels on all trips to the SF–DODS for the purpose of conducting shipboard surveys of seabirds and marine mammals. In addition, permittees shall ensure that independent observers are present on a sufficient number of vessel trips to characterize fully the potential impact of disposal site use on seabirds and marine mammals, taking into account, to the extent feasible, seasonal variations in such potential impacts. At a minimum, permittees shall ensure that independent observers are present on at least one disposal trip in any calendar month in which a disposal trip to the SF–DODS is made.

(13) At the completion of short-term dredging projects or annually for on-going projects, permittees shall prepare and submit to the District Engineer and the Regional Administrator complete pre-dredging and post-dredging bathymetric surveys showing the depth of all areas dredged, including side slope areas, before and after dredging. Permittees shall include a report indicating whether any dredged material was dredged outside of areas authorized for dredging or was dredged

within project boundaries at depths deeper than authorized for dredging by their permits.

(B) *Project-specific conditions.* Permits or federal project authorizations authorizing use of the SF–DODS may include the following conditions, if EPA determines these conditions are necessary to facilitate safe use of the SF–DODS, the prevention of potential harm to the environment or accurate monitoring of site use:

(1) Permittees may be required to limit the speed of disposal vessels in transit to the SF–DODS to a rate that is safe under the circumstances and will prevent the spillage of dredged materials.

(2) Permittees may be required to use automated data logging systems for recording navigation and disposal coordinates and/or load levels throughout disposal trips when such systems are feasible and represent an improvement over manual recording methodologies.

(3) Any other conditions that EPA or the Corps of Engineers determine to be necessary or appropriate to facilitate compliance with the requirements of the MPRSA and this Rule may be included in site use permits.

(C) *Alternative permit/project conditions.* Alternatives to the permit conditions specified in paragraph (b)(70)(ii) of this section in a permit or federal project authorization may be authorized if the permittee demonstrates to the District Engineer and the Regional Administrator that the alternative conditions are sufficient to accomplish the specific intended purpose of the permit condition in issue and further demonstrates that the waiver will not increase the risk of harm to the environment, the health or safety of persons, nor will impede monitoring of compliance with the MPRSA, regulations promulgated under the MPRSA, or any permit issued under the MPRSA.

(iii) *Site monitoring.* Data shall be collected in accordance with a three-tiered site monitoring program which consists of three interdependent types of monitoring for each tier: physical, chemical and biological. In addition, periodic confirmatory monitoring concerning potential site contamination shall be performed.

Specific guidance for site monitoring tasks required by this paragraph shall be described in a Site Management and Monitoring Implementation Manual (SMMP Implementation Manual) developed by EPA. The SMMP Implementation Manual shall be reviewed periodically and any necessary revisions to the Manual will be issued for public review under an EPA Public Notice.

(A) *Tier 1 monitoring activities.* Tier 1 monitoring activities shall consist of the following:

(1) Physical monitoring. Tier 1 Physical Monitoring shall consist of a physical survey to map the area on the seafloor within and in the vicinity of the disposal site where dredged material has been deposited (the footprint). Such a survey shall use appropriate technology (for example, sediment profile photography) to determine the areal extent and thickness of the disposed dredged material, and to determine if any dredged material has deposited outside of the disposal site boundary.

(2) Chemical monitoring. Tier 1 Chemical Monitoring shall consist of collecting, processing, and preserving boxscore samples of sediments so that such sediments could be subjected to sediment chemistry analysis in the appropriate tier. Samples shall be collected within the dredged material footprint, outside of the dredged material footprint, and outside of the disposal site boundaries. Samples within the footprint shall be subjected to chemical analysis in annual Tier 1 activity. Samples from outside of the footprint and outside of the disposal site boundaries shall be archived and analyzed only when the criteria requiring Tier 2 as specified in paragraph (b)(70)(iv) are met. A sufficient number of samples shall be collected so that the potential for adverse impacts due to elevated chemistry can be assessed with an appropriate time-series or ordinal technique.

(3) Biological monitoring. Tier 1 Biological Monitoring shall have two components: monitoring of pelagic communities and monitoring of benthic communities.

(i) Pelagic communities. Tier 1 Biological Monitoring shall include regional surveys of seabirds, marine mammals and mid water column fish populations appropriate for evaluating how these populations might be affected by disposal site use. A combination of annual regional and periodic (random) shipboard surveys of seabirds and marine mammals will be used. The regional survey designs for each category of biota shall be similar to that used for the regional characterization studies referenced in the Final Environmental Impact Statement for Designation of a Deep Water Ocean Dredged Material Disposal Site off San Francisco, California (August 1993) with appropriate realignments to accommodate transects within and in the vicinity of the SF–DODS. The periodic shipboard surveys shall be performed from vessels involved in dredged material disposal operations at the SF–DODS as specified in permit conditions imposed pursuant to paragraph (b)(70)(ii)(A)(*12*). The minimum number of surveys must be sufficient to characterize the disposal operations for each project, and, as practicable, provide seasonal data for an assessment of the potential for adverse impacts for the one-year period. An appropriate time-series (ordinal) and community analysis shall be performed using data collected during the current year and previous years.

(ii) Benthic communities. Tier 1 Biological Monitoring shall include collection and preservation of boxscore samples of benthic communities so that such samples could be analyzed as a Tier 2 activity.

(4) Annual reporting. The results of the annual Tier 1 studies shall be compiled in an annual report which will be available for public review.

(B) *Tier 2 monitoring activities.* Tier 2 monitoring activities shall consist of the following:

(1) Physical monitoring. Tier 2 Physical Monitoring shall consist of oceanographic studies conducted to validate and/or improve the models used to predict the dispersion in the water column and deposition of dredged material on the seafloor at the SF–DODS. The appropriate physical oceanographic studies may include: the collection of additional current meter data, deployment of sediment traps, and deployment of surface and subsurface drifters.

(2) Chemical monitoring. Tier 2 Chemical Monitoring shall consist of performing sediment chemistry analysis on samples collected and preserved in Tier 1 from outside of the footprint and outside of the disposal site boundaries.

(3) Biological monitoring. Tier 2 Biological Monitoring shall involve monitoring of pelagic communities and monitoring of benthic communities.

(i) Pelagic communities. Tier 2 Biological Monitoring for pelagic communities shall include supplemental surveys of similar type to those in Tier 1, or other surveys as appropriate.

(ii) Benthic communities. Tier 2 Biological Monitoring for benthic communities shall include a comparison of the benthic community within the dredged material footprint to benthic communities in adjacent areas outside of the dredged material footprint. An appropriate time-series (ordinal) and community analysis shall be performed using data collected

during the current year and previous years to determine whether there are adverse changes in the benthic populations outside of the disposal site which may endanger the marine environment.

(4) Annual reporting. The results of any required Tier 2 studies shall be compiled in an annual report which will be available for public review.

(C) *Tier 3 monitoring activities.* Tier 3 monitoring activities shall consist of the following:

(1) Physical monitoring. Tier 3 physical monitoring shall consist of advanced oceanographic studies to study the dispersion of dredged material in the water column and the deposition of dredged material on the seafloor in the vicinity of the SF–DODS. Such physical monitoring may include additional, intensified studies involving the collection of additional current meter data, deployment of sediment traps, and deployment of surface and subsurface drifters. Such studies may include additional sampling stations, greater frequency of sampling, more advanced sampling methodologies or equipment, or other additional increased study measures compared to similar studies conducted in Tiers 1 or 2.

(2) Chemical monitoring. Tier 3 Chemical Monitoring shall consist of analysis of tissues of appropriate field-collected benthic and/or epifaunal organisms to determine bioaccumulation of contaminants that may be associated with dredged materials deposited at the SF–DODS. Sampling and analysis shall be designed and implemented to determine whether the SF–DODS is a source of adverse bioaccumulation in the tissues of benthic species collected at or outside the SF–DODS, compared to adjacent unimpacted areas, which may endanger the marine environment. Appropriate sampling methodologies for these tests will be determined and the appropriate analyses will involve the assessment of benthic body burdens of contaminants and correlation with comparison of the benthic communities inside and outside of the sediment footprint.

(3) Biological monitoring. Tier 3 biological monitoring shall have two components: Monitoring of pelagic communities and monitoring of benthic communities.

(i) Pelagic communities. Tier 3 Biological Monitoring shall include advanced studies of seabirds, marine mammals and mid water column fish to evaluate how these populations might be affected by disposal site use. Such studies may include additional sampling stations, greater frequency of sampling, more advanced sampling methodologies or equipment, or other additional increased study measures compared to similar studies conducted in Tiers 1 or 2. Studies may include evaluation of sub-lethal changes in the health of pelagic organisms, such as the development of lesions, tumors, developmental abnormality, decreased fecundity or other adverse sub-lethal effect.

(ii) Benthic communities. Tier 3 Biological Monitoring shall include advanced studies of benthic communities to evaluate how these populations might be affected by disposal site use. Such studies may include additional sampling stations, greater frequency of sampling, more advanced sampling methodologies or equipment, or other additional increased study measures compared to similar studies conducted in Tier 2. Studies may include evaluation of sub-lethal changes in the health of benthic organisms, such as the development of lesions, tumors, developmental abnormality, decreased fecundity or other adverse sub-lethal effect.

(4) Reporting. The results of any required Tier 3 studies shall be compiled in a report which will be available for public review.

(D) *Periodic confirmatory monitoring.* At least once every three years, the following confirmatory monitoring activities will be conducted and results compiled in a report which will be available for public review: Samples of sediments taken from the dredged material footprint shall be subjected to bioassay testing using one or more appropriate sensitive marine species consistent with applicable ocean disposal testing guidance ("Green Book" or related Regional Implementation Agreements), as determined by the Regional Administrator, to confirm whether contaminated sediments are being deposited at the SF–DODS despite extensive pre-disposal testing. In addition, near-surface arrays of appropriate filter-feeding organisms (such as mussels) shall be deployed in at least three locations in and around the disposal site for at least one month during active site use, to confirm whether substantial bioaccumulation of contaminants may be associated with exposure to suspended sediment plumes from multiple disposal events. One array must be deployed outside the influence of any expected plumes to serve as a baseline reference.

(iv) *Site management actions.* Once disposal operations at the site begin, the three-tier monitoring program described in paragraphs (b)(70)(iii) (A) through (C) of this section shall be implemented on an annual basis, through December 31, 1996, independent of the actual volumes disposed at the site. Thereafter, the Regional Administrator may establish a minimum annual disposal volume (not to exceed 10 percent of the designated site capacity at any time) below which this monitoring program need not be fully implemented. The Regional Administrator shall promptly review monitoring reports for the SF–DODS along with any other information available to the Regional Administrator concerning site monitoring activities. If the information gathered from monitoring at a given monitoring tier is not sufficient for the Regional Administrator to base reasonable conclusions as to whether disposal at the SF–DODS might be endangering the marine ecosystem, then the Regional Administrator shall require intensified monitoring at a higher tier. If monitoring at a given tier establishes that disposal at the SF–DODS is endangering the marine ecosystem, then the Regional Administrator shall require modification, suspension or termination of site use.

(A) *Selection of site monitoring tiers.*

(1) Physical monitoring. Physical monitoring shall remain limited to Tier 1 monitoring when Tier 1 monitoring establishes that no significant amount of dredged material has been deposited or transported outside of the site boundaries. Tier 2 monitoring shall be employed when Tier 1 monitoring is insufficient to conclude that a significant amount of dredged material as defined in paragraph (b)(70)(iv)(A)(*4*) of this section has not been deposited or transported outside of the site boundaries.

(2) Chemical monitoring. (*i*) Chemical monitoring shall remain limited to Tier 1 Chemical Monitoring when the results of Physical Monitoring indicate that a significant amount of dredged material as defined in paragraph (b)(70)(iv)(A)(*4*) of this section has not been deposited or transported off-site, and Tier 1 Chemical Monitoring establishes that dredged sediments deposited at the disposal site do not contain levels of chemical contaminants that are significantly elevated above the range of chemical contaminant levels in dredged sediments that the Regional Administrator and the District Engineer found to be suitable for disposal at the SF–DODS pursuant to 40 CFR part 227.

(ii) Tier 2 monitoring shall be employed when the results of Physical Monitoring indicate that a significant amount of dredged material as defined in paragraph (b)(70)(iv)(A)(*4*) of this section has been deposited off-site, and Tier 1 Chemical Monitoring is

insufficient to establish that dredged sediments deposited at the disposal site do not contain levels of chemical contaminants that are significantly elevated above the range of chemical contaminant levels in dredged sediments that the Regional Administrator and the District Engineer found to be suitable for disposal at the SF–DODS pursuant to 40 CFR part 227. The Regional Administrator may employ Tier 2 monitoring when available evidence indicates that a significant amount of dredged material as defined in paragraph (b)(70)(iv)(A)(*4*) of this section has been deposited near the SF–DODS site boundary.

(iii) Tier 3 monitoring shall be employed within and outside the dredged material footprint when Tier 2 Chemical Monitoring is insufficient to establish that dredged sediments deposited at the disposal site do not contain levels of chemical contaminants that are significantly elevated above the range of chemical contaminant levels in dredged sediments that the Regional Administrator and the District Engineer found to be suitable for disposal at the SF–DODS pursuant to 40 CFR part 227.

(3) Biological monitoring.

(i) Pelagic communities. Biological monitoring for pelagic communities shall remain limited to Tier 1 monitoring when Tier 1 monitoring establishes that disposal at the SF–DODS has not endangered the monitored pelagic communities. When Tier 1 monitoring is insufficient to make reasonable conclusions whether disposal at the site has endangered the monitored pelagic communities, then Tier 2 monitoring of pelagic communities shall be employed. When Tier 2 monitoring is insufficient to make reasonable conclusions whether disposal at the site has endangered the monitored pelagic communities, then Tier 3 monitoring of pelagic communities shall be employed.

(ii) Benthic communities. Biological monitoring for benthic communities shall remain limited to Tier 1 monitoring when physical monitoring establishes that a significant amount of dredged material has not been deposited outside of the site boundaries. If physical monitoring indicates that a significant amount of dredged material has been deposited or transported outside of the site boundaries, then Tier 2 analysis of benthic communities shall be performed. If Chemical Monitoring establishes that there is significant bioaccumulation of contaminants in organisms sampled from the within or outside the dredged material footprint, then Tier 3 Biological Monitoring of the disposal site shall be employed. Tier 3 Biological Monitoring may replace Tier 3 Chemical Monitoring if observed biological effects are established as surrogate indicators for bioaccumulation of chemical contaminants in sampled organisms.

(4) Definition of significant dredged material accumulation. For purposes of this paragraph (b)(70)(iv)(A) of this section, dredged material accumulation on the ocean bottom to a thickness of five centimeters shall be considered to be a significant amount of dredged material. The Regional Administrator may determine that a lesser amount of accumulation is significant if available evidence indicates that a lesser amount of off-site accumulation could endanger marine resources.

(B) *Modification, suspension or termination of site use.*

(1) If the results of site monitoring or other information indicate that any of the following are occurring as a result of disposal at the SF–DODS, then the Regional Administrator shall modify, suspend, or terminate site use overall, or for individual projects as appropriate:

(i) Exceedance of Federal marine water quality criteria within the SF–DODS following initial mixing as defined in 40 CFR 227.29(a) or beyond the site boundary at any time;

(ii) Placement or movement of significant quantities of disposed material outside of site boundaries near or toward significant biological resource areas or marine sanctuaries;

(iii) Endangerment of the marine environment related to potentially significant adverse changes in the structure of the benthic community outside the disposal site boundary;

(iv) Endangerment to the health, welfare, or livelihood of persons or to the environment related to potentially significant adverse bioaccumulation in organisms collected from the disposal site or areas adjacent to the site boundary compared to the reference site;

(v) Endangerment to the health, welfare, or livelihood of persons related to potentially significant adverse impacts upon commercial or recreational fisheries resources near the site; or

(vi) Endangerment to the health, welfare, or livelihood of persons or to the environment related to any other potentially significant adverse environmental impacts.

(2) The Regional Administrator shall modify site use, rather than suspend or terminate site use, when site use modification will be sufficient to eliminate the adverse environmental impacts referred to in paragraphs (b)(70)(iv)(B)(*1*)(*i*) or (*ii*) of this section or the endangerment to human health, welfare or livelihood to the environment referred to in paragraphs (b)(70)(iv)(B)(*1*)(*iii*) through (*vi*) of this section. Notwithstanding the provisions of any permit or federal project authorization authorizing site use, the Regional Administrator shall order, following opportunity for public comment, any of the following modifications to site use that he or she deems necessary to eliminate the adverse environmental effect or endangerment to human health, welfare, or livelihood or to the environment:

(i) Change or additional restrictions upon the permissible times, rates and total volume of disposal of dredged material at the SF–DODS;

(ii) Change or additional restrictions upon the method of disposal or transportation of dredged materials for disposal; or

(iii) Change or additional limitations upon the type or quality of dredged materials according to chemical, physical, bioassay toxicity, or bioaccumulation characteristics.

(3) The Regional Administrator shall suspend site use when site use suspension is both necessary and sufficient to eliminate any adverse environmental effect or endangerment to human health, welfare, or livelihood or to the environment referred to in paragraph (b)(70)(iv)(B)(*1*) of this section. Notwithstanding the provisions of any permit or federal project authorization authorizing site use, the Regional Administrator shall order, following opportunity for public comment, site use suspension until an appropriate management action is identified or for a time period that will eliminate the adverse environmental effect or endangerment to human health, welfare, or livelihood or to the environment.

(4) Notwithstanding the provisions of any permit or federal project authorization authorizing site use, the Regional Administrator shall order, following opportunity for public comment, site use permanently terminated if this is the only means for eliminating the adverse environmental impacts referred to in paragraphs (b)(70)(iv)(B)(*1*)(*i*) or (*ii*) of this section or the endangerment to human health, welfare or livelihood to the environment referred to in paragraphs (b)(70)(iv)(B)(*1*)(*iii*) through (*vi*).

* * * * *

[FR Doc. 94–19289 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-76; RM-8196]

Radio Broadcasting Services; Chateaugay, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vector Broadcasting, Inc., substitutes Channel 234C2 for Channel 234A at Chateaugay, New York, and modifies Station WYUL's construction permit to specify the higher class channel. *See* 58 FR 19396, April 14, 1993. Channel 234C2 can be allotted to Chateaugay in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at the transmitter site specified in Station WYUL's construction permit, which is 13.5 kilometers (8.4 miles) southeast, at coordinates North Latitude 44-49-41 and West Longitude 73-58-43. The allotment is short-spaced at Stations CIMF-FM, Channel 235C1, Hull, Quebec, CHWY, Channel 236B, Montreal, Quebec, and unoccupied Channel 234C1, Trois Rivieres, Quebec. Concurrence in the allotment by the Canadian government, as a specially negotiated allotment, has been received since Chateaugay is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 19, 1994.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-76, adopted July 15, 1994, and released August 8, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 234A and adding Channel 234C2 at Chateaugay.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94-19599 Filed 8-10-94; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS-121; Amdt. 195-51A]

RIN 2137-AB46

Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

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

ACTION: Final rule; partial withdrawal.

SUMMARY: RSPA recently published a final rule requiring the hydrostatic pressure testing of certain older hazardous liquid and carbon dioxide pipelines that were never pressure tested to current standards. The final rule also disallowed the use of petroleum as a pressure test medium. Because the prohibition on petroleum as a test medium was not specifically proposed, RSPA indicated it would withdraw that prohibition if it received comments that the prohibition was not in the public interest. RSPA received comments objecting to the prohibition and is therefore withdrawing the prohibition and allowing the use of petroleum as a test medium under specified conditions.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366-2036, regarding the subject matter of this notice, or the Dockets Unit, (202) 366-4453, regarding copies of this rule or other material in the docket that is referenced in this rule.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1994, RSPA published a final rule, "Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines," (59 FR 29379). The final rule prohibited the transportation of hazardous liquids or carbon dioxide in certain steel pipelines that were constructed before specified dates, unless those pipelines had been pressure tested hydrostatically according to current standards or are operated at 80 percent or less of a qualified prior test or operating pressure. Pressure testing subjects a pipeline to a higher pressure than is experienced during normal operating conditions. A qualified pressure test will disclose physical defects, if any, that are large enough to cause pipeline failure during normal operations. The requirements for pressure testing are intended to ensure an adequate safety margin between the test pressure and the maximum operating pressure to prevent pipeline accidents.

Although most pipelines are pressure tested with water, previous § 195.306 allowed the use of liquid petroleum under specified conditions, to be used as the test medium for onshore pipelines. This provision was adopted in January 1971, when the requirements for hydrostatic testing only applied to newly constructed pipelines and existing pipelines that were relocated, replaced, or otherwise changed.

In the final rule published June 7, 1994, RSPA was concerned that if there were widespread testing of older pipelines with petroleum and ruptures occurred, some of the spilled petroleum might create an environmental problem. To preclude this possibility, the final rule disallowed the use of petroleum as a test medium. RSPA had not specifically proposed this prohibition on the use of petroleum in the notice of proposed rulemaking (NPRM) published May 22, 1991 (56 FR 23538). In the preamble to the final rule, RSPA sought comments as to whether the prohibition was in the public interest. RSPA indicated that it would withdraw the prohibition if it received comments that the prohibition of petroleum as a test medium was not in the public interest.

Discussion of Comments

RSPA received 14 public responses to the final rule published on June 7, 1994. Although one pipeline operator stated that the prohibition would not significantly affect its operations, comments from 11 pipeline operators and a Petition for Reconsideration from the American Petroleum Institute opposed the prohibition. Williams Pipe Line Company, which submitted comments in opposition to the prohibition, also submitted a Petition for Reconsideration asking that RSPA exclude certain terminal piping systems from the requirements for pressure testing. This rule addresses only the

immediate issue of whether the prohibition on testing with petroleum should be withdrawn. In the near future, RSPA intends to address the other issues in the two Petitions for Reconsideration.

Six commenters recommended that petroleum should continue to be allowed for pressure testing piping in pump stations, tank farms, and other low pressure facilities where the location of the piping, often aboveground on property controlled by the operator, allows for close monitoring during the test. The commenters also stated that the typical manifold configurations at these facilities do not facilitate drainage of test water and residual water in piping after completion of the testing can contaminate the petroleum products.

Four commenters stated that disallowing testing with petroleum creates the need for large volumes of test water and equal volumes of polluted water. The commenters stated that, for those pipelines without ready access to a refinery, operators would be forced to use truck transportation to a facility for treatment of the polluted water, and that this increases the cost and time required for pressure testing. One of these commenters also stated that RSPA had not considered the unavailability of test water in arid, remote locations. Another commenter stated that the inability to retain flexibility to utilize petroleum as a test medium in appropriate situations would create an unreasonable and unnecessary expense that ultimately would be shouldered by the general public.

Six commenters stated that operators are not issued the necessary permits from regional and state agencies for the acquisition and disposal of test water in a timely manner and may not be able to schedule the pressure testing to meet the compliance deadlines. Two commenters argued that they had insufficient opportunity for comment because the NPRM did not propose to limit the use of petroleum as a test medium.

Two other commenters urged the withdrawal of the blanket prohibition and establishment of a reasonable set of criteria that might include: location of pipeline, size of pipe, valve spacing, limit on stress level, operating history or results of an inspection tool survey. Another commenter, also opposed to the blanket prohibition, recommended the establishment of a risk assessment process to determine which pipelines could be tested with petroleum, and suggested the process consider such factors as: age of pipeline, leak history, nearness to environmentally sensitive areas and populated areas, corrosion history, and results of runs with instrumented internal inspection devices (smart pigs).

The commenters pointed out these and other problems to illustrate their opposition to the prohibition of the use of liquid petroleum, in appropriate situations, as a test medium.

Action

The commenters have raised concerns that should be addressed in an NPRM. Because of these concerns, RSPA finds it is not in the public interest to keep the prohibition on petroleum as a test medium in place at this time. Therefore, the revision to § 195.306(b), published on June 7, 1994, as Amendment 195–51, is hereby withdrawn. In the near future, RSPA intends to issue an NPRM addressing the use of liquid petroleum as a pressure test medium.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA amends part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 is revised to read as follows:

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

2. The introductory text of § 195.306(b) is revised to read as follows:

§ 195.306 Test medium.

* * * * *

(b) Except for offshore pipelines, liquid petroleum that does not vaporize rapidly may be used as the test medium if—

* * * * *

Issued in Washington, DC, on August 4, 1994.

Ana Sol Gutiérrez,

Acting Administrator, RSPA.

[FR Doc. 94–19560 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 59, No. 154
Thursday, August 11, 1994

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. 90–ANE–22]

Airworthiness Directives; Teledyne Continental Motors GTSIO–520 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain Teledyne Continental Motors (TCM) GTSIO–520 series engines. That action would have required replacement of the crankshaft counterweights, including attaching hardware and the engine viscous damper. Since the issuance of the NPRM, TCM has issued a revision to the applicable Overhaul Manual, which specifies replacement of counterweights at overhaul. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, 1669 Phoenix Parkway, Suite 210C, Atlanta, GA 30349; telephone (404) 991–3810; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to add a new airworthiness directive (AD), applicable to Teledyne Continental Motors (TCM) GTSIO–520 series engines, was published in the **Federal Register** on January 8, 1991 (56 FR 662). The proposed rule would have required the replacement of the crankshaft counterweights, including attaching hardware and the engine viscous damper in accordance with TCM Service Bulletin (SB) M90–12, dated August 21, 1990. That action was prompted by reports of engine failure due to distress of the crankshaft counterweight bushing and engine viscous damper. The proposed actions were intended to prevent an engine failure due to crankshaft failure.

The Federal Aviation Administration (FAA) has received only 3 inflight service difficulty reports since 1989, indicative that distress of the crankshaft counterweight bushing and engine viscous damper is not a wide-spread problem that requires an AD. Also, TCM has issued a revision to the applicable overhaul manual, which specifies replacement of the crankshaft counterweights, including attaching hardware and the engine viscous damper at each overhaul, which was the interval specified in the proposed rule. The FAA has determined, based on TCM issuing the revision to the overhaul manual, and reviewing the service history, that the safety concerns are adequately addressed, and accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future. Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket No. 90–ANE–22, published in the **Federal Register** on January 8, 1991, (56 FR 662), is withdrawn.

Issued in Burlington, Massachusetts, on August 3, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–19605 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 423

Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods Extension of Time for Filing Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time for filing comments.

SUMMARY: The Federal Trade Commission (the "Commission") has requested public comments on its Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods ("the Care Labeling Rule" or "the Rule"). 59 FR 30733 (June 15, 1994).

DATES: Written comments will be accepted until October 15, 1994.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., N.W., Washington, DC 20580. Comments about the Care Labeling Rule should be identified as "16 CFR part 423—Comment."

FOR FURTHER INFORMATION CONTACT: Constance M. Vecellio, Attorney, Federal Trade Commission, Washington, DC 20580, (202) 326–2966.

SUPPLEMENTARY INFORMATION: On June 15, 1994, the Commission published a request for comments on the Care Labeling Rule as part of its oversight responsibilities, to review Rules and guides periodically. Specifically, the Commission requested comments about the overall costs and benefits of the Rule and its overall regulatory and economic impact as a part of its systematic review of all current Commission regulations and guides. The Commission also requested comment on whether the Rule should be modified so as to: (1) Permit the use of care symbols in lieu of words; (2) revise the requirements for care instructions in order to provide consumers with information about whether a garment can be both washed and dry cleaned; and (3) clarify the "reasonable basis" requirements of the Rule.

The comment period was scheduled to close on August 15, 1994. However, citing the complexity of the Rule, the American Textile Manufacturers Institute requested that the Commission extend the comment period for 60 days,

until October 15, 1994. To provide all interested parties with an adequate opportunity to address the issues on which comment is sought, the Commission has determined to extend the comment period until October 15, 1994

List of Subjects in 16 CFR Part 423

Care labeling of textile wearing apparel and certain piece goods, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19617 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Montana Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and extension of comment period on proposed program amendment.

SUMMARY: OSM is announcing receipt of additional explanatory information pertaining to a previously proposed amendment to the Montana permanent regulatory program (hereinafter, the "Montana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information addresses issues raised by OSM's review of Montana's previously proposed program amendment submittal dated July 28, 1993 (Administrative Record No. MT–11–01); this proposed amendment concerns ownership and control provisions, violation history updates, surface owner consent, coal exploration ("prospecting") under notices of intent, and editorial changes.

This document sets forth the times and locations that the Montana program and proposed amendment to that program are available for public inspection and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4:00 p.m., m.d.t., August 26, 1994.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the Montana Program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Mr. Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601–1918, Telephone:(307) 261–5776

Gary Amestoy, Administrator, Montana Department of State Lands, Reclamation Division, Capitol Station, 1625 Eleventh Avenue, Helena, Montana 59620, Telephone: (406) 444-2074

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana Program

On April 1, 1980, the Secretary of the Interior conditionally approved the Montana program. General background information on the Montana program, Including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program can be found in the April 1, 1980, **Federal Register** [45 FR 21560]. Subsequent actions concerning Montana's program and program amendments can be found at 30 CFR 926.15 and 926.16.

II. Proposed Amendment

By letters dated June 16 and July 28, 1993 (Administrative Record No. MT–11–01), Montana submitted a proposed amendment to its program pursuant to SMCRA. Montana submitted the proposed amendment in response to statutory changes adopted by the Montana 1993 Legislative session, regarding notice of intent for "prospecting", ownership and control provisions, violation history updates, and editorial changes. OSM announced receipt of the proposed amendment in the August 7, 1993, **Federal Register** (58 FR 45303) and invited public comment on its adequacy. The public comment period ended September 27, 1993.

During its review of the amendment, OSM identified concerns relating to the provisions of Montana Code Annotated (MCA) 82–4–224 concerning surface owner consent and MCA 82–4–226(8) concerning coal exploration ("prospecting") under notices of intent. OSM notified Montana of these concerns by letter dated January 19, 1994 (administrative record No. MT–11–18). Montana responded in a letter dated July 28, 1994 (Administrative Record No. MT–11–19) by submitting additional explanatory information.

The additional explanatory material submitted by Montana includes the following:

1. Montana presents arguments that MCA 82–4–222(1)(d) and 82–4–231(4) provides adequate statutory authority for the Administrative Rules of Montana (ARM) 26.4.303(15) and 26.4.405(6)(k);

2. Montana explains that the statutory definitions of "waiver" and "written consent" in MCA 82–4–203 no longer have a purpose within the statute, but pose no problem in administering the statute;

3. Montana presents arguments that any prospecting that is conducted to determine the location, quality, or quantity of a coal deposit requires a prospecting permit, and that it is highly unlikely that any other prospecting activity would remove more than 250 tons of coal;

4. Montana presents arguments that under MCA 82–4–266 (1) and (2), all prospecting operations for which a permit must be obtained are subject to reclamation and bonding requirements, regardless of whether substantial surface disturbance results; and

5. Montana states its intention to promulgate a regulatory definition of "substantially disturbed," and regulatory requirements for information in notices of intent, at some future date. Montana also addressed several editorial comments OSM made on the initial June 16 and July 28, 1993, submission.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Montana program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment, including the additional materials submitted, satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Montana program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time

indicated under DATES or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

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

5. Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 5, 1994.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 94–19607 Filed 8–10–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 43–3–6270; FRL 5029–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Air Pollution Control District (SBCAPCD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from organic liquid loading facilities.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPRM) will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing to approve it under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before September 12, 1994.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Please refer to document number CA 37–10–6201 in all correspondence.

Copies of the rule revisions and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

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

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX 75 Hawthorne Street, San Francisco, CA 94105 Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being proposed for approval into the California SIP is Santa Barbara County Air Pollution Control District's (SBCAPCD) Rule 346, "Loading of Organic Cargo Vessels." This rule was submitted by the California Air Resources Board (ARB) to EPA on January 11, 1993.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included SBCAPCD. 43 FR 8964, 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987 40 CFR 52.238, 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portions of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available

control technology (RACT) rules for ozone and established a deadline of May 15, 1991, for states to submit corrections of those deficiencies.

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

The State of California submitted many revised RACT rules for incorporation into its SIP on January 11, 1993, including the rule being acted on in this document. This document addresses EPA's proposed action for SBCAPCD's Rule 346, "Loading of Organic Cargo Vessels." SBCAPCD adopted Rule 346 on October 13, 1992. The submitted rule was found to be complete on March 26, 1993, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[3] and is being proposed for approval into the SIP.

Rule 346 requires bottom loading and vapor recovery systems for the transfer of non-gasoline organic liquids from facilities into cargo tanks. VOCs contribute to the production of ground level ozone and smog. The rule was adopted as part of the district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for this rule.

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

[2] SBCAPCD retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

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

EPA Evaluation and Proposed Action

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

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). There is no CTG applicable to Rule 346. However, the following CTG entitled, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (EPA–450/2–77–026)," was used only as guidance in evaluating Rule 346. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SBCAPCD's Rule 346, "Loading of Organic Cargo Vessels," is a new rule which was adopted to require bottom loading and vapor recovery systems during the transfer of non-gasoline organic liquids from loading facilities into cargo tanks. In bottom loading, the organic liquid is transferred to the tank through a fill pipe that is attached to the bottom of the tank. This arrangement reduces the amount of organic liquid that is splashed in the tank, which reduces the formation of organic liquid vapors.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, SBCAPCD's Rule 346 is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: August 1, 1994.

Nora L. McGee,

Acting Regional Administrator.

[FR Doc. 94–19643 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[AD-FRL–5030–8]

Clean Air Act Disapproval of Operating Permits Program; Commonwealth of Virginia—Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published June 17, 1994 (59 FR 31183). On June 17, 1994, EPA proposed disapproval of the Operating Permits Program submitted by the Commonwealth of Virginia. At the request of the law firm of Piper & Marbury, EPA is extending the comment period until August 17, 1994.

DATES: Comments must be received on or before August 17, 1994.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Joseph W. Kunz, (215) 597–8486.

Dated: July 21, 1994.

Peter H. Kostmayer,

Regional Administrator.

[FR Doc. 94–19645 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[Region II Docket No. 126, PR3–1–6331, FRL–5030–4]

Approval and Promulgation of PM_{10} Implementation Plan for the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA proposes full approval of the State Implementation Plan (SIP) submitted by the Commonwealth of Puerto Rico for the purpose of attaining the National Ambient Air Quality Standards (NAAQS) for fine particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP addresses sources impacting the Municipality of Guaynabo, Puerto Rico which has been designated nonattainment.

DATES: Comments must be received on or before the later of the following two dates: either September 12, 1994 or 14 days after the date of an EPA public meeting to discuss the proposal. The date, times and place of this public meeting will be announced in Puerto Rico shortly.

ADDRESSES: All comments should be addressed to:

Jeanne M. Fox, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, NY, 10278; or

Carl Soderberg, Director, Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Library, 26 Federal Plaza, Room 402, New York, NY, 10278.

Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909.

Commonwealth of Puerto Rico, Environmental Quality Board, Banco National Plaza, 8th Floor, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico, 00917.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1034A, New York, New York, 10278, (212) 264–2517; or

Carl Soderberg, Director, Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909, (809) 729–6951.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act, as amended in 1990 (the Act), requires all areas that have measured a violation of the NAAQS be designated nonattainment. The Municipality of Guaynabo, Puerto Rico was designated nonattainment for PM_{10} and classified as moderate based on violations measured in 1987 in the Municipality. The Act requires state or territorial governments to revise the SIP for all areas that are designated as nonattainment to ensure that the NAAQS will be attained. Under the context of the Act, the Commonwealth of Puerto Rico is regarded as a state. The reader should refer to the "General Preamble" [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)] for a more detailed discussion of the designation of PM_{10} nonattainment areas.

II. Clean Air Act Requirements for PM_{10} SIP's

The air quality planning requirements for areas designated nonattainment for PM_{10} are set out in subparts 1 and 4 of Title I of the Act. EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals addressing moderate PM_{10} nonattainment areas according to the "General Preamble." Because EPA is describing the PM_{10} requirements here only in broad terms, the reader should refer to the "General Preamble" for a more detailed discussion of the PM_{10} requirements, and guidance on meeting those requirements.

States containing moderate PM_{10} nonattainment areas were required to submit, among other things, the following elements by November 15, 1991:

A. Regulations to assure that reasonably available control measures (RACM) [including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)] shall be implemented no later than December 10, 1993;

B. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 or a demonstration that attainment by that date is impracticable;

C. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

D. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the nonattainment area (sections 172(c), 188, and 189.)

There are requirements for a New Source Review (NSR) permit program and contingency measures that are due at a later date:

E. States with a moderate PM_{10} nonattainment area were required to submit a NSR permit program SIP revision for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992 [section 189 (a)(2)]. The specific NSR requirements for moderate PM_{10} nonattainment areas are:

1. Definition of the term "major stationary source" that reflects thresholds of 100 tons per year (tpy) for PM_{10} and, presumptively, 100 tpy for each PM_{10} precursor for determination of whether a source is subject to Part D requirements as a major source;

2. Provisions to ensure that new or modified major stationary sources obtain emission offsets at an offset ratio of at least one to one;

3. Requirements applicable to major sources of PM_{10} are also applicable to major sources of PM_{10} precursors, except where EPA determines that the sources of PM_{10} precursors do not contribute significantly to PM_{10} levels which exceed the PM_{10} NAAQS in the area. The EPA generally considers sulfur dioxide (SO_2), nitrogen oxides (NO_X), and volatile organic compounds (VOC) to be PM_{10} precursors for NSR purposes; and

4. Provisions to ensure that the significance threshold for a modification to be major, and therefore subject to the section 173 permit requirements, is 15 tpy for PM_{10} and, presumptively, 15 tpy for each PM_{10} precursor.

F. States must submit contingency measures by November 15, 1993 which become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM_{10} NAAQS by the applicable statutory deadline. This requirement is described in section 172(c)(9) of the Act and 57 FR 13543–13544.

General requirements for implementation plans are contained in section 110 of the Act and sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing. EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see section 110(k)(1) and 57 FR 13565]. EPA's completeness criteria for SIP submittals are set out at Title 40 Code of Federal Regulation (CFR) Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991).

III. Analysis of Puerto Rico's SIP Submission

For a more detailed discussion of Puerto Rico's submittal and EPA's proposed action on the submittal, the reader should refer to the Technical Support Document developed for this proposed action and found at the previously mentioned addresses.

A. Administrative Requirements

The Commonwealth of Puerto Rico held a public hearing on October 15, 1993 to accept public comments on the implementation plan for the Municipality of Guaynabo PM_{10} nonattainment area. Following the public hearing the plan was adopted by Puerto Rico and signed by the Secretary of State on March 2, 1994. On November 14, 1993, the plan was submitted to EPA as a revision to the SIP. The submittal was supplemented with administrative documents on March 18, 1994 and March 30, 1994. The SIP revision submitted on November 14, 1993 and supplemented on March 18, 1994 and March 30, 1994 was reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR 51, and found to be complete.

Previously, the Governor of Puerto Rico was notified on December 16, 1991 by the EPA Regional Administrator that Puerto Rico had not submitted the PM_{10} SIP requirements due on November 15, 1991. This action formally started both an 18-month Sanction clock and a 24-month Federal Implementation Plan (FIP) clock. In a January 15, 1993 letter, the Governor was notified that another 18-month Sanction clock and 24-month FIP clock, for the failure to submit a permit program for the NSR requirements by June 30, 1992, had begun. Since the November 14, 1993 submittal was found to be complete, the findings made on December 16, 1991 and January 15, 1993 of non-submittal have been corrected and no sanctions will be imposed. In this action, EPA is proposing to approve the SIP revision submitted to EPA on November 14, 1993 and supplemented on March 18, 1994 and March 30, 1994.

B. Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emissions inventory should also include a comprehensive, accurate, and current inventory of allowable emissions in the area. Because the submission of such inventories are necessary to an area's attainment demonstration, the emissions inventories must be received with the submission (see 57 FR 13539).

Puerto Rico submitted an emissions inventory for base year 1990. The base year inventory identified area sources as the primary cause of PM_{10} nonattainment contributing approximately 79 percent of the total emissions during the time the violations were recorded. Additional contributing sources included point sources (19 percent), microinventory sources including fugitive dust sources (one percent), and marine vessels (one percent).

EPA is proposing to approve the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Act.[2]

C. RACM (Including RACT)

As previously noted, moderate PM_{10} nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993 [see sections 172(c)(1) and 189(a)(1)(C)]. The "General Preamble" contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561).

Puerto Rico submitted provisions to assure the implementation of RACM (including RACT) by December 10, 1993. The SIP contains enforceable commitments by the Puerto Rico Environmental Quality Board (PREQB) to achieve various RACM requirements in the regulations as well as through Memoranda of Understanding (MOU). The PREQB has signed MOU's with various entities to include details of how the various RACM requirements

[1] Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

[2] EPA issued guidance on PM_{10} emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM^{10} SIP Development Guideline*. The guidance provided in this document appears to be consistent with the Act.

will be implemented. Further discussion on the MOU's is included in the enforceability section 'G'. The three RACM's contained in the SIP address measures to control emissions from urban fugitive dust sources such as re-entrained road dust from paved roads, unpaved roads and parking lots, and windblown dust from construction sites and other areas;

1. The SIP determined that an efficiency of 25 percent was reasonable in controlling emissions of fugitive dust from paved roads.

2. The SIP determined that a control effectiveness of 70 percent was reasonable in controlling emissions of fugitive dust from unpaved roads, based on the use of chemical stabilization. Also, a control effectiveness of 90 percent is used for unpaved roads and parking lots located at industrial facilities in the Municipality of Guaynabo.

3. Due to uncertainties in quantifying the emission reduction benefit for construction sites and other areas where land is subject to wind erosion, no credit was taken in the attainment demonstration for emission reductions. However, controlling these sources using Puerto Rico's SIP measures will further assure attainment of the NAAQS in the Municipality of Guaynabo.

In addition to the control measures for fugitive dust sources, five point source categories were identified as contributing to the PM_{10} nonattainment problem in the Municipality of Guaynabo. RACT for these source categories are:

1. Electric Utilities (greater than 25 megawatts of generating capacity) are limited to the use of 1.5 percent sulfur in No. 6 fuel oil;

2. Petroleum Refineries are limited to the use of 1.0 percent sulfur in No. 6 fuel oil;

3. Grain Handling facilities must install control equipment that is 99.5 percent efficient; prohibit clam unloading of barges; require all material handling operations including truck loading/unloading, and ship unloading to take place in fully enclosed rooms and vented to a control device; and implement a street cleaning program for all yard activities associated with vehicular activities;

4. Asphalt Blowing facilities must install control equipment that controls 90 percent of the emissions; and

5. Quarries/Rock Crushing operations must utilize water to suppress dust thus achieving a 70 percent reduction in emissions.

The RACT regulations will apply to sources in these source categories which are located in or have an impact on the Municipality of Guaynabo. The following table includes the estimated PM_{10} emissions before and after controls for the source categories previously mentioned.

Source category	Base year emissions (tpy)		RACT emissions (tpy)		Emission reductions (tpy)
	Actual	Allowable	Actual	Allowable	
Electric Utilities	2196.9	5814.2	2079.0	4908.7	905.5
Petroleum Refineries	42.1	167.8	42.1	167.8	[3]0.0
Grain Handling	214.3	256.0	25.0	33.0	[4]223.0
Asphalt Blowing	59.5	81.8	6.0	8.2	73.6
Quarries/Rock Crushing Operation	74.6	74.6	74.6	74.6	[3]0.0
Total	2587.4	6394.4	2226.7	5192.3	1202.1

[3] The SIP requires that RACT be applied to these source categories, but the analysis had uncertainties in the precise calculation of the emission reduction benefit. Puerto Rico has chosen, in essence, no credit to be taken towards attainment for the application of RACT on these sources and instead that they act as additional measures to make certain the area attains the NAAQS.

[4] The emission reductions presented in the table also reflect the reductions from installing control equipment as well as paving the truck haul roads at the grain handling facilities and other control measures.

Puerto Rico commits to implementing the control measures (RACM and RACT) by December 10, 1993. Control of the point source categories is expected to result in an estimated emission reduction in PM_{10} of 1,202.1 tpy in the area. EPA has reviewed Puerto Rico's explanation and associated documentation and concluded that it adequately justifies its choice of control measures to be implemented. The implementation of Puerto Rico's PM_{10} nonattainment plan control strategy will result in the attainment of the PM_{10} NAAQS by December 31, 1994. By this notice, EPA is proposing to approve the control strategy comprising RACM including RACT.

D. Demonstration of Attainment

As previously noted, moderate PM_{10} nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act).

PREQB performed an attainment demonstration using the Industrial Source Complex (ISC2) dispersion model and five years of National Weather Service meteorological data. This demonstration indicates the NAAQS for PM_{10} will be attained by December 31, 1994 in the Municipality of Guaynabo and maintained throughout the future to year 1999. The demonstration predicted the highest 24-hour average concentration by the attainment date of December 31, 1994 will be 111.3 $\mu g/m^3$, compared to the 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. The peak annual concentration predicted by the model for the attainment year is 48.9 $\mu g/m^3$, compared to the annual PM_{10} NAAQS of 50 $\mu g/m^3$. The demonstration also showed that the PM_{10} NAAQS will be maintained in future years through the year 1999.

E. New Source Review PM_{10} Permit Program

The general statutory permit requirements for moderate PM_{10} nonattainment areas are contained in section 173 and in subpart 4 of Part D of the Act. For moderate PM_{10} nonattainment areas, states must adopt the appropriate major source threshold, offset ratio, significance level for modifications, and provisions for PM_{10} precursors. The following summarizes how Puerto Rico's SIP submittal addresses the NSR requirements.

1. Puerto Rico has established a major source threshold of 100 tpy, a minimum offset ratio of one to one, and a modification significance level of 15 tpy. These provisions meet the minimum federal requirements and are, therefore, approvable.

2. Puerto Rico has satisfied the requirement to demonstrate that the control requirements which are applicable to major stationary sources of PM_{10}, should also apply to major stationary sources of PM_{10} precursors, such as SO_2, VOC and NO_X. However, such requirements will not apply where the EPA Administrator and the Board determine that such sources of PM_{10} precursors do not significantly contribute to PM_{10} levels which exceed the PM_{10} ambient standards.

3. The provisions to ensure the lifting of construction bans previously imposed on states which did not have an approved nonattainment NSR SIP are not applicable to Puerto Rico since it did not have a construction ban.

4. The provisions to assure that calculation of emissions offsets, as required by section 173(a)(1)(A), are based on the same emissions baseline used in the demonstration of RFP are already contained in Puerto Rico's existing regulations.

5. Puerto Rico's Rule 203 provides that a permit to construct or modify a source may be granted for a proposed new major source or major modification of an existing major source only if the applicant has received a valid location approval. Rule 201 provides that a location approval may be granted only if an emission offset is provided and the "emission reductions must [be] based in actual emissions and federally enforceable, through a permit condition made to the existing source, by the time the new or modified source commences operation." EPA interprets these rules to require an applicant for a new major source or a major modification to an existing major source to secure federally enforceable emission reductions before a permit to construct or modify is granted, and to require that such emission reductions be federally enforceable and in effect by the time the new or modified source commences operation. That is, the permit condition for emission reductions by the existing source will not have an effective date beyond the date when the new or modified source commences operation. EPA therefore proposes approval of these rules as satisfying requirements in section 173(a & c).

6. The provisions to assure that emissions increases from new or modified major stationary sources are offset by real reductions in actual emissions as required by section 173(c)(1) are contained in the revised regulations, and are therefore approvable.

7. The provisions to prevent emissions reductions otherwise required by the Act from being credited for purposes of satisfying the Part D offset requirements are contained in the regulations, and are therefore approvable.

8. Provisions that, as a prerequisite to issuing any part D permit, require an analysis of alternative sites, sizes, production processes, and environmental control techniques for proposed sources that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification, are included in the revised regulation, and are therefore approvable.

9. Puerto Rico has included a provision, in accordance with section 173(d) of the Act, for supplying information from nonattainment NSR permits to EPA's RACT/BACT/LAER clearinghouse. This provision is therefore approvable.

EPA is proposing to approve the PM_{10} NSR permit program SIP revision.

F. Quantitative Milestones and RFP

The moderate PM_{10} nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate RFP toward attainment by December 31, 1994 (see section 189(c) of the Act). RFP is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

For moderate PM_{10} nonattainment areas, the emissions reductions progress made between the SIP submittal due date of November 15, 1991 and the attainment date of December 31, 1994 will satisfy the first quantitative milestone. The deminimis timing differential makes it administratively impracticable to require separate milestone and attainment demonstrations. Thus, EPA's policy is to deem that the emissions reductions progress made between the SIP submittal due date and the attainment date will satisfy the quantitative milestone requirement for these areas (see 57 FR 13539).

G. Enforceability

All measures and other elements in the SIP must be enforceable by the state and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The EPA's criteria addressing the enforceability of SIP's and SIP revisions are stated in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Moderate PM_{10} nonattainment area plan provisions must also contain a program which provides for enforcement of the control measures and other elements in the SIP [see section 110(a)(2)(C)].

The specific control measures contained in the SIP are addressed under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion. The SIP provides that only specific sources in the PM_{10} nonattainment area and/or that significantly impact the nonattainment area will be subject to the applicable control measures. Several minor sources were excluded in the control strategy because they do not contribute significantly to the modeled exceedances of the NAAQS.

Consistent with the attainment demonstration described above, the SIP requires that all affected stationary sources must be in full compliance with the applicable RACT requirements by December 10, 1993. However, if a physical alteration of the stationary source is necessary to achieve compliance, the SIP requires that construction of the alteration must commence by February 15, 1994, and must be completed by November 30, 1994. Compliance with these RACT requirements must be demonstrated using the applicable EPA Reference Test Methods. Puerto Rico has an enforcement program that will ensure that these RACT requirements are adequately enforced. There are civil penalties for noncompliance with the Regulation containing these RACT requirements. RACT for stationary point sources is also enforced by PREQB through federally enforceable permit conditions.

In addition to the RACT requirements for stationary sources, the SIP contains enforceable commitments by PREQB to achieve various RACM requirements. To implement these measures, PREQB has signed an MOU with the Puerto Rico Department of Transportation, the Puerto Rico Electric Power Authority, the Municipality of Guaynabo, and the Port Authority that contain details for how each of these entities will meet these RACM commitments. The commitments to implement the RACM requirements are in the SIP itself, and thus are enforceable as requirements of the SIP. In addition, the MOU, having gone through public review and comment, will be incorporated into the SIP by reference, and are effective as of

the date each was signed. The attainment demonstration, which shows attainment of the PM_{10} NAAQS by December 31, 1994, uses emissions reductions based on some of these RACM measures, and thus EPA expects them to be implemented by that date. Once incorporated into the approved SIP, the requirements of the MOU may not be changed except by a revision to the SIP submitted to and approved by EPA.

Puerto Rico's revisions to the regulations include a new definition for "PM_{10}" in Rule 102. Although test methods are not contained in Puerto Rico's definition of "PM_{10}" as they are in 40 CFR 51.100 (qq), EPA proposes to approve Puerto Rico's definition of "PM_{10}," since the relevant test methods are found in other provisions of the regulations.

H. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate PM_{10} nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543–44). These measures must be submitted by November 15, 1993 for the moderate PM_{10} nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM_{10} NAAQS by the applicable statutory deadline. The Municipality of Guaynabo PM_{10} nonattainment area SIP contains the following six contingency measures and are included in Rule 423(D):

1. Puerto Rico Department of Transportation shall collect data on silt content and dust loadings for highways in the Municipality of Guaynabo for better estimating PM_{10} emissions following EPA's "Compilation of Air Pollution Emission Factors" (AP–42) procedures.

2. The Municipality of Guaynabo shall require vegetation, chemical stabilization, or other abatement of wind erodible soils.

3. Diesel fuel oil with a sulfur in fuel less than 0.3 percent shall be used by all vessels operating in San Juan Bay.

4. No visible emissions from any vessel shall be permitted in the San Juan Bay except as provided in Rule 403 of the regulations.

5. The Port Authority shall implement a street cleaning program or other program to prevent dust from collecting on paved surfaces in their jurisdiction.

6. The Municipality of San Juan must revise the dust and fire abatement programs at its sanitary landfill in order to establish additional pollution control strategies.

The SIP provides that each of these measures can take effect without further action by Puerto Rico or EPA should EPA determine that the Municipality of Guaynabo PM_{10} nonattainment area has failed to achieve RFP or to attain the PM_{10} NAAQS by December 31, 1994.

After review of the contingency measures described above, EPA is proposing to approve the Municipality of Guaynabo PM_{10} nonattainment area contingency measures.

I. PM_{10} Precursors

The Act states that "control requirements applicable to major stationary sources of PM_{10} must also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area." Based on filter analyses of the Guaynabo nonattainment area, the relatively minor contribution of precursors to overall nonattainment, and the effectiveness of the state's RACT/RACM strategies, EPA has determined that no direct controls of PM_{10} precursors are needed for attainment. Nonetheless, Puerto Rico has chosen to include a provision for NSR purposes wherein the requirements for PM_{10} precursors apply unless EPA and PREQB determine otherwise.

Note that while EPA is making a general finding for this area, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. The EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

IV. Summary

EPA is proposing to approve the plan revision submitted on November 14, 1993 by Puerto Rico for the Municipality of Guaynabo PM_{10} nonattainment area. Specifically, EPA is proposing to approve the emissions inventory, the control strategy including RACM and RACT, the demonstration that the Municipality of Guaynabo PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994 and maintain the PM_{10} NAAQS through 1999, the NSR permit provisions and the contingency measures. EPA determined that PM_{10} precursor controls are not needed for attainment. EPA proposes to approve this SIP submittal in relation to its satisfying all Act requirements, therefore addressing the findings made by EPA on December 16, 1991 and January 15, 1993.

EPA is requesting comments on all aspects of this proposal. EPA will consider all comments received before taking final action.

V. Miscellaneous

Nothing in this proposed rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and Subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moveover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v *US EPA*, 427 US 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This proposed rule has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of

two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary wavier until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 21, 1994.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 94–19641 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 921232–2332; I.D. 092192B]

Threatened Fish and Wildlife; Listing of the Gulf of Maine Population of Harbor Porpoise as Threatened under the Endangered Species Act

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: NMFS is extending the comment period on the proposed rule to list Gulf of Maine (GME) harbor porpoise to allow public comment on the population status of harbor porpoise following the receipt of new data and information on the 1990–93 bycatch rates.

DATES: Comments must be received by September 11, 1994.

ADDRESSES: Comments should be addressed to Director, Office of Protected Resources, 1335 East-West Highway, Room 8268, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Michael Payne or Margot Bohan, 301/713–2322.

SUPPLEMENTARY INFORMATION: On January 7, 1993 (58 FR 3108), NMFS proposed to designate the GME population of harbor porpoise as threatened under the Endangered Species Act (ESA). The final determination on the proposed rule to list harbor porpoise was extended at 58 FR 59230 on November 8, 1993, to allow for analysis of the 1993 bycatch data prior to final determination. At that time, NMFS also stated that it would reopen the comment period following completion of these analyses. NMFS reopened the comment period on the proposed rule on July 15, 1994 (59 FR 36158) to allow for public review and comment on the 1993 bycatch estimates, as well as on the 1990–92 estimates that were adjusted following comments received at a February 1994 workshop on the status of harbor porpoise in the GME.

The final 1990–93 bycatch estimates considered those harbor porpoise that are taken in the gillnets, but fall out of the net as the nets are being hauled onto the vessel, and as a result have not been included in bycatch estimates to date. These bycatch estimates and proceedings from a February 1994 harbor porpoise workshop were made available upon request.

The New England Harbor Porpoise Working Group (HPWG) met on July 21, 1994, along with staff from the NMFS/Northeast Fisheries Science Center (NEFSC) to discuss this information. The HPWG membership consists of gillnet fishermen throughout New England coastal states, NMFS and NEFMC representatives, environmental organizations, and several biologists from non-governmental organizations who have studied the biology and fishery-interaction issues of harbor porpoise throughout the GME since 1990. During the meeting of the HPWG, they recommended that the revised bycatch estimates should be more fully explained so that public review and comment could provide more meaningful input to NMFS prior to the final determination.

In response to the HPWG's recommendation the NEFSC is preparing a document which will address these concerns and which will become available in early August 1994. The HPWG further stated that if the public process was to be effective, more time would be needed for fishermen and other interested parties to consider the forthcoming information. Given that the comment period on the proposed rule is scheduled to close on August 11, 1999 and that this would not allow enough time to allow for public review of the document being prepared by the NEFSC, NMFS hereby extends the present comment period until September 11, 1994. NMFS intends that this will be the final comment period on the proposed rule.

Dated: August 8, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–19629 Filed 8–10–94; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 59, No. 154
Thursday, August 11, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 5, 1994.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

• Food and Safety and Inspection Service.

Ante-Mortem and Post-Mortem Inspection
FSIS Forms 6700–2, 6500–1, 6500–2, 6500–3, and MP Form 528
Recordkeeping; Daily and hourly
Businesses or other for profit; 910,567 responses; 20,028 hours
Lee Puricelli (202) 720–7163

• Food and Safety and Inspection Service.

Processing Procedures and Quality Control Systems
FSIS Form 8820–2
Recordkeeping; On occasion
Businesses or other for-profit; 34,791 responses; 38,709 hours
Lee Puricelli (202) 720–7163

Extension

• Agricultural Marketing Service.

Irish Potatoes Grown in Southeastern States; Marketing Order No. 953
FV–109, FV–110, FV–111, and FV–111A
Recordkeeping; On occasion; Monthly; Annually; Every six years
Farms; Businesses or other for-profit; Small businesses or organizations; 822 responses; 151 hours
Shoshana Avrishon (202) 720–3610

• Food and Nutrition service.

Report of Coupon Issuance and Commodity Distribution for Disaster Relief
FNS–292
On occasion
State or local governments; 100 responses; 97 hours
Alan Rich (703) 305–2113

• Agricultural Marketing Service.

7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards)
LS–313 and LS–315
On occasion
Businesses or other for-profit; 20,021 responses; 444 hours
Evan J. Stachowicz (202) 720–1065

Food and Nutrition Service

Annual Report for the Nutrition Education and Training Program
FNS–42
Recordkeeping; Annually
State or local governments; 55 responses; 990 hours
Martha A. Poolton (703) 305–2554

• Food and Nutrition Service.

Performance reporting System, Management Evaluation, Data Analysis and Evaluation, and Corrective Action Plan
Recordkeeping; Annually
State or local governments; 5,970 responses; 593,215 hours
Carl Davis (703) 305–2384

• Food and Nutrition Service.

Food Coupon Deposit Document
FNS–521
On occasion
Businesses or other for-profit; Federal agencies or employees; 500,000 responses; 4,865 hours
David E. Saarela (612) 370–3320

• Federal Crop Insurance Corporation.

Peanut Computation Sheet
FCI–74–B
On occasion
Individuals or households; Farms; 100 responses; 200 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Self-Certification Replant Worksheet
FCI–552
On occasion
Individuals or households; Farms; 400 responses; 100 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Random Path Appraisal Worksheet
FCI–74–A
On occasion
Individuals or households; Farms; 700 responses; 1,400 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Power of Attorney
FCI–532
On occasion
Individuals or households; Farms; 500 responses; 125 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Upland/ELS Cotton Program-Identification of Cotton Production
FCI–530
On occasion
Individuals or households; Farms; 600 responses; 300 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Notice of Damage of Loss
FCI–8
On occasion
Individuals or households; Farms; 1,500 responses; 1,500 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Tabulation of Production Records from Individual Load
Certificates-Florida Citrus Production Sheet
FCI–63–B and FCI–63–C
On occasion
Individuals or households; Farms; 42,000 responses; 42,000 hours
Bonnie L. Hart (202) 254–8393

• Federal Crop Insurance Corporation.

Summary of Harvested Production
FCI–74–C
On occasion
Individuals or households; Farms; 100 responses; 100 hours
Bonnie L. Hart (202) 254–8393

New Collection

• Forest Service.

National Private Landowners Survey (NPLOS)
Annually
Individuals or households; Businesses or other for-profit; 16,800 responses; 5,040 hours
H. Ken Cordell (706) 546–2451

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 94–19627 Filed 8–10–94; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–016]

Ferrite Cores From Japan: Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On April 15, 1994, in response to a request from Harvard Industrial America, Inc., the Department of Commerce (the Department) initiated an administrative review of the antidumping finding on ferrite cores from Japan for the period March 1, 1993 through February 28, 1994. On June 8, 1994, the Department received a timely request from Harvard Industrial America, Inc., to withdraw its request for an administrative review. The Department received no other requests for review from other interested parties, and, therefore, the Department is terminating this administrative review.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: Ann Ngo in the Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone number (202) 482–2923.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1971, the Department of Treasury published in the **Federal Register** (36 FR 4877) the antidumping finding on ferrite cores from Japan. After receiving a timely request for review from Harvard Industrial America, Inc., the Department initiated, on April 15, 1994, an administrative review for the period March 1, 1993, through February 28, 1994 (59 FR 18099). Subsequently on June 8, 1994, the Department received a timely request from Harvard Industrial America, Inc., to withdraw its request for an administrative review. Because there were no other requests for review from other interested parties, the Department is terminating this administrative review in accordance with 19 CFR 353.22(a)(5).

Dated: August 5, 1994.

Roland L. MacDonald,
Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 94–19652 Filed 8–10–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–427–001]

Sorbitol From France; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On April 29, 1994, Lonza Inc., a domestic manufacturer of sorbitol, withdrew its request for an administrative review of the antidumping duty order on sorbitol from France for the period April 1, 1993 through March 31, 1994. The Department of Commerce (the Department) is now terminating this review.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On April 29, 1994, the Department received a request from Lonza Inc., a domestic manufacturer of sorbitol, to conduct an administrative review of the antidumping duty order on sorbitol from France for the period April 1, 1993 through March 31, 1994, pursuant to 19 CFR 353.22(a)(1) of the Department's regulations. We received no other requests for an administrative review of the order.

On May 12, 1994, the Department published in the **Federal Register** a notice of initiation of this review (59 FR 24683).

On June 7, 1994, Lonza Inc., timely withdrew its request for administrative review and there were no other requests for administrative review. Accordingly, the Department has determined to terminate this administrative review.

Dated: August 5, 1994.

Roland L. MacDonald,
Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 94–19651 Filed 8–10–94; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 940559–4159]

RIN 0693–AB14

Approval of Federal Information Processing Standard (FIPS) 187, Administration Standard for the Telecommunications Infrastructure of Federal Buildings

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved a new standard, which will be published as FIPS Publication 187. This newly approved standard adopts ANSI/TIA/EIA–606–1993

On April 15, 1993 (58 FR 19663), a notice was published in the **Federal Register** that a proposed standard for Administrative Standard for the Telecommunication Infrastructure of Federal Buildings was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard was reviewed by NIST and the National Communications System (NCS). On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary,

and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

This approved standard contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of this standard is provided in this notice.

EFFECTIVE DATE: This standard becomes effective February 10, 1995.

ADDRESSES: Interested parties may purchase copies of this new standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Shirley M. Radack, Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2833.

Dated: August 4, 1994.

Samuel Kramer,

Associate Director.

Federal Information Processing Standards Publication 187

(Date)

Announcing the Standard for Administration Standard for the Telecommunications Infrastructure of Federal Buildings

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security act of 1987, Public Law 100–235.

1. Name of Standard. Administration Standard for the Telecommunications Infrastructure of Federal Buildings (FIPS PUB 187) (Former Draft Federal Standard 1094).

2. Category of Standard. Telecommunications Standard; Telecommunications Administration.

3. Explanation. This standard, by adoption of ANSI/TIA/EIA–606–1993, Administration Standard for the Telecommunications Infrastructure of Commercial Buildings, specifies the administrative requirements of the telecommunications infrastructure within a new, existing, or renovated office building or campus. Telecommunications infrastructure can be thought of as the collection of those components (telecommunications equipment spaces, cable pathways, grounding, wiring, and termination hardware) that provide the basic support for the distribution of all information within a building or campus. Administration of telecommunications includes documentation (recordkeeping, drawings, labeling, etc.) of telecommunications outlet boxes, connectors, cables, termination hardware, patching and cross-connect facilities, conduits, other cable pathways, telecommunications closets, and other spaces.

Note: Development of ANSI/TIA/EIA–606–1993, which included Federal Government participation, was a joint Canadian/U.S. effort, resulting in the Canadian Standards Association (CSA) publication of the Canadian equivalent of the U.S. standard as CSA T528 at approximately the same time as publication of the American National Standard.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. National Communications System, Office of Technology and Standards.

6. Related Documents. a. Federal Information Resources Management Regulations subpart 201–20.303, Standards, and subpart 201–39.1002, Federal Standards.

b. Federal Standard 1037B, Glossary of Telecommunications Terms.

c. Federal Information Processing Standards Publication (FIPS PUB) 174, Federal Building Telecommunications Wiring Standard (Former Draft Federal Standard 1090).

d. Federal Information Processing Standards Publication (FIPS PUB) 175, Federal Building Standard for Telecommunications Pathways and Spaces (Former Draft Federal Standard 1091).

e. Federal Information Processing Standards Publication (FIPS PUB) 176, Residential and Light Commercial Telecommunications Wiring Standard (Former Draft Federal Standard 1092).

f. Future Federal Information Processing Standards Publication (FIPS PUB), Federal Building Grounding and Bonding Requirements for Telecommunications (Draft Federal Standard 1093).

At the time of publication of this standard, the editions indicated above were valid. All publications are subject to revision, and parties to agreements based on this standard are encouraged to investigate the possibility of applying the most recent editions of these publications.

7. Objectives. The purpose of this standard is to facilitate interoperability and transportability among telecommunication facilities and systems of the Federal Government and compatibility of these facilities and systems at the computer-communications interface with data processing equipment (systems) of the Federal Government. This standard specifies a uniform telecommunications infrastructure administration scheme that is independent of applications, which may change several times throughout the life of a building. This standard establishes guidelines for end users, manufacturers, consultants, contractors, designers, installers, and facility administrators involved in the administration of telecommunications infrastructure.

8. Applicability. This standard shall be used by all departments and agencies of the Federal Government in the administration of the telecommunications infrastructure for all new office buildings. Use of the FIPS is recommended for the administration of the telecommunications infrastructure within an existing or renovated office building or campus. Existing building wiring systems, especially those installed prior to the emergence of digital communications and voice/data integration, may not readily accept application of this standard. Modernization of the existing pathway, space, and wiring systems to meet the FIPS 174, FIPS 175, and FIPS 176 infrastructure standards may require a significant monetary expenditures. Agencies should conduct a thorough facility analysis of existing and renovated buildings to determine the cost of applying the standards, and develop a migration plan where cost savings can be achieved. This plan will help to ensure timely and efficient completion of the conversion process. The result of following this administration standard will be a telecommunications infrastructure that is well documented and easily managed by the administrator over the life cycle of the building. This standard is not intended to hasten the obsolescence of telecommunications administration procedures currently in use in Federal facilities; nor is it intended to provide systems engineering or applications guidelines.

9. Specifications. This FIPS adopts ANSI/TIA/EIA–606–1993, Administration Standard for the Telecommunications Infrastructure of Commercial Buildings. The American National Standard specifies the administrative requirements for the telecommunications infrastructure within a new, existing, or renovated office building or campus. Areas of the infrastructure to be administered include:

(a) Terminations for the telecommunications media located in work areas, telecommunications closets, equipment rooms, and entrance facilities;

(b) Telecommunications media between terminations;

(c) Pathways between terminations that contain the media;

(d) Spaces where terminations are located; and

(e) Bonding/grounding as it applies to telecommunications.

This standard also specifies requirements for the collection, organization, and presentation of as-built data.

10. Implementation. The use of this standard by Federal departments and agencies is compulsory and binding for the administration of the telecommunications infrastructure of new buildings, effective February 10, 1995.

Use of the standard is recommended for the administration of the telecommunications infrastructure of existing and renovated buildings.

Anyone associated with telecommunications equipment, wiring systems, wire termination products, and pathway/space components will find this standard useful. By having one administration reference document, progress can be made toward building consistently administered telecommunications infrastructures. Administration in accordance with this standard can be accomplished by either paper- or computer-based systems. In today's increasingly complex telecommunications environment, effective administration is enhanced by the use of computer-based systems. This standard will also reduce the large number of incompatible and incomplete administrative approaches in existence. Over time, the end user should expect manufacturers to provide telecommunications systems that include administrative support complying with this standard. It is also expected that administrative products that comply with this standard will become available.

11. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system or related telecommunications system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology, Attn: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after the notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

12. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the Electronic Industries Association.) When ordering, refer to Federal Information Processing Standards Publication 187 (FIPSPUB187), and the title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

Appendix

By adoption of ANSI/TIA/EIA–606–1993, this document provides Federal departments and agencies with an approach for standardizing telecommunications administration for office buildings and building complexes. This standardization of documentation, in conjunction with FIPS 174 (Former Draft FED–STD–1090), which specifies telecommunications wiring, and FIPS 175 (Former Draft FED–STD–1091), which provides architectural specification of telecommunications pathways and spaces, will facilitate systems compatibility and transportability of terminals for Federal users.

Another companion standard, ANSI/EIA/TIA–570–1991, Residential and Light Commercial Telecommunications Wiring Standard, has been adopted as Federal Information Processing Standard 176 (Former Draft FED–STD–1092). This standard specifies telecommunications wiring for small buildings.

During the development of this family of building telecommunications standards, significant concern was expressed, by both Government and industry, about the need for specification of electronic system grounding. This concern resulted in proposed ANSI/TIA/EIA–607, Grounding and Bonding Requirements for Telecommunications in Commercial Buildings, which will be proposed for adoption as a future Federal Information Processing Standard (Draft FED–STD–1093).

[FR Doc. 94–19649 Filed 8–10–94; 8:45 am]
BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

[Docket No. 931249–2349; I.D. 072094C]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of permit issuance.

SUMMARY: NMFS announces the issuance of limited entry permits with "Designated Species B" gear endorsements for jack mackerel north of

39° North lat. in the Pacific Coast Groundfish Fishery off Washington, Oregon and California. This issuance is based on the results of an inseason survey assessing the intent of current limited entry permit holders to harvest underutilized species of groundfish. This action is intended to promote the full utilization of the jack mackerel resource north of 39° North lat. It provides for the needs of the limited entry fleet before making surplus amounts available to "Designated Species B" applicants, as required by Amendment 6 to the Pacific Coast Groundfish Fishery Management Plan (FMP), and implementing regulations.

EFFECTIVE DATE: August 10, 1994 until December 31, 1994.

ADDRESSES: Submit comments to J. Gary Smith, Acting Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115-0070; or Rodney McInnis, Acting Regional Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

SUPPLEMENTARY INFORMATION: Amendment 6 to the FMP was prepared by the Pacific Fishery Management Council (Council), approved on September 4, 1992, and implemented by NMFS on November 16, 1992 (57 FR 54001), through regulations codified at 50 CFR part 663, subpart C. Amendment 6, also called the "Limited Entry Plan," is intended to control the harvesting capacity of the groundfish fishing fleet by: (1) Limiting the overall number of vessels; (2) limiting the number of vessels using each of the three major gear types; and (3) limiting increases in vessel harvesting capacity by limiting vessel length.

Regulations at 50 CFR 663.37(3) state that the Fisheries Management Division (FMD), Northwest Region, NMFS, will receive and prioritize applications for "Designated Species B" endorsements based on seniority (number of years the vessel has fished for the designated species). "Designated species" are defined as Pacific whiting, jack mackerel north of 39° North lat., and shortbelly rockfish. To date, 29 applications have been received requesting "Designated Species B" permits for the harvest of assorted amounts of underutilized species (many applications were for multiple species; 23 for Pacific whiting, eight for shortbelly, and seven for jack mackerel). The FMD has surveyed current limited entry permit holders regarding their intent to harvest underutilized species in 1994. The survey indicated that an estimated 659,500 metric tons (mt) of Pacific whiting, 36,600 mt of jack mackerel, and 57,300 mt of shortbelly rockfish could be taken by the current permit holders. Based on the results of the survey, the FMD estimates that current permit holders will harvest the entire 1994 harvest guidelines for Pacific whiting (260,000 mt) and shortbelly rockfish (23,500 mt). The survey results indicated that current permit holders intended to harvest only 36,600 mt of the 52,600 mt harvest guideline for jack mackerel, leaving a surplus of 16,000 mt which can be made available to those "Designated Species B" permit applicants who applied for a permit to harvest jack mackerel in 1994. For this reason, the FMD is issuing "Designated Species B" permits to those applicants.

The regulations state that "Designated Species B" endorsements will be issued based on vessel seniority (number of years the vessel has fished for the designated species) until vessel delivery commitments reach the harvest guideline or quota for the designated species. The amount of jack mackerel requested by "Designated Species B" permit applicants is nearly identical to the surplus amount. Therefore, all applicants can be accommodated, and there is no need to issue permits based on vessel seniority this season.

The Regional Director concurs with the recommendation of FMD and hereby announces the issuance of "Designated Species B" limited entry permits for the harvest of jack mackerel caught north of 39° North lat. with groundfish trawl gear.

Classification

The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the office of the Regional Director, Northwest Region, (see **ADDRESSES**) during business hours.

This action is taken under the authority of 50 CFR 663.37(a)(3), and is in compliance with Executive Order 12866 and the Regulatory Flexibility Act.

Dated: August 8, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94-19628 Filed 8-8-94; 2:48 pm]

BILLING CODE 3510-22-F

[I.D. 080494B]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) and its Committees will hold public meetings on August 22-26, 1994, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC; telephone: (803) 571-1000.

Public scoping meetings will be held on August 22, from 1:30 p.m. until 3:30 p.m., to solicit comments on controlled access options for Atlantic Spanish mackerel and on Amendment 8 to the Coastal Migratory Pelagics (Mackerels) Plan. Some measures included in Amendment 8 are:

(a) Commercial trip limits for Atlantic king mackerel;

(b) Federal dealer permits for coastal pelagics;

(c) A fixed boundary between Gulf and South Atlantic stocks of king mackerel; and

(d) Alternative requirements for obtaining a coastal pelagics permit; etc.

The Bluefish Committee will meet from 3:30 p.m. until 5:30 p.m. to review an updated stock assessment and to discuss recommendations of the 1994 Fishery Management Plan Monitoring Committee and implementation of state commercial quotas and recreational limits.

On August 23, from 8:30 a.m. until 12:00 noon, the Spiny Lobster Committee will review public scoping meeting comments to determine additional management necessary for the spiny lobster fishery.

From 1:30 p.m. until 5:00 p.m., a joint Law Enforcement Committee and Advisory Panel meeting will be held to discuss various issues involving the spiny lobster, snapper-grouper and shrimp fisheries.

On August 24, from 8:30 a.m. until 12:00 noon, the Snapper-Grouper Committee will meet jointly with the Wreckfish Advisory Panel to review the status of the wreckfish fishery and management program.

At 1:30 p.m., a public scoping meeting will be held to solicit comments on various issues relating to the snapper-grouper fishery such as:

(a) Prohibiting sale of bag-limit caught greater amberjack;

(b) Multi-day bag limits; and

(c) Prohibiting possession of fish traps in South Atlantic Federal waters.

An additional scoping meeting will be held at the October Council meeting. Immediately following the scoping meeting, the Snapper-Grouper Committee will review and tentatively approve, as Snapper-Grouper Regulatory Amendment 6, a gray triggerfish size limit and bag limits for hogfish and cubera snapper effective in Federal waters off Florida only.

The full Council will meet on August 25, from 8:30 a.m. until 5:00 p.m., and will reconvene on August 26, at 8:30 a.m. The Council is scheduled to request an extension of the live rock emergency rule and to approve Snapper-Grouper Regulatory Amendment 6.

A detailed agenda for the meeting will be available August 8.

FOR FURTHER INFORMATION CONTACT: Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council; One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: (803) 571–4366.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Knight at the above address by August 15, 1994.

Dated: August 5, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management,

National Marine Fisheries Service.

[FR Doc. 94–19585 Filed 8–10–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 080494C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of its Florida/Alabama Habitat Protection Advisory Panel on August 24, 1994, from 9:00 a.m. until 3:00 p.m., to review and discuss the status of the Tampa Bay oil spill, the Federal Ecosystem Management Plan, Florida's ecosystem approach to resource management, status of the Florida Bay Management Plan, and mitigation banking activities in Florida and Alabama.

The meeting will be held at the Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL.

FOR FURTHER INFORMATION CONTACT: Richard Hoogland, Biologist, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by August 17, 1994.

Dated: August 5, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–19586 Filed 8–10–94; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Agency Information Collection Activities Under OMB Control

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled has submitted revised Annual Certification Forms to OMB for review and clearance under the provisions of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATES: Comments must be submitted on or before September 12, 1994.

ADDRESSES: Written comments should be sent to: Dan Chenok, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503. Requests for information, including copies of the request and supporting documentation, should be directed to: Beverly L. Milkman, Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, VA 22202–3461, (703) 603–7740.

SUPPLEMENTARY INFORMATION: The Committee has two annual certification forms, one for nonprofit agencies serving people who are blind and one for nonprofit agencies serving people who have other severe disabilities. The information included on the forms is required to ensure that nonprofit agencies participating in the Committee's program continue to meet the requirements of 41 USC 46–48c.

Several modifications have been made to the form from the previous edition:

1. The language has been updated to reflect the current regulatory language;
2. The certification section has been revised to make it easier for the nonprofit agencies to fill out and to understand what they are certifying;
3. Instructions have been included for each item;
4. The order that the information is recorded has been revised to reduce errors and the input time in entering the data into the Committee's information database;
5. The only new information requested is that the previously reported JWOD Program sales be broken down separately into sales generated from services and products.

Beverly L. Milkman,

Executive Director.

[FR Doc. 94–19606 Filed 8–10–94; 8:45 am]

BILLING CODE 6820–33–P

COMMODITY FUTURES TRADING COMMISSION

Minneapolis Grain Exchange Proposed Futures and Option Contracts on Black Tiger Shrimp

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Minneapolis Grain Exchange (MGE or Exchange) has applied for designation as a contract market in black tiger shrimp futures and option contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before September 12, 1994.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Reference should be made to the MGE black tiger shrimp futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Fred Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K street, N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

Other materials submitted by the MGE in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the MGE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on August 5, 1994.

Blake Imel,

Acting Director.

[FR Doc. 94–19547 Filed 8–10–94; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Theater Missile Defense (TMD) Programmatic Life-Cycle Final Environmental Impact Statement

AGENCY: Ballistic Missile Defense Organization (BMDO).

ACTION: Record of Decision text is as follows:

Introduction

This document records BMDO's decision to conduct research and development (R&D) that will eventually enable the U.S. to produce and deploy a TMD system. This decision is the Proposed Action of the *Theater Missile Defense Programmatic Life-Cycle Final Environmental Impact Statement* (FEIS), dated September 1993.

As the lead agency, the United States Army Space and Strategic Defense Command (USASSDC) prepared the FEIS. BMDO and the other military services—the Air Force, Navy, and Marine Corps—served as cooperating agencies. The FEIS was filed with the Environmental Protection Agency (EPA), and a Notice of Availability was published in the **Federal Register** on February 8, 1994 (59 FR page 5758).

This Record of Decision (ROD) is submitted pursuant to the *National Environmental Policy Act* (NEPA), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR 1500–1508), Department of Defense (DoD) Directive 6050.1, *Environmental Effects in the United States of Department of Defense Actions* (34 CFR Part 188), and service regulations that implement these environmental laws and regulations.

Ideally, an operational TMD system would combine three components: *Active Defense* to destroy enemy missiles in flight; *Counterforce* to destroy an enemy's ability to launch missiles; and *Passive Defense* to evade detection and otherwise survive a missile attack. A Command, Control, Communications and Intelligence (C3I) network would manage and integrate the various elements of the system. An operational TMD system could be deployed by the mid- to late-1990s.

The Programmatic FEIS is a first-tier document. It addresses program-wide issues and the potential impacts of technologies associated with the Proposed Action and its Alternatives. It considers the potential impacts of research, development, testing, production, basing (not site-specific deployment), and eventual decommissioning of TMD. It also identifies measures to mitigate those impacts. As the TMD program matures, decisions will be made regarding testing, and eventual production and deployment. In the event these decisions have the potential for significant environmental impact, they will be evaluated in accordance with NEPA and CEQ regulations. Supplemental or additional documentation tiered from this EIS will be prepared, if appropriate.

Proposed Action and Alternatives

The Proposed Action is to conduct research and development that will enable the U.S. to produce and deploy an integrated, comprehensive TMD system. The system would include three components: Active Defense, Counterforce, and Passive Defense. The mixture of components would be based on mission needs, feasibility, lethality, mobility, technical maturity and cost, as well as environmental considerations and other factors.

In addition to the Proposed Action, the FEIS also considered four Alternatives to the proposed Action:

1. Improve Active Defense Only
2. Improve Counterforce Only
3. Improve Passive Defense Only
4. No Action.

Although the first three alternatives are considered in the FEIS as separate Alternatives to the Proposed Action, their evaluation also provides the information necessary to estimate the environmental impacts of a TMD system that blends two or three components. Pursuing only one of the first three Alternatives would yield only a limited TMD capability with only one technology area enhanced.

Under the fourth Alternative, No Action, no new research, development, testing, production or basing would be conducted; and, therefore, no integrated, comprehensive TMD system would be developed. Normal improvement and maintenance of existing systems (aircraft, missiles, and radar) would continue, to assure their effectiveness against traditional combatant forces. New systems leading to an integrated TMD would not be developed.

Impacts and Mitigation

The FEIS found no unavoidable, significant environmental impacts for the Proposed Action or any of the four Alternatives. In other words, any *unavoidable* effect, such as construction noise, will be temporary and not significant. Any conceivable *significant* impact, such as destruction of archaeological artifacts during construction, may be readily avoided by taking normal precautions and following standard procedures.

Alternative 3, Passive Defense, might be termed the *environmentally preferred alternative*, since its impacts were analyzed to be minimal or none. This is because Passive Defense does not entail basing and decommissioning. Since no unavoidable, significant environmental impacts were identified for any Alternative, no unavoidable significant cumulative impacts were identified for the Proposed Action. Furthermore, because decisions on specific components and sites will be made later, specific and cumulative impacts will be addressed in the environmental documents that form those decisions, if appropriate.

The No-Action Alternative involves no new development, but does continue routine improvement and maintenance of existing systems. The analysis of impacts associated with those activities is outside the scope of the TMD FEIS. They would be the subject of site-specific or program-specific documents prepared at a later date, if appropriate.

Decision

The Proposed Action arises from compelling national security needs. Recent political and military changes throughout the world have required adjustments in U.S. defense strategy. Both Congress and the Executive Branch have placed a high priority on Theater Missile Defense, now the number one priority initiative within BMDO.

The Missile Defense Act of 1991 stated "* * * (it) is a goal of the United States to provide highly effective theater missile defenses to forward deployed and expeditionary elements of the armed forces of the United States and to friends and allies of the United States." This threat to U.S. interests is growing with improvements in missile performance and warhead design, proliferation of weapons of mass destruction, and increasing numbers of missile-armed nations.

In May 1993, the Secretary of Defense announced changes in the ballistic missile defense program, and assigned a high priority to early deployment of improved theater missile defenses. He reiterated this priority in his September 1993 report on DoD's "bottom-up" review of ballistic missile defense. The requirement for a TMD capability relying on more than one technology or component was articulated in the Joint Requirements Oversight Mission Needs Statement (MNS) for TMD, "* * * the theater missile threat cannot yet be countered by a single technical solution."

The FEIS found that neither the Proposed Action, nor any of four alternative approaches to satisfying this national security requirement, would create significant environmental impacts. In other words, there is no compelling environmental argument against the Proposed Action or in favor of any one Alternative. After careful review of the FEIS and consideration of national defense policy requirements, I [Director, BMDO] have decided to carry out the research and development program, within the responsibilities of BMDO, as described in the Proposed Action.

Monitoring and Enforcement

In regard to TMD research and development activities and the contracts to support them, I [Director, BMDO] direct BMDO Deputies and Program Executive Officers to monitor these activities and ensure that environmental standards and controls described in this FEIS are followed. As subsequent decisions are made regarding system components and basing locations, and as their accompanying environmental documents elaborate specific requirements for monitoring and enforcement, I [Director, BMDO] will implement appropriate safeguards.

Date and Signature

Record of Decision was signed July 30, 1994 by Malcolm R. O'Neill, Lieutenant General, United States Army, Director, Ballistic Missile Defense Organization.

FOR FURTHER INFORMATION CONTACT: Major Tracy Bailey, BMDO Environmental Coordinator, BMDO/AQT, Washington, DC 20301–7100, (703) 693–1744.

Dated: August 5, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–19549 Filed 8–10–94; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

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 and OMB Control Number: Survey of Air Force Small Business Innovation Research (SBIR) Contract Awardees, OMB Control Number 0701–0117.

Type Of Request: Revision

Number Of Respondents: 30

Responses Per Respondent: 1

Annual Responses: 30

Average Burden Per Response: 12 minutes

Annual Burden Hours: 6

Needs And Uses: This information collection is an annual survey of noteworthy Small Business Innovation Research (SBIR) accomplishments and commercialization of small business research and development. It is used to evaluate the success of the program in meeting the objectives of the public law and to publicize successful SBIR research and development (R&D) to potential purchasers.

Affected Public: Small businesses or organizations

Frequency: Annually

Respondent's Obligation: Voluntary

OMB Desk Officer: Mr. Peter N. Weiss

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 5, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–19551 Filed 8–10–94; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

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, Applicable Form, And OMB Control Number: Statement of Personal Injury—Possible Third Party Liability—CHAMPUS; DD Form 2527; OMB Control Number 0720–0003

Type of Request: EXPEDITED PROCESSING—Approval date requested: 30 days following publication in the **Federal Register**

Number of Respondents: 32,500

Responses Per Respondent: 1

Annual Responses: 32,500

Average Burden Per Response: 13.8 minutes

Annual Burden Hours: 7,475

Needs and Uses: The Statement of Personal Injury—Possible Third Party Liability Form is completed by CHAMPUS beneficiaries suffering from personal injuries and receiving medical care at Government expense. The information collected hereby is utilized in the assertion of the Government's right to recovery under the Federal Medical Care Recovery Act. It is used in the evaluation and processing of recovery claims.

Affected Public: Individuals or households, Federal agencies or employees

Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ms. Shannah Koss

Written comments and recommendations on the proposed information collection should be sent to Ms. Koss at the Office of Management and Budget, Desk Officer for DoD, Room 10235, New Executive Office Building, Washington, DC 20503

DoD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302

Dated: August 5, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

STATEMENT OF PERSONAL INJURY - POSSIBLE THIRD PARTY LIABILITY CHAMPUS

Form Approved
OMB No. 0720-0003
expires

IF A PREADDRESSED ENVELOPE IS NOT ENCLOSED WITH THIS FORM, PLEASE RETURN YOUR COMPLETED FORM TO EITHER OF THESE LOCATIONS:

(1) THE CHAMPUS CLAIMS PROCESSOR WHO SENT YOU THE FORM; OR

(2) THE CHAMPUS CLAIMS PROCESSOR FOR THE STATE/COUNTRY IN WHICH YOU RECEIVED THE MEDICAL CARE (the Health Benefits Advisor at your nearest military installation can provide you with this address).

Public reporting burden for this collection of information is estimated to average 13.8 minutes per response, including the 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0090), Washington, DC 20503.

PRIVACY ACT STATEMENT

AUTHORITY: 42 U.S.C. 2651-2653; 10 U.S.C. 1079, 1085, 1086 and 1092; E.O. 9397; 38 U.S.C. 613

PRINCIPAL PURPOSE(S): To assist in determining possible third party liability for medical supplies and services claims under CHAMPUS. Information requested is used in reviewing claims to obtain additional information to determine proper liability of third parties for claims and to facilitate possible recovery by the United States for improperly paid claims

ROUTINE USE(S): Information may be given to the Department of Health and Human Services and/or the Department of Transportation consistent with their statutory administrative responsibilities under CHAMPUS; to the Department of Justice for representation of the Secretary of Defense in civil actions; to the Internal Revenue Service and private collection agencies in connection with recoupment claims, and to members of Congress with the consent of the individual involved. Appropriate disclosures may be made to other Federal, state, local and/or foreign law enforcement agencies, private business entities, and individual providers of care, on matters relating to entitlement, claims adjudication, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil and criminal litigation related to the operation of CHAMPUS.

DISCLOSURE: Voluntary; however, failure to provide information will result in a claims processing delay and may result in denial of the claim.

INSTRUCTIONS

According to information submitted with your recent CHAMPUS claim, you were treated for an injury of some kind. Because the claim form does not include information about how you were injured, we are asking that you also complete this form. The Federal Medical Recovery Act, 42 U.S.C. 2651-2653, allows the Government to be reimbursed for its costs of treating you, if you were injured in an accident caused by someone else. The Government can often recover its costs from (1) the person who caused the accident or that person's insurance company; or (2) the owner of the property where the accident occurred or the owner's insurance company. The Government also may be able to recover its costs from (1) any insurance company which insures your family for hospital and medical expenses; or (2) your employer's Worker's Compensation or other insurance, if you were injured at work.

If you were not treated for an injury, please describe the circumstances of your treatment in the Remarks section on Page 1. If you were treated for an injury but do not believe that someone else caused your injury, please describe in detail the circumstances surrounding your injury in the Remarks section on Page 1. If you use the Remarks section for either of these purposes, you do not need to complete the rest of the form. However, be sure to sign and return it according to the other instructions you have received.

This form is to be completed by persons who have received medical care at Government expense or by a responsible family member. In cases of young children, this form should be completed by a parent or guardian.

Answer all questions in as much detail as possible. The information you provide may be of great help to the Government and to you in recovering from the person who caused your injuries. We suggest you retain a copy of this form for your own use. **If inury resulted from an automobile accident, you must attach a copy of the official police report to this form and complete Sections I, IV and V. If injury did not result from an automabile accident, complete Sections I, III, and V.**

The words "None," "N/A," and "Unknown" should be inserted where appropriate.

Attach additional sheets where necessary to provide complete information.

Complete all items to the best of your knowledge. **BE SURE TO SIGN AND DATE THE FORM ON PAGE 3. RETURN IT WITHIN 10 DAYS.**

IMPORTANT

This information is requested solely for the purpose of processing your CHAMPUS reimbursement claim. It has no bearing on any legal action you may pursue as a result of your injury. All questions you may have regarding possible legal actions should be referred to an attorney. Do not execute a release or settle any personal injury claim you may have without notice to a military claims officer.

DETACH THIS PAGE BEFORE MAILING.

STATEMENT OF PERSONAL INJURY - POSSIBLE THIRD PARTY LIABILITY CHAMPUS

SECTION I - GENERAL INFORMATION

1. SPONSOR

a. SPONSOR'S NAME *(Last, First, Middle Initial)*

b. SSN

2. INJURED BENEFICIARY

a. INJURED BENEFICIARY'S NAME *(Last, First, Middle Initial)*

b. AGE

c. RELATIONSHIP TO SPONSOR *(X one)*

☐ SELF ☐ NATURAL/ADOPTED CHILD ☐ STEPCHILD
☐ SPOUSE ☐ FORMER SPOUSE ☐ OTHER

d. HOME ADDRESS *(Street, Apartment Number, City, State, ZIP Code)*

TELEPHONE NO. *(Include Area Code)*

e. SPONSOR'S ADDRESS *(If different from injured beneficiary's) (Street, Apartment Number, City, State, ZIP Code)*

TELEPHONE NO. *(Include Area Code)*

SECTION II - REMARKS

3. USE THIS SECTION TO DESCRIBE IN YOUR OWN WORDS HOW YOU WERE INJURED.

SECTION III - NON-VEHICULAR ACCIDENTS

Complete if injuries did not result from a motor vehicle accident. If injuries resulted from a vehicular accident, go to Section IV.

4. LOCATION

a. SITE OF INJURY *(Street/Place, City, County, State)*

b. TIME *(Hour)*

☐ A.M. ☐ P.M.

c. DATE *(YYMMMDD)*

d. NAME AND ADDRESS OF OWNER OF PROPERTY WHERE INJURY OCCURRED

e. NAME OF OCCUPANT OF PROPERTY *(If different from Owner)*

5. PERSONS INVOLVED

a. NAME *(Last, First, Middle Initial)*	b. ADDRESS *(Street, City, State, ZIP Code)* AND TELEPHONE NO. *(Include Area Code)*

DD FORM 2527, 940803 DRAFT

SECTION III - NON-VEHICULAR ACCIDENTS *(Continued)*

6. WITNESSES

a. NAME *(Last, First, Middle Initial)*	b. ADDRESS *(Street, City, State, ZIP Code)* AND TELEPHONE NO. *(Include Area Code)*

7. POLICE INVESTIGATION

a. WAS AN INVESTIGATION CONDUCTED? *(If Yes, state by whom (e.g., City/State Police, Sheriff's Dept.)*	b. WAS ANYONE ARRESTED OR CITED AS CAUSING THE ACCIDENT? *(If Yes, give name and charge)*	c. DISPOSITION OF CASE *(e.g., Dismissal, Fine, Jail Sentence)*
☐ YES ☐ NO	☐ YES ☐ NO	

d. EXPLAIN IN YOUR OWN WORDS WHO WAS AT FAULT AND WHY

e. WERE OTHER FAMILY MEMBERS INJURED IN THE ACCIDENT? *(If Yes, give name(s) and relationship)*

☐ YES
☐ NO

f. WAS THE ACCIDENT WORK RELATED? *(If Yes, state circumstances)*

☐ YES
☐ NO

8. INSURANCE

a. INSURANCE COMPANY OF OWNER OF PROPERTY WHERE INJURY OCCURRED *(e.g., Homeowner's Insurance Company)*	b. INSURANCE COMPANY OF PERSON WHO CAUSED ACCIDENT *(If different from Item a.)*	c. YOUR OWN INSURANCE COMPANY
(1) COMPANY NAME	(1) COMPANY NAME	(1) COMPANY NAME
(2) ADDRESS *(Include ZIP Code)*	(2) ADDRESS *(Include ZIP Code)*	(2) ADDRESS *(Include ZIP Code)*
(3) POLICY NUMBER	(3) POLICY NUMBER	(3) POLICY NUMBER
(4) AMOUNTS AND TYPES OF COVERAGE	(4) AMOUNTS AND TYPES OF COVERAGE	(4) AMOUNTS AND TYPES OF COVERAGE

SECTION IV - VEHICULAR ACCIDENT

Attach a copy of the official police report to this form.

9. ADDITIONAL INFORMATION ON VEHICULAR ACCIDENT

a. INJURED BENEFICIARY'S AUTOMOBILE INSURANCE COMPANY	b. INSURANCE COMPANY'S ADDRESS *(Include ZIP Code)*
c. INSURANCE COMPANY TELEPHONE NO. *(Include Area Code)*	

d. POLICY NUMBER	e. AMOUNTS AND TYPE OF COVERAGE			
	(1) LIABILITY	(2) MEDICAL PAYMENT	(3) UNINSURED MOTORIST	(4) NO FAULT
	$	$	$	$

SECTION IV - VEHICULAR ACCIDENT *(Continued)*

9.f. WAS ACCIDENT REPORTED TO YOUR INSURANCE COMPANY? *(If No, explain)*

☐ YES
☐ NO

g. HAS YOUR INSURANCE COMPANY ASSIGNED A CLAIM OR FILE NUMBER? *(If Yes, provide number)*

☐ YES
☐ NO

h. WAS ACCIDENT WORK RELATED? *(If Yes, state circumstances)*

☐ YES
☐ NO

SECTION V - MISCELLANEOUS

10. GOVERNMENT HOSPITALIZATION
If you were hospitalized or expect to be hospitalized in a government hospital, complete the following:

a. NAME OF HOSPITAL	b. ADDRESS *(Include ZIP Code)*	c. DATES HOSPITALIZED FROM	TO	d. IS TREATMENT COMPLETED? *(X one)* YES	NO

11. YOUR ATTORNEY

a. ATTORNEY'S NAME

b. ADDRESS *(Street, City, State, ZIP Code)*

c. TELEPHONE NO. *(Include Area Code)*

12. RELEASE STATEMENTS

a. HAVE YOU FURNISHED ANYONE OTHER THAN THE POLICE A STATEMENT AS TO WHAT HAPPENED? *(If Yes, to whom was it given?)*

☐ YES
☐ NO

b. HAVE YOU SIGNED ANY RELEASE OR WAIVER OF RIGHTS? *(If Yes, to whom was it given?)*

☐ YES
☐ NO

c. HAVE YOU RECEIVED ANY OFFER OF SETTLEMENT FOR YOUR INJURY? *(If Yes, from whom?)*

☐ YES
☐ NO

d. HAVE YOU ACCEPTED ANY SETTLEMENT? *(If Yes, from whom and how much?)*

☐ YES
☐ NO

SECTION VI - CERTIFICATION

13. I have completed this form and state that the information is true to the best of my knowledge and belief. Federal Laws (18 USC 287 and 1001) provide for criminal penalties for knowingly submitting or making any false, fictitious, or fraudulent statement or claim in any matter within the jurisdiction of any department or agency of the United States.

a. YOUR SIGNATURE

b. DATE SIGNED *(YYMMMDD)*

DD FORM 2527, 940803 DRAFT

[FR Doc. 94–19552 Filed 8–10–94; 8:45 am]
BILLING CODE 5000–04–C

Department of the Navy

Privacy Act of 1974; Notice to Alter a Record System

AGENCY: Department of the Navy, DOD.

ACTION: Alter a Record System

SUMMARY: The Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on September 12, 1994, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Acting Head, PA/FOIA Branch, Office of the Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (703) 614–2004 or DSN 224–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on July 28, 1994, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated June 25, 1993 (58 FR 36075, July 2, 1993).

Dated: August 3, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N12290–1

SYSTEM NAME:

Record System for Civilian Employment of Nonappropriated Fund (NAF) Activities *(February 22, 1993, 58 FR 10818).*

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Personnel Action Reporting System.'

SYSTEM LOCATION:

Delete entry and replace with 'Pair of Naval Personnel (Pers 653), 901 M Street, SE, Washington Navy Yard, Washington, DC 20370–6500, and local activity to which individual is assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Civilian employees attached to Nonappropriated Fund Activities under the Chief of Naval Personnel.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'To manage, supervise, and administer the nonappropriated fund civilian personnel program for employees attached to Nonappropriated Fund Activities under the Chief of Naval Personnel.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add the following routine uses: 'To insurance carriers who provide benefits coverage to employees.

To Department of Labor for unemployment compensation purposes.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Computer processing facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to authorized personnel having a need to know.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are transferred to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118, one year after the individual terminates employment.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Chief of Naval Personnel (Pers 653), Bureau of Naval Personnel, 901 M Street, SE, Washington Navy Yard, Washington, DC 20350–6500.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Naval Personnel (Pers 653), Bureau of Naval Personnel, 901 M Street, SE, Washington Navy Yard, Washington, DC 20350–6500, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name, Social Security Number, activity at which employed, and signature of the requester.

The individual may visit the Chief of Naval Personnel (Pers 653), 901 M Street, SE, Washington Navy Yard, Washington, DC 20370–6500, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Naval Personnel (Pers 653), Bureau of Naval Personnel, 901 M Street, SE, Washington Navy Yard, Washington, DC 20350–6500, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name, Social Security Number, activity at which employed, and signature of the requester.

The individual may visit the Chief of Naval Personnel (Pers 653), 901 M Street, SE, Washington Navy Yard, Washington, DC 20370–6500, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Individual; local activity where assigned; Defense Investigative Service; previous employers; educational institutions; employment agencies; civilian and military investigative reports; general correspondence concerning individual.'

* * * * *

N12290–1

SYSTEM NAME:

Personnel Action Reporting System.

SYSTEM LOCATION:

Bureau of Naval Personnel (Pers 653), 901 M Street, SE, Washington Navy

Yard, Washington, DC 20370–6500, and local activity to which individual is assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees attached to Nonappropriated Fund Activities under the Chief of Naval Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and records pertaining to performance, employment, pay, classification, security clearance, personnel actions, medical, insurance, retirement, tax withholding information, exemptions, unemployment compensation, employee profile, education, benefits, discipline and administration of nonappropriated fund civilian personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations; Pub. L. 92–392; Fair Labor Standards Act, as amended; and E.O. 9397.

PURPOSE(S):

To manage, supervise, and administer the nonappropriated fund civilian personnel program for employees attached to Nonappropriated Fund Activities under the Chief of Naval Personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To insurance carriers who provide benefits coverage to employees.

To Department of Labor for unemployment compensation purposes.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic tapes or discs. Manual records may be stored in paper file folders, microfiche, or microfilm.

RETRIEVABILITY:

Name, Social Security Number, and/or activity number.

SAFEGUARDS:

Computer processing facilities are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Records are transferred to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118, one year after the individual terminates employment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Personnel (Pers 653), Bureau of Naval Personnel, 901 M Street, SE, Washington Navy Yard, Washington, DC 20350–6500.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Naval Personnel (Pers 653), Bureau of Naval Personnel, 901 M Street, SE, Washington Navy Yard, Washington, DC 20350–6500, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name, Social Security Number, activity at which employed, and signature of the requester.

The individual may visit the Chief of Naval Personnel (Pers 653), 901 M Street, SE, Washington Navy Yard, Washington, DC 20370–6500, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief of Naval Personnel (Pers 653), Bureau of Naval Personnel, 901 M Street, SE, Washington Navy Yard, Washington, DC 20350–6500, or to the local activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The letter should contain full name, Social Security Number, activity at which employed, and signature of the requester.

The individual may visit the Chief of Naval Personnel (Pers 653), 901 M Street, SE, Washington Navy Yard, Washington, DC 20370–6500, for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records and contesting contents and appealing initial determinations are published in the Secretary of the Navy Instruction 5211.5; 32 CFR part 701, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; local activity where assigned; Defense Investigative Service; previous employers; educational institutions; employment agencies; civilian and military investigative reports; general correspondence concerning individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 94–19550 Filed 8–10–94; 8:45 am]
BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

CFDA No: 84.094B

Patricia Roberts Harris Fellowship Program

AGENCY: Department of Education.

ACTION: Notice of Technical Assistance Workshops.

SUMMARY: The Department of Education will conduct technical assistance workshops to assist prospective applicants in developing applications for the Patricia Roberts Harris Fellowship Program for fiscal year 1995. Reservations are not required for attendance at these workshops, which will be conducted from 9:00 a.m.–3:00 p.m. at each site. The dates and locations of the workshops are as follows:

August 15, 1994

Location: San Diego State University, Casal Real Room (Aztec Center), San Diego, CA 92182

Host: Dr. Edmund L. Thile/Dr. Dolores A. Wozniak, Project Directors, PRH, Telephone (619) 297–5466

August 17, 1994

Location: Northwestern University, The McCormick Auditorium (Norris University Center), Evanston, IL 60208–1113

Host: Dr. Leila S. Edwards, Senior Associate Dean, Telephone: (708) 491–7264

August 19, 1994

Location: Georgia State University, Urban Life Auditorium (3rd Floor), Atlanta, GA 30303–3083
Host: Dr. Clarence T. Cummings, Jr., Director, Office of Educational Opportunity
Telephone: (404) 651–2564

August 22, 1994

Location: Regional Office Building 3, General Services Administration Auditorium, 7th and D Streets, S.W. (D Street entrance) Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cosette H. Ryan, U.S. Department of Education, 400 Maryland Avenue, S.W., Portals Building, Suite C–80, Washington, DC 20202–5251. Telephone: (202) 260–3608. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 1134d–1134g.

Dated: August 8, 1994.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 94–19647 Filed 8–10–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 94–7—Certification Notice—135]

Oklahoma Municipal Power Authority Ponca City Repowering Project; Filing of Coal Capability; Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Filing.

SUMMARY: On July 25, 1994, Oklahoma Municipal Power Authority Ponca City Repowering Project submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 et seq.), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of July 25, 1994. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

OWNER: Oklahoma Municipal Power Authority, Edmond, Oklahoma.

OPERATOR: Ponca City Utility Authority, Ponca City, Oklahoma.

LOCATION: Ponca City Steam Plant, Ponca City, Oklahoma.

PLANT CONFIGURATION: Combined cycle cogeneration.

CAPACITY: 60 megawatts.

FUEL: Natural gas.

PURCHASING UTILITIES: Oklahoma Municipal Power Authority.

IN-SERVICE DATE: June 1995.

Issued in Washington, D.C., August 8, 1994.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–19631 Filed 8–10–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 2513]

Green Mountain Power Corp.; Extending Time To Comment on Draft EA

August 5, 1994.

The Federal Energy Regulatory Commission (FERC) issued a Draft Environmental Assessment (DEA) for relicensing the Essex No. 19 Hydroelectric Project, FERC Project No. 2513, on June 24, 1994. This hydropower project is located on the Winooski River near Burlington, Vermont.

In response to a letter filed by Green Mountain Power Corporation, and supported by other parties to the proceedings, FERC is extending the comment period on the DEA until September 7, 1994.

Anyone wishing to comment in writing on the DEA must do so no later than September 7, 1994. Comments should be addressed to: Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

Reference should be clearly made to: Essex No. 19 Hydroelectric Project (Project No. 2513).

For further information, please contact Frankie Green at (202) 501–7704.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19596 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–681–000., et al.]

Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

August 4, 1994.

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP94–681–000]

Take notice that on July 22, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP94–681–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate facilities to implement a new delivery point near Blair, Nebraska to accommodate natural gas deliveries to Peoples Natural Gas Company (Peoples) under its blanket certificate issued in Docket No. CP82–401–000,[1] all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Northern states it has entered into a transportation service agreement with Peoples for the firm transportation and delivery of natural gas to Peoples at the proposed delivery point of up to 10 Bcf annually and 11,500 Mcf per peak day Northern holds a blanket transportation certificate pursuant to Part 284 of the Commission's Regulations issued in Docket No. CP86–435–000.[2] Peoples has requested a new delivery point from Northern so they may serve the new Cargill plant near Blair, Nebraska. Northern states that the lateral pipeline

[1] *See*, 20 FERC ¶ 62,410 (1982).

[2] *See*, 37 FERC ¶ 61,268 (1986).

route will begin at Northern's "C" mainline 24-inch takeoff in the NW ¼ of Section 16, Township 18 North, Range 8 East, Dodge County, and continue in an easterly direction approximately 16 miles to Northern's town border station (TBS) following within 30 feet to the north or south, Northern's existing 6-inch lateral line servicing Blair. Northern states that Peoples will construct the entire 24 miles of 8-inch pipeline from Northern's "C" mainline to the Cargill. Northern will own and operate approximately 16 miles of the 8-inch lateral pipeline, and Peoples will own and operate 8 miles from Northern's TBS to the Cargill plant.

Northern states that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request. Northern states that construction of the proposed delivery point is not prohibited by its existing tariff and that it has sufficient capacity to deliver the requested gas volumes without detriment or disadvantage to it's other customers. Northern estimates the cost of the proposed facilities at $192,000; which includes the meter run, the take-off from the "C" mainline and the flange setting.

Comment date: September 19, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation

[Docket No. CP94–692–000]

Take notice that on August 1, 1994, Transcontinental Gas Pipe line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP94–692–000 an application pursuant to Section 7 (b) and (c) of the Natural Gas Act for permission and approval to abandon approximately 0.86 miles of 30-inch pipeline and for a certificate of public convenience and necessity authorizing the construction and operation of approximately 0.86 miles of 30-inch replacement pipeline on its Main Line A across the Neches River in Hardin and Jasper Counties, Texas and across the Village Creek in Hardin County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to: (1) Construct and operate approximately 4,270 feet of 30-inch pipeline by horizontal directional drilling under the Neches River at its existing pipeline river crossing located 8 miles north of Beaumont, Texas and 20 miles west of the Texas-Louisiana boundary and construct and operate approximately 512 feet of conventionally installed tie-in piping on the banks of the river to connect the drilled crossing to Transco's Main Line A; (2) construct and operate approximately 260 feet of 30-inch pipeline by conventional ditching approximately 25 feet to the north of its existing Village Creek crossing of Main Line A located 1.8 miles west of the Neches River crossing in Hardin County, Texas with tie-ins to Main Line A on each river bank when the replaced portion of Main Line A is removed from service; and (3) abandon by removal the portions of Main Line A replaced at the Neches River and the Village Creek crossings. Transco states that the proposed replacements will restore the long-term integrity of its transmission system at the Neches River and the Village River crossings and that the capacity will remain at the existing 624 MMcf per day.

Transco states that the abandonment of the portions of the Main Line A at the Neches River crossing will be completed in two separate projects. Transco proposes to remove approximately 260 feet of the existing 30-inch line from the point of tie-in on the west side of the river and approximately 80 feet of the existing 30-inch line from the point of tie-in on the east side of the river in 1994, at the time of the pipeline replacement construction. The abandonment of the remaining facilities at the Neches River crossing will be completed in 1995, as a separate project, after necessary permits are obtained. Transco proposes to remove, in 1994, approximately 240 feet of its Main Line A at the Village Creek crossing after the replacement line is constructed and tied in. Transco also requests temporary authorization to complete the river crossing replacements if permanent authorization is not issued by August 19, 1994, for security of gas service during the upcoming heating season. The estimated cost of construction is $4,694,455 with abandonment cost estimated at $972,000. The cost will be initially financed by Transco by funds on hand and short-term loans which will be rolled into permanent financing.

Comment date: August 19, 1994, in accordance with Standard Paragraph F at the end of this notice.

3. National Fuel Gas Supply Corporation

[Docket No. CP94–693–000]

Take notice that on August 1, 1994, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP94–693–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new point of delivery to provide service to an existing customer, National Fuel Gas Distribution Corporation (Distribution), under National Fuel's blanket certificate issued in Docket No. CP83–4–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

National Fuel states that the new delivery point will be located in the town of Grand Island, Erie County, New York, at the same station at which National Fuel will interconnect with the facilities of Empire State Pipeline, an intrastate pipeline, and will be used to provide service to Distribution, and to Distribution's present and future transportation customers. Additionally, National Fuel states that the total volumes to be delivered are estimated to be no more than 3,200,000 Dth annually and will have no impact on National Fuel's total peak day and annual deliveries, but will make it more likely that National Fuel will be able to make the deliveries at the points and in the quantities desired by Distribution and its customers. National Fuel estimates that the total cost of constructing the delivery point is $1,525,000.

National Fuel notes that it has previously applied for approval under Section 7(c) of the Natural Gas Act for the acquisition and construction of certain facilities, including construction of the Grand Island delivery point, and received conditional approval by order issued June 1, 1994, in Docket Nos. CP94–112–000 and CP88–94–008 (67 FERC ¶ 61,270 (1994)). National Fuel states that it has been unable to commence acquisition and construction because National Fuel cannot satisfy all the conditions included in the June 1 order. National Fuel contends that it urgently needs to commence construction of the Grand Island station in September, in order to have the station in operation by November 1. National Fuel asserts that the new station is necessary to relieve some of the load which currently must be satisfied from gas fed into the eastern end of Line U because Line U operates at its absolute peak capacity on a cold day.

Comment date: September 19, 1994, in accordance with Standard Paragraph G at the end of this notice.

4. Distrigas of Massachusetts Corporation

[Docket No. CP94–694–000]

Take notice that on August 1, 1994, Distrigas of Massachusetts Corporation (DOMAC), 200 State Street, Boston, Massachusetts 02109, filed in Docket No. CP94–694–000, an abbreviated application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing DOMAC to install additional air stabilization equipment at DOMAC's liquefied natural gas (LNG) terminal in Everett, Massachusetts. DOMAC also requests, pursuant to Section 157.17 of the Regulations of the Federal Energy Regulatory Commission (Commission), a temporary certificate authorizing the installation and use, on a temporary basis, of leased air injection equipment, pending the installation and operation of the requested permanent equipment, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

DOMAC states that it anticipates in the near future it will receive additional cargoes of higher Btu LNG that will require air stabilization capability in excess of DOMAC's current installed capacity.[3] In addition, DOMAC states that it needs to be able to accept LNG of varying thermal contents at any time of the year, whether supplied through the long-term contracts of SONATRACH, Distrigas Corporation's Algerian supplier, or short-term or spot transactions with other suppliers in the international marketplace. DOMAC states that the new facilities will consist of one integrated unit of two electric driven compressors and will be constructed wholly within DOMAC's existing Everett facility and placed on a concrete pad within a weather enclosure. DOMAC requests approval on an expedited basis so that the permanent facilities can be installed and operational by January 1, 1995.

DOMAC states that it will likely require additional air stabilization capacity for one or more cargoes in the fall of 1994, before a permanent certificate can be issued and the permanent equipment can be installed and become operational. DOMAC proposes to lease and install by September 1, 1994, temporary air stabilization equipment to permit DOMAC to air stabilize regasified LNG before delivering it into the J-System of Algonquin at the high throughput rates expected for that time period. DOMAC states that the leased temporary air stabilization equipment will consist of one integrated unit of two truck-mounted diesel powered compressors. DOMAC requests that a temporary certificate be issued on or before August 20, 1994, to permit DOMAC to install this leased equipment by September 1, 1994, and to operate the leased equipment pending the Commission's determination concerning the permanent authorization and until such time as the new permanent equipment is operational.

DOMAC states that the estimated cost of the temporary leased air stabilization facilities will be approximately $295,000, assuming a four-month period of operation, and the cost of the permanent air stabilization facilities will be approximately $1,280,000. DOMAC further states that it will finance the facilities by using funds on hand and it will be fully at risk for the cost of these proposed facilities. DOMAC also states that any financial risk associated with the additional facilities will be borne by DOMAC alone, and not its customers.

Comment date: August 14, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. 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 to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19608 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–P

[3] A 1990 Operating Agreement requires that DOMAC air stabilize any regasified LNG with a heating value in excess of 1,090 Btus per standard cubic foot prior to delivery to Algonquin Gas Transmission Company (Algonquin). DOMAC's existing equipment is capable of air stabilizing high Btu LNG (up to 1125 Btu per standard cubic foot) into Algonquin at an average throughput of 45,000 MMBtu per day.

[Docket No. RP94–347–000]

ANR Pipeline Co. Petition for Declaratory Order

August 5, 1994

Take notice that on August 3, 1994, ANR Pipeline Company (ANR) filed a petition for a declaratory order seeking Commission approval of a settlement agreement dated February 16, 1994, between ANR, Dakota Gasification Company and the U.S. Department of Energy.

ANR seeks an order from the Commission:

(1) finding that the Settlement Agreement is consistent with the public interest and with its earlier findings under Opinion No. 119;

(2) finding that implementation of the Settlement Agreement is consistent with Opinion No. 119 or that Opinion No. 119 should be modified or waived to the extent necessary to permit ANR to

implement the Settlement Agreement and to recover all of the costs that will be incurred by ANR to implement the Settlement Agreement;

(3) finding that payment by ANR of the amounts contemplated under the Settlement Agreement is just and reasonable, and consistent with Opinion No. 119, and that such amounts represent the purchase price which ANR is entitled to utilize under its currently effective tariff recovery mechanism;

(4) approving assignments of an amended gas purchase agreement and certain Northern Border capacity;

(5) approving and authorizing ANR to place into effect pro forma tariff sheets included at Appendix "B" of the filing,;

(6) dismissing the proceeding at Dakota Gasification Co., Docket No. RP93–100–000; and

(7) granting all other approvals and waivers as the Commission may deem necessary.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 26, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19590 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–349–000]

Black Marlin Pipeline Co.; Proposed Changes in FERC Gas Tariff

August 5, 1994.

Take notice that on August 3, 1994, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become part of Black Marlin's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, proposed to be effective September 1, 1994:

Second Revised Sheet No. 212
Second Revised Sheet No. 213

Black Marlin states that in Order No. 636, et seq. the Commission permitted pipelines to allocate capacity on the basis of economic value to shippers rather than on a first-come, first-served basis which had been established as the standard under Order No. 436. Virtually all pipelines now schedule and curtail interruptible capacity based on the price, or rate, being paid for such capacity with a pro rata allocation, if necessary, among Shippers paying the same price. Although Black Marlin is not a capacity constrained pipeline and scheduling and curtailment priorities have not been issues in the Black Marlin proceedings, Black Marlin states that it is filing herein to change and clarify the operation of the scheduling and curtailment provisions of its tariff.

The currently effective Section 9, Scheduling and Curtailment, of the General Terms and Conditions (GTC) of Black Marlin's FERC Gas Tariff, First Revised Volume No. 1 provides that scheduling and curtailment will be based on the rate being paid for capacity within each scheduling and curtailment category. However, this Section also retains language regarding the first-come, first-served basis and priority dates which were originally established pursuant to Order No. 436.

Black Marlin states that it is filing herein to eliminate language regarding the first-come, first-served methodology and priority dates so that it is clear that scheduling and curtailment on Black Marlin is done by price, and pro rata at each price level.

Black Marlin requests that the Commission grant any and all waivers of its rules, regulations, and orders as may be necessary, specifically (but not limited to) Section 154.22 of the Commission's Regulations, so as to permit the tariff sheets submitted herewith to become effective September 1, 1994.

Additionally, although Black Marlin is posting the current log of allocation data for marketing affiliates, Black Marlin states that it is not capacity constrained (current gas flow is approximately 50% of total capacity) and no allocation of capacity is required. Therefore, Black Marlin requests waiver effective August 1, 1994 of 18 CFR 250.16(c) that requires a log of data used to allocate capacity to be posted for marketing affiliates and maintained for non-affiliates, and waiver of any other rules, regulations, and orders as may be necessary to allow such waiver to become effective August 1, 1994.

Black Marlin further states that copies of the filing have been mailed to each of its customers affected by this filing and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 12, 1994. Protests will be considered by the Commission in determining the appropriate actions 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19588 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–340–000]

Carnegie Natural Gas Co.; Submittal of Account No. 191 Reconciliation Report

August 5, 1994.

Take notice that on July 29, 1994, Carnegie Natural Gas Company (Carnegie), pursuant to sections 31.3 (a)(5) and (b)(5) of Carnegie's FERC Gas Tariff and the Commission's orders in Carnegie's restructuring proceeding in Docket No. RS92–30–000, submitted a report regarding its Account No. 191 to indicate the final balance in its account, and to indicate the adjustments necessary to the amounts collected or refunded to reflect the final posting to that account.

Carnegie states that its filing includes two separate Account No. 191 subaccount reconciliation reports. The first, described in section 31.3(a), of Carnegie's tariff addresses unrecovered gas costs included in Account No. 191 prior to October 1, 1993, excluding amounts direct billed to Carnegie Account No. 191 transition costs by its upstream pipeline supplier, Texas Eastern Transmission Corporation (Texas Eastern). Carnegie also states that the second report, described in section 31.3(b), addresses transition costs directly billed to Carnegie by Texas Eastern.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 18 CFR 385.211). All motions or protests should be filed on or before August 12, 1994. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19592 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–4–22–001]

CNG Transmission Corp.; Proposed Changes in Gas Tariff

August 5, 1994.

Take notice that on August 2, 1994, CNG Transmission Corporation (CNG), pursuant to Section 4 of the Natural Gas Act, Part 154 of the Commission's Regulations, and Section 12.9 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed the following revised tariff sheets for inclusion in Second Revised Volume No. 1 of its FERC Gas Tariff:

Second Revised Sheet No. 44

CNG requests an effective date for this proposed tariff sheet of April 30, 1994.

CNG states that the purpose of this filing is to reallocate certain take-or-pay costs that have been directed to CNG by Tennessee Gas Pipeline Company. In particular, Second Revised Sheet No. 44 apportions $11,279 in costs that CNG had allocated to Algonquin Gas Transmission Company (Algonquin), to Algonquin's former F–2 customers. CNG further states that it does not seek to recover any additional upstream take-or-pay costs through this filing.

CNG states that copies of the filing were served upon CNG's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before August 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19587 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–96–007 and RP94–213–003]

CNG Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1994.

Take notice that on August 2, 1994, CNG Transmission Corporation (CNG), filed for inclusion in its FERC Gas Tariff, Second Revised Volume 1, the following tariff sheets:

Sub. First Revised Sheet No. 31
2nd Sub. Alt. Third Revised Sheet No. 32
2nd Sub. Alt. Third Revised Sheet No. 33
First Revised Sheet No. 37

The proposed effective date of these tariff sheets is July 1, 1994.

CNG states that these tariff sheets have been revised to correct inadvertent errors on sheets filed by CNG on June 30, 1994. CNG states that it has: corrected the rate for Wheeling Service on Sheet No. 31, to properly mirror CNG's IT rates; corrected the maximum volumetric surcharge for capacity release transactions, stated on Sheet Nos. 32 and 33, to include the Section 18 (Transition Cost Adjustment) surcharge; removed note 6 from Sheet Nos. 32 and 33, which had addressed CNG's proposed changes to gathering rates; and updated the surcharge applicable to incremental services set forth on Sheet No. 37, to reflect the proper differential from CNG's revised Part 284 rates.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rule 211 of the Commissions Rules of Practice and Procedure, 18 CFR 385.211. All protests should be filed on or before August 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19594 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–348–000]

Granite State Gas Transmission, Inc., Petition for Limited Waiver of a Tariff Provision

August 5, 1994.

Take notice that on August 3, 1994, Granite State Gas Transmission, Inc. (Granite State), filed a petition with the Commission for a limited waiver of Section 21.1(a) of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1, to extend to December 1, 1994, the period to direct bill and flow through to its former sales customers out-of-period purchase gas costs for which Granite State expects to be billed by upstream suppliers.

Granite State states that it is a non-major downstream pipeline and that it commenced restructured operations on November 1, 1993. It is further stated that Section 21.1(a) of the General Terms and Conditions of its tariff provided for nine months after the termination of its purchase gas cost adjustment procedures to recover from its former sales customers out-of-period purchase gas costs. Granite State states that its purchased gas cost adjustment procedures terminated with the effectiveness of its restructuring tariff on November 1, 1993, and the nine month-period for the recovery of out-of-period gas costs expired July 31, 1994.

According to Granite State, it purchased substantial quantities of gas for its system supply in the months of September and October 1993, which were delivered by Tennessee Gas Pipeline Company (Tennessee) after Tennessee commenced restructured operations on September 1, 1993. It is further stated that Tennessee experienced difficulties with its nomination and scheduling procedures during the early months of its restructured operations and has recently developed corrective information for its cash-out procedures for the months of September and October, 1993. Granite State indicates that it expects in the near future to be directly billed by Tennessee for out-of-period gas costs related to September and October, 1993 gas purchase activity.

Additionally, Granite State states that it expects that Tennessee's out-of-period billings will be passed through to CNG Transmission Corporation and National Fuel Gas Supply Corporation, and then by these two pipelines to Algonquin Gas Transmission Company (Algonquin) and, in turn, by Algonquin to Granite State.

In its petition, Granite State requests an extension to December 1, 1994, during which it can flow through to its

former customers the out-of-period billings for gas costs for which it will be directly billed by Tennessee, and the indirect billings passed through by other upstream pipelines.

Granite State states that copies of its Petition have been served on its customers, Bay State Gas Company and Northern Utilities, Inc., and on the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19589 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–345–000]

Northwest Pipeline Corp.; Petition for Limited Waiver of Tariff

August 5, 1994.

Take notice that on August 2, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing a Petition for Limited Waiver of Tariff. Northwest seeks waiver of the Federal Energy Regulation Commission's first-come, first-served policy, as reflected in Section 1 of Northwest's TI–1 Rate Schedule and the Priority Date provisions of Section 12 of the General Terms and Conditions in Third Revised Volume No. 1 of its FERC Gas Tariff, in order to allow the receipt and delivery point priority of service dates previously held by Bridgegas U.S.A. Inc., as agent for Bridge Oil Company L.P., under an Interruptible Transportation Agreement to be retained by Bridgegas U.S.A. Inc.'s marketing affiliate and assignee, Bridgegas Company.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19591 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–149–003]

Pacific Gas Transmission Co.; Notice of Compliance Filing

August 5, 1994.

Take notice that on August 1, 1994, Pacific Gas Transmission Company (PGT) tendered as part of its FERC Gas Tariff, First Revised Volume No. 1–A and Second Revised Volume No. 1, certain revised tariff sheets with an effective date of September 1, 1994.

PGT states that the tariff sheets, which it separately moves to be made effective, are being filed in compliance with Section 154.67(a) of the Commission's regulations and the Commission's orders dated March 31, 1994, in Docket Nos. RP94–149–000, *et al.*, and July 1, 1994, in Docket No. TM94–3–86–000.

PGT states that the revised tariff sheets reflect (1) the alternative rate sheets accepted and suspended by the Commission in the March 31, 1994, order; (2) a modification to provide for a crediting mechanism for revenues from authorized overrun service; and (3) updates to include the effective fuel and line loss surcharge percentage approved by the Commission's order of July 1, 1994, in Docket No. TM94–3–86–000. PGT states that it reserves the right to seek retroactive adjustments to September 1, 1994, in the event the primary tariff sheets are later accepted.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before August 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19593 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–16–000]

Southern California Gas Co.; Notice Postponing Technical Conference

August 5, 1994.

Take notice that the technical conference originally scheduled for Wednesday, August 10, 1994, in the above-captioned proceeding has been postponed until Thursday, September 1, 1994. The conference will convene at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The date of the conference has been revised to provide Southern California Gas Company an opportunity to respond to Staff's data request.

All interested persons and Staff are permitted to attend the conference.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–19595 Filed 8–10–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5030–5]

Proposed Settlement Agreement; RACT SIP for the State of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with Section 113(g) of the Clean Air Act ("Act"), notice is hereby given of a proposed settlement agreement concerning litigation instituted against the Environmental Protection Agency ("EPA") by Delaware Valley Citizen's Council for Clean Air, Natural Resources Defense Council, New Jersey Public Interest Research Group and Pennsylvania Public Interest Group (collectively "Citizen's Council") regarding a finding dated February 28, 1994, by EPA under section 110(k) of the Clean Air Act that the Pennsylvania Department of Environmental Resources

("PADER") has submitted a complete State Implementation Plan ("SIP") governing the application of reasonably available control technology ("RACT") for major stationary sources of nitrogen oxides ("NO_X"). The proposed settlement agreement provides, based on a separate settlement agreement entered into by PADER and the Citizen's Council regarding specified dates by which PADER will develop and finalize requirements for NO_X RACT for certain sources in Pennsylvania that are subject to PADER's RACT regulations, that EPA will file, along with Citizen's Council, a joint motion to stay all proceedings in the Petition for Review filed by the Citizen's Council in the Court of Appeals for the Third Circuit. The proposed settlement agreement also provides that, in the event PADER violates the terms of its agreement with the Citizen's Council, the Citizen's Council will be entitled to file a motion to lift the stay of the Petition for Review, as well as to require that EPA undertake and complete a reconsideration of its February 28, 1994 completeness finding.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement agreement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Copies of the settlement agreement are available from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7606. Written comments should be sent to Michael A. Prosper at the above address and must be submitted on or before September 12, 1994.

Dated: August 2, 1994.

Jean C. Nelson,

General Counsel.

[FR Doc. 94–19639 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5030–6]

New York State Prohibition on Marine Discharges of Vessel Sewage; Notice of Final Determination

Summary

Today the Environmental Protection Agency (EPA) is noticing its final affirmative determination in response to a petition from New York State to determine whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the coastal waters of Huntington Harbor and Lloyd Harbor, in the Town of Huntington, Suffolk County, New York. On November 9, 1993, notice was published that the State of New York had requested that the Regional Administrator of the EPA, Region II make this determination and that EPA had made a tentative affirmative determination in response to this petition (56 FR 59465). The Regional Administrator made a final affirmative determination in this matter on April 21, 1994. This decision allows the New York State Department of Environmental Conservation (NYSDEC) to completely prohibit vessel sewage discharges into Huntington and Lloyd Harbors.

Background

This petition was filed on July 1, 1993 by the New York State Department of Environmental Conservation (NYSDEC) in cooperation with the Town of Huntington, pursuant to Section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4, (the "Clean Water Act").

Section 312(f)(3) states:

> After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

Based on the information submitted by the NYSDEC and the Town of Huntington, EPA has made a final affirmative determination regarding the adequacy of pump-out facilities.

The Town of Huntington is located on the north shore of Long Island and includes approximately 64 miles of tidal shoreline contiguous to Long Island Sound. Huntington Harbor encompasses approximately 340 acres of tidal waters and surrounding wetlands. Lloyd Harbor consists of approximately 800 acres that has been designated as a "Significant Coastal Fish and Wildlife Habitat Area" by New York State. The NYSDEC application proposed that discharges would be prohibited in an area including Huntington and Lloyd Harbors with the seaward boundary beginning at East Beach, extending south to Huntington Lighthouse, and then landward to the Wincoma Peninsula.

Information submitted by the State of New York and the Town of Huntington states that there are seven existing pump-out facilities available to service vessels which use Huntington and Lloyd Harbors, and one additional facility proposed for construction. Five are located in the southern portion of Huntington Harbor and are open to the general public. Of these, three facilities are owned and operated by the Town of Huntington. These three facilities are open continuously from approximately April 15 until November 15 of each year and charge no fee for pump-out services. The Town of Huntington has stated that one of the Town owned pump-out facilities, at a minimum, will remain in operation through the winter months. The pump-out facilities can service vessels up to 60 feet in length with up to an 8 foot draft. The other two facilities are privately owned and charge a $10.00 fee for pump-out services. These two facilities have vessel size limitations of 65 foot length and 14 foot draft, and 40 foot length and 6 foot draft. Two additional facilities are located in nearby Northport Harbor. One is a pump-out facility operated by the Town of Huntington and the other is a portable unit at a privately owned marina which is designed to service vessels within their slips. The Town of Huntington is planning to construct and operate a pump-out facility at the Castle Cove Marina, near the mouth of Huntington Harbor and closer to Lloyd Harbor.

Vessel waste generated from the pump-out facilities in Huntington Harbor is transported to the Town sewage treatment plant, which provides pretreatment and full secondary treatment. This plant operates under a State Pollutant Discharge Elimination System (SPDES) permit issued by the NYSDEC.

EPA's determination that adequate pump-out facilities exist for vessels which use Huntington and Lloyd Harbors allows the NYSDEC to prohibit vessel sewage discharges in these waters. Questions in this matter may be directed to Mr. Phil DeGaetano of the NYSDEC at (518) 457–2286, Mr. Glen Hulse of the Town of Huntington Department of Environmental Control at (516) 351–3186 or Anne Reynolds, U.S. Environmental Protection Agency, Region 2, Water Permits and Compliance Branch, 26 Federal Plaza, New York, New York, 10278, (212) 264–7674.

Dated: July 14, 1994.

Jeanne Fox,

Regional Administrator.

[FR Doc. 94–19638 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5030–7]

Proposed Assessment of Clean Water Act Class II Administrative Penalty to Toppan West, Inc. and Opportunity To Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Administrative Penalty Assessment and Opportunity to Comment.

SUMMARY: EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. Section 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. Section 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Toppan West, Inc., located at 7770 Miramar Road, San Diego, California; EPA Docket No. CWA-IX-FY94–25; filed on July 20, 1994, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $95,000 for failure to comply with the categorical pretreatment standards and requirements for new source metal finishers (40 CFR 433).

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: July 20, 1994.

Alexis Strauss,

Acting Director, Water Management Division.

[FR Doc. 94–19637 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5029–7]

CWA 303(d): Proposed Establishment of Phased Total Maximum Daily Loads (TMDLs) for Copper, Mercury, Nickel and Lead in New York-New Jersey Harbor

AGENCY: Environmental Protection Agency, Region II.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Region II is hereby providing public notice on its intent to establish Phased Total Maximum Daily Loads (TMDLs) for copper, mercury, lead and nickel in New York-New Jersey Harbor. The proposed TMDLs are being established in cooperation with the States of New York and New Jersey.

DATES: Comments on the proposed TMDLs must be submitted to EPA on or before October 11, 1994.

ADDRESSES: Copies of the proposed TMDLs can be obtained by writing to Ms. Rosella T. O'Connor, Technical Evaluation Section, U.S. Environmental Protection Agency Region II, 26 Federal Plaza, New York, New York 10278 or calling (212) 264–5692.

The administrative record containing background technical information on the proposed TMDLs developed by EPA, in conjunction with the States of NY and NJ, is on file and may be inspected at the USEPA, Region II office between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, except holidays. Arrangements to examine the administrative record may be made by contacting Ms. Rosella O'Connor. Public information meetings to discuss the proposed TMDLs will be held on September 14, 1994 from 1 p.m. to 4 p.m. at the EPA Region II office (Room 305C), 26 Federal Plaza, New York City and on September 21, 1994 from 1 p.m. to 4 p.m. at the EPA Edison Field Office (Building 205 Conference Room) located at 2890 Woodbridge Avenue, Edison, NJ.

FOR FURTHER INFORMATION CONTACT: Ms. Rosella O'Connor, telephone (212) 264–5692.

SUPPLEMENTARY INFORMATION:

I. Background
II. Tentative Determination
A. Description of TMDLs
B. Water Quality Standards
C. List of Proposed TMDLs

I. Background

The New York-New Jersey Harbor (geographically defined as the Hudson River from the Tappan Zee Bridge extending out to the Outer Harbor and including the Harlem River, East River to the Throgs Neck Bridge, Jamaica Bay Newark Bay, Hackensack River below the Oradell Dam, Passaic River below the Dundee Dam, Kill Van Kull, Arthur Kill, and the Raritan River/Bay below the Fieldville Dam) was listed by the States of New York and New Jersey under section 304(l)(1)(B) ("the short list") of the Clean Water Act. Section 304(l)(1)(B) of the Clean Water Act (CWA) requires States to develop lists of waters entirely or substantially impacted by point source discharges of pollutants. Section 304(l) also requires States to develop individual control strategies for each point source. In order to establish individual control strategies for point sources in the Harbor, the States of New York and New Jersey and EPA joined in a cooperative effort to collect ambient and source data, develop a water quality model to assess relative loadings from all sources (municipal and industrial discharges, storm water, combined sewer overflows, sediment flux, atmospheric deposition and tributaries), and develop Total Maximum Daily Loads (TMDLs). This effort was conducted through work groups under the auspices of the New York-New Jersey Harbor Estuary Program.

Due to the interstate nature of the New York-New Jersey Harbor and the desirability of consistency and equity among dischargers, the State of New Jersey requested that EPA promulgate TMDLs for the New York-New Jersey Harbor. EPA will, therefore, establish TMDLs as a federal action. Except for the Kill Van Kull and Arthur Kill, New York State has already implemented the necessary water quality-based effluent

limits for waterbodies within the Harbor by issuing individual control strategies in the form of modified permits. EPA is establishing TMDLs for the remaining waterbodies for which New York State has not established TMDLs as well as Harbor waterbodies in the State of New Jersey. The EPA promulgation will result in the incorporation of TMDLs into State Water Quality Management Plans. In the State of New Jersey, this promulgation will amend the Northeast, the Lower Raritan/ Middlesex County and the Monmouth County Water Quality Management Plans. In New York State, this promulgation will amend the New York State Water Quality Management Plan.

II. Tentative Determination

A. Description of TMDLs

The EPA is hereby issuing public notice of its intent to establish Phased TMDLs for copper, mercury, nickel and lead in New York-New Jersey Harbor. Based on ambient monitoring and/or water quality modeling efforts in New York-New Jersey Harbor, certain waterbodies within the Harbor exceed or are projected to exceed applicable water quality standards. In such cases, the Clean Water Act requires that the States calculate the maximum amount of the pollutant that the waterbody can assimilate and still meet ambient water quality standards. This amount, called the total maximum daily load, is then used to allocate loads among sources of pollutants. Loads allocated to point sources (e.g., municipal dischargers) are termed Waste Load Allocations (WLAs). Loads allocated to nonpoint sources (e.g., atmospheric inputs) are termed Load Allocations (LAs).

Waterbodies within the Harbor which are known or projected to exceed applicable water quality standards and have been determined to require TMDLs are denoted by an "X" in Table 1. Certain waterbodies in the Harbor do not require TMDLs for all the metals of concern. For these waterbodies, no further action is being proposed.

TABLE 1.—WATERBODIES NEEDING TMDLS

Waterbody	Copper	Mercury	Nickel	Lead
Hudson River		X		
Inner Harbor		X		
Outer Harbor		X		
Arthur Kill/Kill Van Kull	X	X	X	X
East R./Harlem R.		X		
Jamaica Bay		X		
Raritan River/Bay	X	X	X	X
Hackensack R./Passaic R./Newark Bay	X	X	X	X

The proposed TMDLs for copper, mercury, nickel and lead use a phased TMDL approach. For copper, nickel, and lead, the waterbodies listed in Table 1 exceed applicable water quality standards based on concentrations projected to occur by the water quality model employed for this TMDL effort. Due to the limited ambient and loading data, the state of the model calibration is uncertain for the Raritan River/Bay, the Hackensack and Passaic Rivers, and Newark Bay. Based on the available ambient data, it has been determined that existing loads are adequate to meet applicable water quality standards. The Phase I TMDLs for these waters will be based on limiting municipal and industrial point source dischargers to existing loads. Additional data collection and modeling for the Hackensack River, Passaic River, Newark Bay, Kill Van Kull, Arthur Kill, and Raritan River/Bay will be required. Once sufficient data have been collected and the water quality model has been adequately calibrated, Phase II TMDLs will be developed, adopted and implemented, as necessary, by the States of New York and New Jersey with assistance from EPA. However, if significant interstate issues arise and the Commissioners of the New York State Department of Environmental Conservation and the New Jersey Department of Environmental Protection jointly request an EPA promulgation, EPA will promulgate Phase II TMDLs for the interstate waters of New York-New Jersey Harbor.

As indicated in Table 1, both ambient and model projected exceedances of mercury standards occur throughout the Harbor. Water quality modeling for mercury indicated that a significant portion of the total mercury load was not identified by the monitoring conducted to support the TMDL effort. This load, attributed to atmospheric deposition, drives exceedances of water quality standards. The proposed Phase I TMDLs for mercury are based on freezing existing point source loads and reducing atmospheric deposition loading by a portion of the anticipated levels of reduction resulting from the implementation of the Clean Air Act. Additional monitoring and water quality modeling will be conducted to: reassess the previously identified sources; quantify loads from atmospheric deposition and sediment flux; recalibrate the mercury water quality model; and to calculate Phase II TMDLs.

Additional information regarding the technical development of TMDLs for the Harbor may be found in EPA's document entitled "Total Maximum Daily Loads (TMDLs) for Copper, Mercury, Nickel and Lead in NY-NJ Harbor."

B. Water Quality Standards

States bordering interstate waters are required to assure compliance with the adjoining States' water quality standards, as well as their own. For all waters of NY-NJ Harbor, the States agreed to develop and implement Phase I TMDLs based on a uniform set of water quality criteria. The criteria, for mercury (0.025 µg/L), nickel (7.1 µg/L) and lead (8.5 µg/L) are based on the marine chronic aquatic life criterion expressed as the total recoverable form of the metal and represent the most stringent of the applicable NJ or NY standards. The copper criterion used to develop TMDLs is 5.6 µg/L (expressed as dissolved metal). This value is the most stringent of the two proposed site-specific copper criteria developed (7.9 [acute] and 5.6 [chronic] µg/L dissolved) for the Harbor waters (for additional information regarding the development of the site-specific copper criteria, refer to EPA's document entitled "Development of a Site-Specific Copper Criterion for the NY/NJ Harbor Complex Using the Indicator Species Procedure"). The site-specific copper criteria will be proposed for adoption into NY and NJ State Water Quality Standards Regulations by separate State rulemaking actions. Phase I TMDL-based permit modifications will not be implemented for copper until such time as the proposed site-specific copper

criteria are adopted by the States and approved by EPA. The above criteria will be applied on a Harbor-wide basis.

C. Listing of Proposed Phase I TMDLs

Based on applicable water quality standards and an assessment of loadings to the Harbor, Phase I TMDLs were calculated and allocated among municipal dischargers, industrial dischargers, combined sewer overflows, storm water, atmospheric, and tributaries.

For copper, nickel, and lead, the Phase I TMDLs/WLAs/LAs are based on existing loads from: industrial/ municipal dischargers identified as contributing significant loads of the above substances; combined sewer overflows; storm water dischargers; atmospheric deposition; and tributary sources.

For mercury, Phase I TMDLs/WLAs/ LAs are based on existing loads for all point sources and a projected reduction in atmospheric loads due to implementation of the Clean Air Act.

Phase I TMDLs/WLAs/LAs are shown in Table 2. The TMDLs/WLAs/ LAs listed in the Tables below are not enforceable permit limits. The enforceable permit limits for municipal and industrial dischargers will be developed by the States based on the WLAs listed below. The Phase I effluent limits for municipal and industrial dischargers will be based on existing effluent quality and will be developed in accordance with "EPA Region II's Guidance for Calculating Permit Effluent Limitations Based on Existing Effluent Quality." A copy of this document may be obtained by contacting the above mentioned person.

The tables below identify the Phase I TMDLs/WLAs/LAs for copper, mercury, nickel, and lead in the Harbor. Additional information regarding the calculation of the TMDLs/WLAs/LAs and a listing of the individual WLA for each municipal and industrial discharger may be found in EPA's document entitled "Total Maximum Daily Loads (TMDLs) for Copper, Mercury, Nickel and Lead in NY-NJ Harbor."

TABLE 2—TMDLS/WLAS/LAS FOR NEW YORK-NEW JERSEY HARBOR

[Loading Zone (loads in lbs/day total recoverable metal)]

WLA/LA	HACK/PAS/ NEWARK	KILLS	RARITAN R/BAY
TMDL: COPPER			
MUN./IND.	11.16	31.21	34.85
CSO	17.30	17.10	1.40
STORM WATER	53.30	35.10	42.70
BOUNDARY	2.73	0.00	3.90
ATMOSPHERIC	7.40	46.40	67.60
TMDL	91.89	129.81	150.45
TMDL: NICKEL			
MUN./IND.	18.84	20.06	19.93
CSO	1.70	1.68	0.14
STORM WATER	16.90	11.13	13.54
BOUNDARY	2.07	0.00	1.49
ATMOSPHERIC	4.08	25.61	37.32
TMDL	43.59	58.48	72.42
TMDL: LEAD			
MUN./IND.	29.17	31.88	7.51
CSO	10.99	10.86	0.89
STORM WATER	23.19	15.27	18.57
BOUNDARY	1.69	0.00	0.56
ATMOSPHERIC	12.14	76.10	112.14
TMDL	77.18	134.10	139.67

Loading zones	Mun./Ind.	CSOs [1]	Storm water [2]	Boundary [1]	Atmos-pheric [3]	TMDLs
TMDL: MERCURY						
Hudson River	0.185	0.057	0.481	0.138	0.245	1 106
Inner Harbor	0.183	0.034	0.007	0	0.054	0.278
Outer Harbor	0.000	0.026	0.010	0	1.139	1.175
Kills	0.328	0.066	0.516	0	0.225	1.135
East & Harlem R.	1.005	0.216	1.260	0	0.679	3.16
Jamaica Bay	0.274	0.106	0.119	0	0.093	0.592
Raritan Bay	0.442	0.005	0.628	0.003	0.328	1.406
Hack/Pas/ Newark B.	0.215	0.060	0.784	0.002	0.036	1.097

[1] Load includes a projected 10% reduction.
[2] Load includes a projected 30% reduction.
[3] Load includes a projected 60% reduction.
Notes: Hack/Pas/Newark = Hackensack River, Passaic River and Newark Bay.
Mun./Ind. = Municipal and Industrial dischargers.

Region 2 is soliciting public comment on the proposed establishment of TMDLs in New York-New Jersey Harbor for copper, mercury, nickel and lead.

Dated: July 26, 1994.

William J. Muszynski,

Deputy Regional Administrator.

[FR Doc. 94–19644 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act

Property Availability: Approximately 60 acres at Chestnut and Mendon Streets, Upton, Massachusetts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that a property described as approximately 60 acres at Chestnut and Mendon Streets, in the Town of Upton, Massachusetts, is affected by section 10 of the Coastal Barrier Improvement Act of 1990.

DATES: Written notice of serious interest to purchase the property must be received on or before November 9, 1994.

ADDRESSES: Copies of detailed descriptions of the property, including maps, may be obtained by contacting Penny Pyle, ORE Specialist, at the Federal Deposit Insurance Corporation, Westborough Consolidated Office, One Research Drive, Westborough, MA 01581. Telephone (508) 389–5639; Facsimile (508) 389–5159.

SUPPLEMENTARY INFORMATION: The property contains approximately 60 acres of land located about one mile southeast of the center of the Town of Upton, Massachusetts, and southeast of the intersection of Chestnut and Mendon Streets. The property has approximately 173 feet of frontage on Chestnut Street, is undeveloped and irregular in shape, is wooded, and contains wetland areas, rock ledge and outcropping, and a small pond. The eastern boundary of the property abuts the Upton Street Forest, which is owned by the Commonwealth of Massachusetts, and the western boundary abuts approximately 8 single family residential lots. The property is identified on the tax records of the Town of Upton as two parcels known as Map 29, Lots 78 and 78.2

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government;

2. Agencies or entities of state or local government; and

3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be addressed to the attention of Penny Pyle at the address provided above, and should be in the following forms

Notice of Serious Interest re: Approximately 60 acres of land located at Chestnut and Mendon Streets, in the Town of Upton, Massachusetts.

1. Name of eligible entity.

2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

Dated: August 5, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–19653 Filed 8–10–94; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 94–NO3]

Prices for Federal Home Loan Bank Services

AGENCY: Federal Housing Finance Board.

ACTION: Notice of Prices for Federal Home Loan Bank Services.

SUMMARY: The Federal Housing Finance Board (Board) is publishing the prices charged by the Federal Home Loan Banks (Banks) for processing and settlement of items (negotiable order of withdrawal or NOW), and demand deposit accounting (DDA) and other services offered to member and other eligible institutions.

EFFECTIVE DATE: August 11, 1994.

FOR FURTHER INFORMATION CONTACT: Gary B. Townsend, Deputy Director, Examinations and Regulatory Oversight Division, (202) 408–2540; or Edwin J. Avila, Financial Analyst, (202) 408–2871; Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION: Section 11(e) of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1431(e)) authorizes the Banks (1) to accept demand deposits from member institutions, (2) to be drawees of payment instruments, (3) to engage in collection and settlement of payment instruments drawn on or issued by members and other eligible institutions, and (4) to engage in such incidental activities as are necessary to the exercise of such authority. Section 11(e)(2)(B) of the Bank Act (12 U.S.C. 1431(e)(2)(B)) requires the Banks to make charges for services authorized in that section, which charges are to be determined and regulated by the Board.

Section 943.6(c) of the Board's regulations provides for the publication in the **Federal Register** of all prices for Bank services. The following is a schedule of prices for such services charged by each Bank:

District 1.—Federal Home Loan Bank of Boston (1994 NOW/DDA Services)

(Services not provided)

District 2.—Federal Home Loan Bank of New York (1994 NOW/DDA Services)

(Services not provided)

District 3.—Federal Home Loan Bank of Pittsburgh (1994 NOW/DDA Services)

Deposit Processing Service (DPS)

DPS Deposit Tickets $0.5300 per deposit
Printing of Deposit Tickets Pass-through

Deposit Items Processed for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	0.0345 per item (transit)

25,001–58,500	0.0339 per item (transit)
58,501–91,500	0.0334 per item (transit)
91,501–125,00	0.0328 per item (transit)
125,001–158,500	0.0323 per item (transit)
158,501–191,500	0.0317 per item (transit)
191,501–over	0.0312 per item (transit)
Deposit Items Encoded (West) for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0292 per item
25,001–58,500	0.0287 per item
58,501–91,500	0.0282 per item
91,501–125,000	0.0277 per item
125,001–158,500	0.0272 per item
158,501–191,500	0.0267 per item
191,501–over	0.0262 per item
Deposit Items Encoded (East) for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0313 per item
25,001–58,500	0.0308 per item
58,501–91,500	0.0303 per item
91,501–125,000	0.0298 per item
125,001–158,500	0.0293 per item
158,501–191,500	0.0288 per item
191,501–over	0.0283 per item
Deposit Items Returned	1.7500 per item
Deposit Items Photocopied	3.5000 per photocopy
DPS Photocopies–Subpoena	18.0000 per hour of processing time, plus 0.2000 per photocopy
Deposit Items Rejected	0.2300 per rejected item (applicable to pre-encoded deposits only)
DPS Transportation (West)	8.0000 per pickup
DPS Transportation (East)	8.2500 per pickup
Return Check Courier Service	115.5000 per month
Depository Account Services	
Mail Deposits	$5.0000 per deposit
"On-Us" Returns Deposited:	
Qualified Returns	0.4300 per item
Raw Returns	1.5000 per item
Bond Coupon Collection	5.5000 per envelope
Bond Coupon Returns	12.0000 per coupon
Bond Collection:	
Bearer	23.0000 per bond
Registered	29.0000 per bond
Deposit Transfer Vouchers	5.0000 per item
Request for Fax / Photocopy	3.0000 per document
Foreign Item Collection	Pass-through
Electronic Funds Transfers	
Incoming Wire Transfers	$6.0000 per transfer
Outgoing Wire Transfers	9.0000 per transfer
Foreign Wire Surcharge	30.0000 per transfer*
Expected Wires Not Received	Penalty Assessed**
ACH Transaction Settlement (CR)	0.2500 per transaction
ACH Transaction Settlement (DR)	0.2500 per transaction
ACH Origination	To Be Announced
ACH Returns/NOC's—Facsimile	1.7500 per transaction
ACH Returns/NOC's—Telephone	2.7500 per transaction
ACH/FRB Priced Service Charges	0.2500 per transaction

*Note: The amount of this surcharge will be added to the amount of the outgoing funds transfer to produce a single total debit to be charged to the customers account on the date of transfer.

**Note: Standard penalty is equivalent to the amount of the wire(s) times the daily IOD rate, divided by 360. If the wire not received causes the Bank to suffer any penalty, deficiency, or monetary loss, any and all related costs will also be assessed.

Federal Reserve Settlement	
FRB Statement Transaction (CR)	$0.5300 per transaction
FRB Statement Transaction (DR)	0.5300 per transaction
Reserve Requirement Pass-Thru	15.0000 per month (active)
Correspondent Transaction (DR)	0.5300 per transaction
Direct Send Settlement	132.0000 per month
FRB Inclearing Settlement	132.0000 per month
Demand Deposit Services	
Clearing Items Processed	$0.1300 per item

Clearing Items Fine Sorted (for return with Bank statements)	0.0630 per item
Reconcilement Copies—Manual	0.0790 per copy
Reconcilement Copies—MagTape	0.0480 per copy
Reconcilement Copies—Voided	0.0320 per copy
Check Photocopies—Mail	3.5000 per photocopy
Check Photocopies—Telephone / Fax	4.2500 per photocopy
Check Photocopies—Subpoena	0.5000 per photocopy
Stop Payment Orders	15.7500 per item
FRB Return Items	0.4300 per item
FRB Return Items Over $2,500	6.0000 per item
Collections & Forgeries	15.0000 per item
Imprinting of Standard Checks	0.0950 per item
Non-Standard Imprinting	Pass-through
Microfiche Copies	5.0000 per copy
Cut-Off Statements	10.0000 per statement
Paper Advice of Transactions (DTS)	1.0000 per statement

Proof Of Deposit (POD) Service

Provides for outsourcing of all over-the-counter MICR document processing.

Pricing is customer-specific, based upon individual service requirements; please call your Marketing representative at (800) 288–3400 for further information.

Coin & Currency Service: Western Service Area

Currency Orders	$0.3500 per $1,000*
Coin Orders	2.0000 per box
Currency Deposits	1.1500 per $1,000*
Coin Deposits	1.8000 per standard bag
Coin Deposits (Non-Standard)	2.5000 per non-standard bag
Coin Deposits (Unsorted)	8.0000 per mixed bag
Food Stamp Deposits	1.8000 per $1,000*
Coin Shipment Surcharge	0.2500 per excess bag**
C&C Transportation (Zone W1)	14.9500 per stop
C&C Transportation (Zone W2)	26.0000 per stop
C&C Transportation (Zone W3)	35.0000 per stop
C&C Transportation (Zone W4)	Negotiable***

Coin & Currency Service: Eastern Service Area

Currency Orders	$0.2500 per $1,000*
Coin Orders	2.6000 per box
Currency Deposits	1.1500 per $1,000*
Coin Deposits	1.8000 per standard bag
Coin Deposits (Non-Standard)	2.5000 per non-standard bag
Coin Deposits	(Unsorted) 8.0000 per mixed bag
Food Stamp Deposits	1.8000 per $1,000*
Coin Shipment Surcharge	0.2500 per excess bag**
C&C Transportation (Zone E1)	23.2500 per stop
C&C Transportation (Zone E2)	32.5000 per stop
C&C Transportation (Zone E3)	50.0000 per stop
C&C Transportation (Zone E4)	Negotiable***

* Note: Charges will be applied to each $1,000 ordered or deposited, and to any portion of a shipment not divisible by that standard unit.

**Note: A surcharge will apply to each container (box/bag) of coin in an order/delivery after the first 20 containers.

**Note: Reserved for remote locations: delivery charges will be negotiated with the courier service on an individual basis.

Check Processing (Inclearing)

Checks Processed for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0406 per item
25,001–58,500	0.0381 per item
58,501–91,500	0.0356 per item
91,501–125,000	0.0331 per item
125,001–158,500	0.0306 per item
158,501–191,500	0.0281 per item
191,501–350,000	0.0256 per item
350,001–500,000	0.0231 per item
500,001–over	0.0206 per item

Full Backroom Service (Item Processing Charges)

Non-Truncated Checks for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0531 per item
25,001–58,500	0.0516 per item
58,501–91,500	0.0501 per item
91,501–125,000	0.0486 per item
125,001–158,500	0.0471 per item

158,501–191,500	0.0456 per item
191,501–350,000	0.0441 per item
350,001–500,000	0.0416 per item
500,001–over	0.0391 per item
Truncated Checks for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0427 per item
25,001–58,500	0.0412 per item
58,501–91,500	0.0397 per item
91,501–125,000	0.0382 per item
125,001–158,500	0.0367 per item
158,501–191,500	0.0352 per item
191,501–350,000	0.0337 per item
350,001–500,000	0.0312 per item
500,001–over	0.0287 per item
Modified Backroom Service (Item Processing Charges)	
Non-Truncated Checks for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0428 per item
25,001–58,500	0.0413 per item
58,501–91,500	0.0398 per item
91,501–125,000	0.0383 per item
125,001–158,500	0.0368 per item
158,501–191,500	0.0353 per item
191,501–350,000	0.0338 per item
350,001–500,000	0.0313 per item
500,001–over	0.0288 per item
Truncated Checks for volumes of:	Pricing varies—tiered by monthly volume
1–25,000	$0.0323 per item
25,001–58,500	0.0308 per item
58,501–91,500	0.0293 per item
91,501–125,000	0.0278 per item
125,001–158,500	0.0263 per item
158,501–191,500	0.0248 per item
191,501–350,000	0.0233 per item
350,001–500,000	0.0208 per item
500,001–over	0.0183 per item
Check Processing (Associated Services)	
Over-The-Counter Items	$0.1700 per item
Mid-Cycle Statement (Purged)	0.5000 per item (Min $2.50)
Mid-Cycle Stmt. (Non-Purged)	2.5000 per statement
Special Cycle Sorting	0.0200 per item
Selective Statement Stuffing	0.0650 per statement
Additional Statement Inserts	0.0500 per statement (applicable to statements containing more than two inserts)
Check (NOW) Statement Processing:	
Statements using Small Envelopes	0.0550 per envelope
Statements using Custom Envelopes	0.0900 per envelope
Statements using Large Envelopes	0.5200 per envelope
Daily Report Postage	Pass-through
Statement Postage	Pass-through
Standard Return Calls	1.0500 per item
Automated Return Calls	0.2500 per item
FHLBLink Return Calls	0.8900 per item
Late Return Calls	2.1000 per item
FRB Return Items	0.4300 per item
FRB Return Items Over $2,500	6.0000 per item
Check Photocopies—Mail	3.5000 per photocopy
Check Photocopies—Telephone/Fax	4.2500 per photocopy
Check Photocopies—Subpoena	0.5000 per photocopy
Check Retrieval	1.5000 per item
MICRSort Option (Fixed Fee)	25.0000 per month
MICRSort Option (per item)	0.0300 per item
Check Reconcilement Service	(See Separate Section)
Collections & Forgeries	15.0000 per item
MCPJ Microfiche Service	0.0010 per item (Min. $15.00, Max. $50.00)
Microfiche Copies	5.0000 per copy
Microfilm Processing	5.0000 per roll
Microfilm Duplication	10.5000 per item

Transportation	Pass-through
Statement Savings Processing	
Statements using Small Envelopes	$0.0850 per envelope
Statements using Custom Envelopes	0.1200 per item
Statements using Large Envelopes	0.5500 per item
Check Reconcilement Service	
Reconcilement Items Processed	$0.2250 per item
Stop Payment Orders	10.0000 per item
Microfiche Copies	3.0000 per copy
Account Reconcilement	15.0000 per account

*Note: Individual service charges are detailed in a monthly statement provided specifically for this service. The net of these charges is posted to Check Processing and appears as a single line item on the monthly billing statement.

Account Maintenance	
Demand Deposit Accounts	$21.0000 per month, per account
Audit Confirmation	10.0000 per request, per account

Account Overdraft Penalty

Greater of $75.00 and interest on the amount of the overdraft (Rate used for calculation equal to the highest posted advance rate plus 3.0%)

Attention: Customers Receiving Transportation Charges Under Any Service

Rates and charges relative to transportation vary depending on the location of the office(s) serviced. Details regarding the pricing for the transportation to/from specific institutions or individual locations will be provided upon their subscription to that service. Surcharges may be applicable and will be applied to the customer as effective and without prior notice.

District 4.—Federal Home Loan Bank of Atlanta (1994 NOW/DDA Services)

Demand Deposit Service Fees

Service	Fee Per Item
Maintenance Fee (per Daily Investment Account):	
Member	$10.00/month
Non-Member	20.00/month
(Collected funds are automatically invested to earn a competitive rate.)	
Checks Paid:	
Monthly Statement: Items Finesorted into Check Number Order	.12
Monthly Statement: Items Truncated	.08
Statements:	
One Per Account Per Month	No charge
Additional / Interim Statements	2.50
Photocopies:	2.50
(Demand items / statements / advices)	
Stop Payment—DIAL	15.00
Non-DIAL	18.00
Range Stop Payments—per item returned	15.00
Without Entry Items	4.50
Deposit Transfer Checks (DTC)	4.00
Wire Transfers:	
Incoming	3.50
Outgoing	5.00
Phone Advice (per wire)	2.50
Interbank Transfer (per debit and credit)	2.50
Facsimile Advice (per wire)	2.50
Account Reconciliation:	
Full Reconciliation, Magnetic Tape ($50.00/month plus)	$.0325/issue [1]
Full Reconciliation, Paper Issue ($50.00/month plus):	
Encoded Amounts	.0475/issue [1]
Unencoded Amounts	.0700/issue
Partial Reconciliation ($25.00/month plus)	.03
Range Reconciliation ($25.00/month plus)	.03
DDA Paid Items Tape ($15.00/tape plus)	.03
DDA Paid Items Transmission:	
Daily ($100.00/month plus)	.03
Weekly ($15.00/week plus)	.03
Alternative Demand Disbursement Service	Negotiated
Free checks, stop payments, photocopies and supplies Earnings and/or pricing based on average dollar amount of issued items and number of days outstanding	
Deposit Processing Service:	
Deposits	.25
Unencoded Checks	.08
Encoded Checks	.05
Foreign Checks	10.00

Service	Fee Per Item
Bond Coupons (per envelope)	10.00
Deposited Checks Returned	3.00
Automated Clearing House (ACH) Services:	
Origination ($30.00 per tape plus)	.07
Receiving ($100.00 settlement per month plus)	.10
On-us Items	.05
ACH Return Items/Notification of Changes	1.50
Settlement Only Services:	
Automated Clearing House (ACH)	100.00/month
Currency and Coin	100.00/month
Deposit of Items at Fed	100.00/month
Checks/NOW	100.00/month
Multiple Settlement Services Discount:	
1 Service	100.00
2 Services (10%)	180.00
3 Services (15%)	255.00
4 Services (20%)	320.00
Other Settlement Services:	
Treasury, Tax and Loan (TT&L)	$3.50/entry
Savings Bonds	1.00/entry
Non-cash Collections	3.50/entry
Currency and Coin	3.50/entry
Audit Confirmations (per request)	15.00
Custodial Mortgage Account:	
DIAL Transfers; 1–50 accounts	10.00/account [2]
DIAL Transfers; over 50 accounts	5.00/account [2]
No DIAL Transfers	20.00/account [2]
Automated Wire Service	9.00/wire

Notes for Demand Deposit Services:
Overdraft charge calculated at 5% over current short-term variable rate; minimum charge of $75.
Special research requests of 12 or more items will be charged at $30 per man-hour plus $1 per item.
Microfilm can be provided at a cost of $35 per roll plus one cent per item.
Magnetic tapes not returned to Bank within 90 days will be billed at $12 per tape.
[1] Fifty dollars for first reconciled account; $25 for each additional account.
[2] No monthly charge on check disbursement accounts; regular paid check fees apply.

Securities Safekeeping Fees

Billing category	Fed (Book Entry)	Non-Fed (Book Entry)
Purchases—Versus Payment	$12.00	$40.00
Purchases—Free	15.00	48.00
Sales—Versus Payment	12.00	40.00
Sales—Free	15.00	48.00
Maturities	10.00	10.00
Interest Payments	4.00	6.00
Mortgage-backed Securities (Principal & Interest)	5.00	6.00
Sales Rekey Fee	5.00	.....
Account Maintenance (monthly charge per issue based on average held)	3.00	5.00
Pledge/Release Transactions	25.00	25.00

Check Processing Fees

Service	Items per month	Fee per item
Daily Delivery	1–25,000	$.035
	Over 25,000	.030
Bulk Filing	1–50,000	.042
	50,001–100,000	.036
	Over 100,000	.027
Statement Matching	1–50,000	.067
	50,001–100,000	.061
	Over 100,000	.052
Truncation	1–150,000	.020
	Over 150,000	.015
Special Statements (IRA, Savings, etc.)		.05/statement [1]
Truncated Statements		.05/statement [1]
Statement Inserts		.02/insert
Statement Inserts (Special Instructions)		.05/insert
No Mail/Special Pull Statements		.10/statement
Special Statement Sort		25.00/hour [2]
Special Services		
Statement Rendering (In-house Processors):		
Account Number Finesort		.020

Service	Items per month	Fee per item
Cyclesort		.015
Statement Rendering		.25/statement
Return Items—DIAL	1–50	3.00
(total monthly volume)	51–250	2.75
	Over 250	2.50
Non-DIAL		3.40
Large-Dollar Return Items		4.50
Delayed Return Items		4.50
Facsimile:		
Large-Dollar		1.50
On Request		2.00
Account Number Rejects		2.50
Over-the-Counter Items		.035
Photocopies		2.00
Without Entry Items		4.50
Finesort (Check Number) Special Accounts:		
Six accounts or less ($25.00/month plus)		.020
Over 6 accounts ($50.00/month plus)		.020
Prime Rejects ($0.25 per item over 2% reject rate)		.25
Exception Statements:		
Level I		No charge
Level II		.50/statement
Special Handling:		
(if required by 2 or more account number formats resulting from mergers, conversions, branch acquisitions, etc.; charging will begin 3 months after effective date if still required).		500.00/month
Custom Coding:		
(for mergers, branch acquisitions and sales, etc.)		100.00/hour
Microfilm		35.00/roll plus .01/item
Special Research Requests		3.00/item
Pull Original Truncation Items from File		30.00/hour plus 1.00/item
Research Request for 12 or More Items		30.00/hour plus 1.00/item
Contract Options		
Term Contract Discounts		1 year—10%
		2 years—12%
		3 years—15%
Short Term Processing (less than 1 year)		15% premium added to monthly fees

Notes for Check Processing Fees:
Minimum monthly billing fee is $200. Prices for all options include data transmission.
Delivery expense and postage are charged at cost.
Per item prices for Daily Delivery, Bulk Filing, Statement Matching and Truncation services are stand-alone charges, not incremental fees.
[1] Charge of $.15 per statement for all statements in cycle if truncated/special statements are commingled with regular statements.
[2] Applicable if manual sorting of statements into account number order is required prior to matching.

Disaster Recovery Service Fees

The Bank offers a back-up operational facility to financial institutions with in-house item processing systems in the event of a disaster. Within 24 hours following notification of an emergency situation, the Bank can accommodate your processing needs. Items processed are charged based on standard fees. One annual test provided at no charge; additional testing will be charged at $250 per test.

Subscription fee (one-time charge) based on monthly item volume	Service activation (per disaster) $2,000 plus daily usage fee*	Monthly maintenance fee		
		1 Yr. contract	2 Yr. contract	3 Yr. contract
$500 1–50,000	2nd week $500	$300	$250	$200
750 50,0001–100,000	3rd week 750.			
1,000 Over 100,000	4th week 1,000.			
	5th week 1,250.			
	6th week 1,500.			

*Daily Usage Fee applicable beginning with 2nd week of processing; six-week maximum.

On-Line and Manual Information Reporting Fees

Service	Fee
DIAL (Direct Information Access Link)	
Up to two hours connection time per month per customer for general inquiries and transactions	No charge
Additional Per Minute Charge	$.45
Manual Balance and Information Reporting Per Call	10.00

CRA Geographics

This service uses maps, overlays, and statistical analysis to assist customers in delineating their community, defining its credit needs, and marketing their services to meet those needs.

Number of census tracts	Price per census tract*
Basic Report (HMDA data analysis)	
1–60	$19.50 (minimum of $900)
61–150	16.00
151–300	11.50
301–600	7.25
More than 600	Negotiable
Rural Reports	$500 per county
Enhancements (e.g., commercial loan analysis)	15 percent of basic report price

*Discounts for Federal Home Loan Bank members: 10% for 2 years; 20% for 3 years.

Document Custody Service Fees

Warehouse Short-Term Custody	
Review and Certification Fee	$3.50/loan
Release Fee	2.00/loan
Long-Term Custody	
Transfer Fee (from short-term custody)	$1.00/loan
Release Fee	2.00/loan
Monthly Safekeeping Fee	.25/loan
Non-Warehouse Certification Fees:	
FHLMC Certification	$ 2.50/loan
FNMA Certification	3.00/loan
GNMA Certification—Initial	2.50/loan
GNMA Certification—Final	2.00/loan
Bulk Transfer Fee	Negotiable

Interest Rate Risk Service

This asset/liability management service, which helps members measure the sensitivity of market value of portfolio equity and net interest income to interest rate changes, includes quarterly Sensitivity Reports, Peer Group Reports, and Strategies Reports, plus telephone access to the Bank's staff of interest rate risk experts.

Fees depend on institution's tangible asset size:	
Less than $50 million	$300/quarter
$50 million to $250 million	400/quarter
Greater than $250 million	500/quarter
Interest Sensitive Gap Report based upon subscriber-provided Maturity and Rate (MR) information. Produced on request for Interest Rate Risk Service subscribers..	100/quarter

Comparative Performance Report

This service gives members a clear picture of how their performance compares with that of their industry peers and competitors. Fee includes four quarterly reports and telephone consultation on tables in reports.

Subscription fee: $350/year

District 5.—Federal Home Loan Bank of Cincinnati (1994 NOW/DDA Services)

Demand Deposit Account

Paid Items	$0.14
Advice Reconciliation	0.06
Magnetic Tape Reconciliation	0.06
Stop Payments	10.00
Wire Transfers—In	2.00
Wire Transfers—In with Telephone Confirmation	4.00
Wire Transfers—Out	5.00
Charges	0.15
Credits	0.15
Photocopies	1.00
Fine Sorting	0.01
Large Dollar Return Notification	2.00
Check and Money Order Truncation	No Charge
ACH Return and Notification of Change	1.00
Facsimile Transmission of ACH Detail and Advices	1.00 per page ($10.00 monthly minimum) 10.00/mo./acct.
Custodial Account Maintenance	
Settlement Agent with Federal Reserve:	
ACH	$100.00/active month
Treasury Tax and Loan	100.00/active month
Bond Activity	100.00/active month
Currency and Coin	100.00/active month

Security Purchases	100.00/active month
Check Deposit Activity	300.00/active month
Check Deposit Returns Only	50.00/active month
NOW Activity	300.00/active month
Credit Card Activity	100.00/active month
Contemporaneous Reserve	50.00/active month

Inclearings/Now Accounts

Contractural Fees

Items/month	Daily return-sorted
Basic Service	
a. 1– 50,000	$.0320
b. 50,001–100,000	.0200
c. 100,001–200,000	.0100
d. 200,001–400,000	.0085
e. 400,001 and over*	.0070

*Subject to regional operations considerations.

Truncation	Without statement stuffing	Statement stuffing
a. $.0340	$.0370	$.0530
b. .0240	.0270	.0510
c. .0140	.0180	.0470
d. .0090	.0110	.0400
e. .0070	.0090	.0250

Special Services

1. Check Retrieval or Inspection of Original Item	$1.50
2. Photocopy	1.00
3. Advertising Insertion	.02 per item
4. Posted—On Us.	
a. With FHLB encoding	.03 per item
b. Without FHLB encoding	.01 per item
5. Statement Stuffing Service for Truncated Statement	.01 per statement
6. Additional Sorting Upon Request.	
a. Fine Sorting	.005 per item
b. Cycle Sorting	.005 per item
7. Large Dollar Return Notification	2.00 per item
8. Return Items Processed by Bank.	
a. First 1,000	1.75
b. All Others	0.75
c. Qualification Requirements of EFAA	No Charge
9. Return Items Processed by NOW User Qualification Requirements of EFAA	.50 per item
10. Return Item Clearing Fee	FRB Pass-Thru
11. Special Processing Requests	Negotiable
12. Discount for Check Deposit Users	5% off Basic Service Fees
13. Discount for Credit and disbursement Users	5% off Basic Service Fees

Check Deposits

Nashville Operations Center

Nashville City/RCPC	.02
U.S. Treasury Checks/Savings Bonds	.02
Louisville City/RCPC	.025
Memphis City/RCPC	.0475
Other FRB	.0575

Cleveland Operations Center

Cleveland City/RCPC	.02
U.S. Treasury Checks/Savings Bonds	.02
Columbus City/RCPC	.03
Other FRB	.0575

Cincinnati Operations Center

Cincinnati City/RCPC	.02
U.S. Treasury Checks/Savings Bonds	.02
Louisville City/RCPC	.02
Columbus City/RCPC	.025
Other FRB	.0575

Volume Discount

Volume discounts on all items when total deposited items fall within below listed categories:

Discount	Monthly volume range
10%	100,001–200,000
20%	200,001 and over

Additional Services

1. Encoding by FHLB Operations Center	
*Cincinnati & Cleveland	$.0225 per item
*Nashville	.0250 per item
2. Photocopy	1.00 per item
3. Dishonored Item Returned by Bank	.25 per item
4. Large Dollar Return Notification	2.00
5. Non-Cash Collection Minimum Service Fees, In Addition to Collecting Bank Fees	
a. Non-Cash Item	5.00 per item
b. Security Coupon Collection	5.00 per envelope
c. Coupon Return Item	10.00 per item
d. Foreign Item	55.00 per item
e. Food Stamp Cash Letter	1.00 per cash letter
f. Municipal Bonds	5.00 per item
g. Government Coupons	No Charge
6. Depository Transfer Checks (DTC)	5.00 per item
7. Cash Letter Fee	
a. Less than 100,000 items per month	1.00 per cash letter
b. 100,000 or more items per month	.25 per cash letter
8. Funds Availability	
a. See regional availability schedules	
b. No deduction for fractional availability or reserve requirements	

Northern Ohio Institutions

Preparation Charge

$12.00 per currency order
$2.00 per box wrapped coin

Kentucky and Southern Ohio Institutions

Preparation Charge

$10.50 per currency order
2.00 per box wrapped coin

Ohio and Kentucky Institutions

Pick-up of Currency and Coin

$5.00 per strapped currency deposit
$6.00 per mixed or unfilled straps of currency
$2.50 per bag of loose coin (same denomination)
$5.00 per bag of loose coin (mixed denomination)
$5.00 per bag of wrapped coin (same denomination)
$8.00 per bag of wrapped coin (mixed denomination)

Note: Preparation charge for late notification of order requiring special pick-up or registered mail delivery will be increased in the amount of 10%.

Memphis Federal Reserve Territory Institutions

Preparation Charge

$4.00 per currency and/or loose coin order

Pick-up of Currency and Coin

$2.00 per occurrence

Nashville Federal Reserve Territory Institutions

Preparation Charge

$4.00 per currency and/or loose coin order
$.0375 per roll—wrapped coin

Pick-up of Currency and Coin

$2.00 per occurrence

Transportation Charge

Please contact the Bank for the specific fee relative to your area.

Lockbox

OCR Standard Per Item Fee	.25

Includes:
Courier Pick-up at Lockbox
Microfilming of Check and Document
Transmission to Service Bureau
Management Reports
Check Deposit Fee (Encoding and Clearing)
Certain Exception Handling

Additional Services

Lockbox Rental	Actual Cost
Photocopies	1.00
Hot File Update (Add or Delete)	.50 per update
Hot File Update (Magnetic Tape)	10.00 per tape
Courier/Postage	Actual—Outgoing
Dishonored Item Returned by Bank	.25
Large Dollar Return Notification	2.00 per item
Reject or Unmatched Item	.15
Other Desired Services	Cost Basis

1994 Correspondent Services Price Schedules.

Alternative Disbursement Service

	Money orders and dividend checks	Official checks
Settlement Options	1–Day 2–Day. Tuesday Weekly.	1–Day
Processing Fees	Based on settlement option and check volume.	
Earnings Incentive*	Not Applicable	Based on settlement option and float balances

*The earning incentive is a monthly interest payment to the ADS customer based on its actual check activity. The earnings incentive interest rate is indexed to the 91–Day Treasury Bill rate.

District 6.—Federal Home Loan Bank of Indianapolis (1994 NOW/DDA Services)

Cash Management Services

Transaction Charges

Paid Check charge	$0.16 per item
Paper Advice	.065 per item
Tape Advice	.040 per item
Stop Payments	6.00 per stop
Photo copies	2.50 per copy
Fine Sort Numeric Sequence	.025 per item
Collection/Return/Exception	5.00
Daily Statement	2.00
Maintenance	30.00 per month
Debit Entries	No charge
Credit Entries	No charge
Checks (Administration Fee)	.02 per item
Special Cutoff	No charge
Infoline	50.00 per month
VRU (Voice Response)	1.00 per inquiry

Collected Balances Will Earn Interest at the CMS daily posted rate.

Now Account Services

Transaction Charges

Monthly volume	Safekeeping		Turnaround (daily or cycled)		Complete	
	Per Item	Cost	Per Item	Cost	Per Item	Cost
0–5,000	$.048	$240	$.056	$280	$.080	$400
5–10,000	.040	200	.051	255	.078	390
10–15,000	.039	195	.047	235	.076	380
15–25,000	.034	340	.040	400	.075	750
25–50,000	.033	825	.036	900	.073	1,825
50–75,000	.029	725	.033	825	.069	1,725
75–100,000	.026	650	.030	750	.068	1,700
100 and up	.024		.027		.067	

Ancillary Service Fees

Large Dollar Signature Verification	$0.50
Over-the-Counters and Microfilm	0.035
Return Items	2.15

Photocopies* and Facsimiles	2.50
Certified Checks	1.00
Invalid Accounts	.50
Invalid Returns	0.50
Late Returns 0.50.	
No MICR/OTC	0.50
Settlement Only	100.00 per month
+ Journal Entries	3.00 each
Encoding Errors	2.75
Fine Sort Numeric Sequence	0.02
Access to Infoline	50.00 per month
High Dollar Return Notification	No charge
Debit Entries	No charge
Credit Entries	No charge
Standard Stmt. Stuffers (up to 2)**	No charge

Minimum processing fee of $40.00 per month will apply for total NOW services.

Also included in the above fees—at no additional cost are Federal Reserve fees, incoming courier fees, software changes, disaster recovery, envelope discount and inventory.

*Photocopy request of 50 or more are charged at an hourly rate of 15.00.

**Each additional (over 2) will be charged at $.02 per statement.

	Fee
Wire Transfer Services:	
In (Per transfer) Domestic	$4.00
Out (Per transfer) Domestic	7.50
International Wires	25.00
Depository Transfer Checks:	
Per Check	$2.00
Treasury Tax and Loan Settlement Service:	
Per Transaction	$2.00
Charge Card Transaction:	
Per Transaction	$1.50
Automated Clearing House (ACH) Service:	
Tape Transmission	$8.50
or Origination	.045 per item
MACHA, INDEX	Actual Federal Reserve Changes
ACH Entries Clearing through our R&T Number	$.25 per item
Settlement Only	$65.00 per month
ACH Returns/NOC	$2.50 per item
Coin and Currency:	
Deliveries–Indiana and Michigan	
Prices based on delivery location, excess bag fee (courier) and order preparation.	
Cost will vary per institution.	
Returns	$12.50
Non-Transit Customer	$10.00
Orders (Member uses own courier)	$15.00
Special Order*	$15.00

*Any order placed after normal order has been received and processed by Federal Home Loan Bank.

Proof and Transit Processing:	
Pre-encoded Items:	
City	$0.04 per item
RCPC	0.05 per item
Other Districts	0.085 per item
Unencoded	0.165 per item
Food Stamp	0.14 per item
Photocopies*	2.50 per copy
Adjustments on pre-encoded work	2.75 per error
E Z Clear	0.14 per item
Coupons	8.25 per envelope
Collections	6.00 per item
Cash Letter	2.00 per cash letter
Deposit Adjustments	0.30 per adjustment
Debit Entries	No charge
Credit Entries	No charge
Microfilming	No charge
Mortgage Remittance (Basic Service)	0.35
Settlement Only	100.00 per month
+ Journal Entries	3.00 each
Third Party Fedline	.50 each
Courier** Marion County	8.25 per location, per day, per pickup
Other	Prices vary per location

*Multiple Photocopies (more than 50 per request) 15.00 hour

**Includes branch work transfer and correspondence to and from Federal Home Loan Bank.

All Fees Subject to Change

District 7.—Federal Home Loan Bank of Chicago (1994 NOW/DDA Services)

(Services Not Provided)

District 8.—Federal Home Loan Bank of Des Moines (1994 NOW/DDA Services)

Demand Account Analysis Fee Schedule

Account Maintenance	$12.00
Account Reconciliation	35.00
Daily Statements	
Via SMARTS	No Charge
Paper Daily Advice (Per day)	2.50
Balance Reporting (Phone—manual)	75.00
Drafts Paid	
Truncated	0.045
Non-Truncated	0.055
Stop Payments	7.00
Ledger Entries—Credits	0.35
Ledger Entries—Debits	0.15
Bank Wires In	3.00
Bank Wires Out.	
Without Phone Advice	4.00
With Phone Advice	6.00
ACH Settlement Charges	1.00
Special Cut-Off Statements	10.00
Account Reconciliation Tape Issues	0.015
Issue Encoding	0.0225
Pre-Encoded Issues	0.015
Collections	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Foreign	25.00 (Plus Actual)
Miscellaneous	Actual

ACH Fee Schedule

FRB/ACH Pass Thru	Actual
FRB/ACH Settlement	$1.00
Origination Service	
Set Up New Account (One Time Charge)	50.00
Formatted Tape	10.00
Reformat Tape	10.00
Per Item On Tape*	.05
Paper Input	
Monthly Maintenance	20.00
Data Entry Per Item*	.25
Day Cycle Deposit Charge	
Local DB/CR	.0550
Out-of-State DB/CR	.0550
Prenotes	.0550
Addendas	.0550
Night Cycle Deposit Charge Premium	
Local DB/CR	.07
Out-of-State DB/CR	.07
Prenotes	.07
Addendas	.07
Warehousing Per Item	.0050
Originator Volume Discount-Monthly	
5,000 to 20,000	−.005
20,000–Over	−.01
Return Items	1.50
Transportation Charges	Negotiable
Special Service/Handling	Negotiable
Telephone Advice	
Per Call	2.00
Miscellaneous	Actual
Minimum Monthly Billing	50.00

*Plus ACH Origination Fee

Des Moines Regional Center

Deposit Processing Fee Schedule

Deposited Item Charges

Description	Below 50,000	50,000–100,000	100,000–300,000	Over 300,000
Local	.02	.015	.014	.011
RCPC	.030	.025	.022	.020
RCPC-Premium	.045	.045	.045	.045
Transit	.0525	.051	.05	.049

Other Fees

Encoding	$.0225
Return Items	
Return Items	.75/item
Special Handling	
Subtotal by Office	1.50/office total
Individual Entries	.50/entry
Telephone Notification less than $2,500	.60/item
Large Dollar Notification (Reg. J.)	3.00/item
Collection/Settlement Services	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25/item
Foreign	25.00 (Plus Actual)
Miscellaneous	Actual
Federal Reserve Settlement Entries	1.00/entry
Food Coupons	.02
Non-Processable Items	.15 item
Cash Services	
Currency/Coin Orders	2.00/order
Special Orders	Standard order fee plus actual charges
Foreign Currency Orders	2.50/order
Coin—per roll	.0385/roll
Currency/Coin Deposits	
Standard Packaging	.50
Non-Standard Packaging	10.00
Foreign Currency Deposits	5.00/deposit
Currency Per Strap	.25
Delivery Charge (includes return delivery to FRB Chicago)	42.61/stop
Balance/Availability Reporting	30.00/month
Endpoint Analysis	20.00/day
Photocopies	2.75/copy
Research	20.00/hour

Kansas City Regional Center

Deposit Processing Fee Schedule

Deposited Item Charges

Description	Below 25,000	25,000–50,000	50,000–250,000	Over 250,000
Local	0.0170	0.0160	0.0150	0.0075–0.0140
Regional	0.0280	0.0250	0.0220	0.0150–0.021
Country	0.0280	0.0250	0.0220	0.0150–0.021
Transit	0.0540	0.0530	0.0510	0.0435–0.050

Other Services

Encoding	
Below 25,000	$0.0300
25,000–50,000	0.0250
50,000–250,000	0.0225
Over 250,000	0.0200
Return Items	
0–999	0.75
1,000 & Over	0.65
Special Handling	
Subtotal by Office	1.50/office total
Selected Account Chargeback	.025/item

Individual Entries	.50/entry
Telephone Notification less than $2,500	.60/item
Large Dollar Notification (Reg. J.)	3.00/item
Collection/Settlement Services	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25/item
Foreign	25.00 (Plus Actual)
Miscellaneous	Actual
Federal Reserve Settlement Entries	1.00/entry
Food Coupons	.02
Non-Processable Items	0.15
Cash Services	
Currency/Coin Orders	3.00/order
Special Orders	3.00/order, actual charges
Foreign Currency Orders	5.50/order
Currency/Coin Deposits	
Standard Packaging	.50/deposit
Non-Standard Packaging	10.00/deposit
Foreign Currency Deposits	5.00/deposit
Balance/Availability Reporting	30.00/month
Endpoint Analysis	30.00/each, over two per year
Photocopies/Microfilm Copies	2.75/copy
Audit	2.75/copy or 20.00/hour + .50 copy, whichever is less
Research	20.00/hour

Minneapolis Regional Center

Deposit Processing Fee Schedule

Deposited Item Charges

Description	Below 25,000	25,000–100,000	100,000–250,000	Over 250,000
Local	.02	.016	.014	.013
RCPC	.032	.025	.018	.016
RCPC-Premium	.045	.04	.035	.03
Country	.04	.038	.036	.035
Transit	.063	.058	.054	.052

Other Services

Encoding	
1 to 250,000 items	$.0250
Over 250,000 items	.0225
Return Items	
Return Items	.75/item
Special Handling	
Subtotal by Office	1.50/office total
Individual Entries	.50/entry
Telephone Notification less than $2,500	.60/item
Large Dollar Notification (Reg. J.)	3.00/item
Collection/Settlement Services	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25/item
Foreign	25.00 (Plus Actual)
Miscellaneous	Actual
Federal Reserve Settlement Entries	1.00/entry
Food Coupons	.04
Non-Processable Items	.15/item
Cash Services	
Currency/Coin Orders	2.00/order
Special Orders	Standard order fee plus actual charges
Foreign Currency Orders	2.50/order
Currency/Coin Deposits	2.00/order
Standard Packaging	.50
Non-Standard Packaging	10.00
Foreign Currency Deposits	5.00/deposit

Balance/Availability Reporting	30.00/month
Endpoint Analysis	20.00/day
Photocopies	2.75/copy
Research	20.00/hour

St. Louis Regional Center

Deposit Processing Fee Schedule

Deposit Item Charges

Description	Below 25,000	25,000–50,000	50,000–100,000	100,000–200,000	Over 200,000
Local	.024	.022	.020	.018	.017
RCPC	.028	.025	.023	.021	.018
Country	.028	.025	.023	.021	.020
Transit	.058	.055	.053	.051	.050
Package Sort					
Local	.021	.018	.017	.015	.011
RCPC	.025	.022	.020	.018	.017
Country	.025	.022	.020	.019	.018
Transit	.055	.052	.050	.048	.047

Note: Package Sort prices are available to customers who present deposits separated by item type.

Other Services

Encoding	$.025
Return Items	
Return Items	.75/item
Special Handling	
Subtotal by Office	1.50/office total
Individual Entries	.50/entry
Telephone Notification less than $2,500	.60/item
Large Dollar Notification (Reg. J.)	3.00/item
Collection/Settlement Services	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25/item
Foreign	25.00 (Plus Actual)
Miscellaneous	Actual
Federal Reserve Settlement Entries	1.00/entry
Food Coupons	.02
Non-Processable Items	.15/item
Cash Services	
Currency/Coin Orders	4.00/order
Special Orders	Standard order fee plus actual charges
Currency/Coin Deposits	
Standard Packaging	.50
Non-Standard Packaging	2.00
Balance/Availability Reporting	30.00/month
Endpoint Analysis	20.00/day
Photocopies	2.75/copy
Research	20.00/hour

Des Moines Regional Center

Inclearing Processing Fee Schedule

Monthly capture volume	Basic fee (capture)	Daily sort [1 2]	Cycle/monthly sort [2]
1–25,000	.020	.017	.020
25,001–50,000	.016	.013	.016
50,001–75,000	.014	.011	.014
75,001–175,000	.012	.009	.012
175,001–400,000	.010	.007	.010
400,001–750,000	.009	.006	.009
750,001–Over	.007	.004	.007

Reject Reentry .04/item
Posting File .0005/item

Return Items

Volume levels	Basic service [3]	Telephone request [3]	Forward collection only [4]	
			Unqualified	Qualified [5]
1–500	$2.65	$3.50	$.60	$.25
501–750	2.10	NA	.60	.25
751–1,000	1.85	NA	.60	.25
1,001–3,000	1.15	NA	.60	.25
3,001–Over	.75	NA	.55	.25

Regulation J Notification 3.00/item

[1] Surcharge for same-day return: 15%.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification required under Regulations CC and J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

Other Services

Support Services	
Certified Checks	.50/item
Facsimile Transmission	1.50/transmission
Microfiche Monthly Reports	25.00/month
Microfilm of Checks Captured	.01/item
Original Item Return	2.75/item
Research	20.00/hour
Stop Payments	5.00/stop
Telephone Check Inquiry	1.00/inquiry
Signature Verification	.35/item
Counter Items	
With MICR Encoding	.04/item
Without MICR Encoding	.10/item
Photocopies/Microfilm Copies	2.75/item
Audit	2.75/item or 20.00/hour + .50/copy, whichever is less
Settlement	
Daily Reporting	25.00/month
Settlement Only (Inclearings or returns)	100.00/month
Third Party Settlement	350.00/month
Special Sorting Options	
Account Separators	.003/item ($175.00 minimum)
Truncated Items Returned Unsorted	.002/item
Truncated Items Returned Sorted	.012/item ($250.00 minimum)
Sequence Number Order	.005/item
Other Miscellaneous Fine Sorting	.005/item

Special Services

Backup Service	
Set-Up Charge	500.00–1,500.00 one time
Monthly Maintenance	Negotiable plus actual monthly usage
File Maintenance	
Mergers/Acquisitions	500.00/each
Multiple R/T Numbers	50.00/number/month
Parameter File Maintenance	25.00/change
Multiple Sorter Pockets	300.00/pocket/month
Data Servicer Conversion	500.00/conversion
Minimum Monthly Charge (Excluding Actual Charges)	250.00

Kansas City Regional Center

Inclearing Processing Fee Schedule

Monthly capture volume	Basic fee (capture)	Daily sort [1 2]	Cycle/monthly sort [2]
1–50,000	.016	.013	.016
50,001–100,000	.014	.011	.014
100,001–175,000	.012	.009	.012
175,001–400,000	.010	.007	.010
400,001–750,000	.009	.006	.009
750,001–Over	.007	.004	.007

Reject Reentry .04/item
Posting File .0005/item

Return Items

Volume levels	Basic service [3]	Telephone request [3]	Forward collection only [4]	
			Unqualified	Qualified [5]
1–750	$1.60–2.65	$3.50	$.75	$.27
751–2,500	0.95–1.85	NA	.70	.27
2,501–Over	0.65–1.55	NA	.65	.23
Regulation J Notification 3.00/item				

[1] Surcharge for same-day daily return: 15%
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification required under Regulations CC and J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

Other Services

Support Services	
Certified Checks	.50/item
Facsimile Transmission	1.50/transmission
Microfiche Monthly Reports	25.00/month
Microfilm of Checks Captured	.01/item
Original Item Return	2.75/item
Research	20.00/hour
Stop Payments	5.00/stop
Telephone Check Inquiry	1.00/inquiry
Signature Verification	.35/item
Counter Items	
With MICR Encoding	.04/item
Without MICR Encoding	.10/item
Photocopies/Microfilm Copies	2.75/item
Audit	2.75/item or 20.00/hour + .50/copy, whichever is less
Settlement	
Daily Reporting	25.00/month
Settlement Only (Inclearings or Returns)	100.00/month
Third Party Settlement	350.00/month
Special Sorting Options	
Account Separators	.003/item ($175.00 minimum)
Truncated Items Returned Unsorted	.002/item
Truncated Items Returned Sorted	.012/item ($250.00 minimum)
Sequence Number Order	.005/item
Other Miscellaneous Fine Sorting	.005/item

Special Services

Backup Service	
Set-Up Charge	500.00–1,500.00 one time
Monthly Maintenance	Negotiable plus actual monthly usage
File Maintenance	
Mergers/Acquisitions	500.00/each
Multiple R/T Numbers	50.00/number/month
Parameter File Maintenance	25.00/change
Multiple Sorter Pockets	300.00/pocket/month
Data Servicer Conversion	500.00/conversion
Minimum Monthly Charge (Excluding Actual Charges)	250.00

Minneapolis Regional Center

Inclearing Processing Fee Schedule

Monthly capture volume	Basic fee (capture)	Daily sort [1 2]	Cycle/monthly sort [1 2]
1–25,000	.020	.017	.020
25,001–50,000	.016	.013	.016
50,001–75,000	.014	.011	.014
75,001–175,000	.012	.009	.012
175,001–400,000	.010	.007	.010
400,001–750,000	.009	.006	.009
750,001–Over	.007	.004	.007
Reject Reentry .04/item			
Posting File .0005/item			

Return Items

Volume levels	Basic service [3]	Telephone forward collection only [4]			Premium
		Request [3]	Unqualified	Qualified [5]	
1–2,000	$1.65–2.65	$3.50	$.70	$.28	$.34
2,001–4,000	1.15–1.90	NA	.70	.28	.34
4,001–Over	.75–1.65	NA	.65	.28	.34

Regulation J Notification 3.00/item

[1] Surcharge for same-day return: 15%
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes large dolllar notification required under Regulation CC an J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

Other Services

Support Services	
Certified Checks	.50/item
Facsimile Transmission	1.50/transmission
Microfiche Monthly Reports	25.00/month
Microfilm of Checks Captured	.01/item
Original Item Return	2.75/item
Research	20.00/hour
Stop Payments	5.00/stop
Telephone Check Inquiry	1.00/inquiry
Signature Verification	.35/item
Counter Items	
With MICR Encoding	.04/item
Without MICR Encoding	.10/item
Photocopies/Microfilm Copies	2.75/item
Audit	2.75/item or 20.00/hour + .50/copy, whichever is less
Settlement	
Daily Reporting	25.00/month
Settlement Only (Inclearings or Returns)	100.00/month
Third Party Settlement	350.00/month
Special Sorting Options	
Account Separators	.003/item ($175.00 minimum)
Truncated Items Returned Unsorted	.002/item
Truncated Items Returned Sorted	.012/item ($250.00 minimum)
Sequence Number Order	.005/item
Other Miscellaneous Fine Sorting	.005/item

Special Services

Backup Service.	
Set-Up Charge	500.00–1,500.00 one time
Monthly Maintenance	Negotiable plus actual monthly usage
File Maintenance	
Mergers/Acquisitions	500.00/each
Multiple R/T Numbers	50.00/number/month
Parameter File Maintenance	25.00/change
Multiple Sorter Pockets	300.00/pocket/month
Data Servicer Conversion	500.00/conversion
Minimum Monthly Charge (Excluding Actual Charges)	250.00

St. Louis Regional Center

Inclearing Processing Fee Schedule

Monthly capture volume	Basic fee (capture)	Daily sort [1 2]	Cycle/monthly sort [2]
1–25,000	.020	.017	.020
25,001–50,000	.016	.013	.016
50,001–75,000	.014	.011	.014
75,001–175,000	.012	.009	.012
175,001–400,000	.010	.007	.010
400,001–750,000	.009	.006	.009
750,001–Over	.007	.004	.007

Reject Reentry .04/item
Posting File .0005/item

Return Items

Volume levels	Basic service[3]	Telephone request[3]	Forward collection only[4]	
			Unqualified	Qualified[5]
1–500	$2.25	$3.50	$.60	$.20
501–1,000	2.00	NA	.60	.20
1,001–2,500	1.75	NA	.60	.20
2,501–Over	1.25	NA	.50	.20

Regulation J Notification 3.00/item

[1] Surcharge for same-day daily return: 15%
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.
[3] Full service processing. Excludes Large Dollar notification required under Regulations CC and J.
[4] Return items received for forward collection.
[5] Items must be fully qualified using heat sensitive strips.

Other Services

Support Services	
Certified Checks	.50/item
Facsimile Transmission	1.50/transmission
Microfiche Monthly Reports	25.00/month
Microfilm of Checks Captured	.01/item
Original Item Return	2.75/item
Research	20.00/hour
Stop Payments	5.00/stop
Telephone Check Inquiry	1.00/inquiry
Signature Verification	.35/item
Counter Items	
With MICR Encoding	.04/item
Without MICR Encoding	.10/item
Photocopies/Microfilm Copies	2.75/item
Audit	2.75/item or 20.00 hour+.50/copy, whichever is less
Settlement	
Daily Reporting	25.00/month
Settlement Only (Inclearings or Returns)	100.00/month
Third Party Settlement	350.00/month
Special Sorting Options	
Account Separators	.003/item ($175.00 minimum)
Truncated Items Returned Unsorted	.002/item
Truncated Items Returned Sorted	.012/item ($250.00 minimum)
Sequence Number Order	.005/item
Other Miscellaneous Fine Sorting	.005/item

Special Services

Backup Service	
Set-Up Charge	500.00–1,500.00 one time
Monthly Maintenance	Negotiable plus actual monthly usage
File Maintenance	
Mergers/Acquisitions	500.00/each
Multiple R/T Numbers	50.00/number/month
Parameter File Maintenance	25.00/change
Multiple Sorter Pockets	300.00/pocket/month
Data Servicer Conversion	500.00/conversion
Minimum Monthly Charge (Excluding Actual Charges)	250.00

Des Moines Regional Center

Proof-of-Deposit (POD) Fee Schedule

Processing Fees

Monthly processing volume*	Encoding	POD capture	Inclearings capture	Account sequence sort	Exception pull/cycle sort	Rejects
1–250,000	.018	.012	.008	.00600	.00200	.04
250,001–500,000	.016	.011	.007	.00525	.00175	.04
500,001–1,500,000	.014	.010	.006	.00450	.00150	.04
1,500,001–3,000,000	.012	.009	.005	.00375	.00125	.04
3,000,000 -Over	.010	.008	.004	.00300	.00100	04

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

Other Fees

Return processing and other existing ancillary inclearing services	Available upon request

Clearing Fees

Deposited items	Local $.01 RCPC .018 RCPC-Prem. .043 Transit .049

Relationship Fees

Account Maintenance	$12.00
Daily Statements	
Via SMARTS	No Charge
Paper Daily Advice (per day)	2.50
Balance Reporting-Manual	75.00
Credit Transactions	0.35
Debit Transactions	0.15
SMARTS Electronic Connection, Basic	No Charge
Wire Transfer	
Incoming	3.00
Outgoing	4.00
With Phone Advice	6.00
Internal Transfer	No Charge
Collections	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25
Foreign Collections	25.00 (Plus Actual)
Food Coupons—Loose	0.03
Food Coupons—Full Straps	0.15

Terms of Account

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

Payment of Processing Fees and Clearing Fees are also available by balance compensation at slightly different rates. Contact the Federal Home Loan Bank for prices.

The earnings credit rate is based on the average discount rate of the 91-Day Treasury Bill auction of the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances. Deficient balances will be charged at the average Fed Funds rate of the current month.

Prices are subject to change without notice.

Kansas City Regional Center

Proof-of-Deposit (POD) Fee Schedule

Processing Fees

Monthly processing volume*	Encoding	POD capture	Inclearings capture	Account sequence sort	Exception pull/cycle sort	Rejects
1–250,000	.022	.012	.008	.00600	.00200	.04
250,001–500,000	.020	.011	.007	.00525	.00175	.04
500,001–1,500,000	.018	.010	.006	.00450	.00150	.04
1,500,001–3,000,000	.016	.009	.005	.00375	.00125	.04
3,000,000–Over	.014	.008	.004	.00300	.00100	.04

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

Other Fees

Return processing and other existing ancillary inclearing services	Available upon request.

Clearing Fees

Deposited items	Local $.010 Country .021 Transit .045

Relationship Fees

Account Maintenance	$12.00
Daily Statements	
Via SMARTS	No Charge
Paper Daily Advice (per day)	2.50
Balance Reporting—Manual	75.00

Credit Transactions	0.35
Debit Transactions	0.15
SMARTS Electronic Connection, Basic	No Charge
Wire Transfer	
Incoming	3.00
Outgoing	4.00
With Phone Advice	6.00
Internal Transfer	No Charge
Collections	
Bonds/Coupons Per Envelope.	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25
Foreign Collections	25.00 (Plus Actual)
Food Coupons—Loose	0.0225
Food Coupons—Full Straps	0.15

Terms of Account

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

Payment of Processing Fees and Clearing Fees are also available by balance compensation at slightly different rates. Contact the Federal Home Loan Bank for prices.

The earnings credit rate is based on the average discount rate of the 91–Day Treasury Bill auction of the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances. Deficient balances will be charged at the average Fed Funds rate of the current month.

Prices are subject to change without notice.

Minneapolis Regional Center

Proof-of-Deposit (POD) Fee Schedule

Processing Fees

Monthly processing volume*	Encoding	POD capture	Inclearings capture	Account sequence sort	Exception pull/cycle sort	Rejects
1–250,000	.022	.012	.008	.00600	.00200	.04
250,001–500,000	.020	.011	.007	.00525	.00175	.04
500,001–1,500,000	.018	.010	.006	.00450	.00150	.04
1,500,001–3,000,000	.016	.009	.005	.00375	.00125	.04
3,000,000–Over	.014	.008	.004	.00300	.00100	.04

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

Other Fees

Return processing and other existing ancillary inclearing services	Available upon request.

Clearing Fees

Deposited items	City $.01 RCPC $.02 Country $.0285 Transit $.055

Relationship Fees

Account Maintenance	$12.00
Daily Statements	
Via SMARTS	No Charge
Paper Daily Advice (per day)	2.50
Balance Reporting—Manual	75.00
Credit Transactions	0.35
Debit Transactions	0.15
SMARTS Electronic Connection, Basic	No Charge
Wire Transfer	
Incoming	3.00
Outgoing	4.00
With Phone Advice	6.00
Internal Transfer	No Charge
Collections	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)

Canadian Items	.25
Foreign Collections	25.00 (Plus Actual)
Food Coupons—Loose	0.04

Terms of Account

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

Payment of Processing Fees and Clearing Fees are also available bv balance compensation at slightly different rates. Contact the Federal Home Loan Bank for prices.

The earnings credit rate is based on the average discount rate of the 91-Day Treasury Bill auction of the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances. Deficient balances will be charged at the average Fed Funds rate of the current month.

Prices are subject to change without notice.

St. Louis Regional Center

Proof-of-Deposit (POD) Fee Schedule

Processing Fees

Monthly processing volume*	Encoding	POD capture	Inclearings capture	Account sequence sort	Excepton pull/cycle sort	Rejects
1–250,000	.020	.012	.008	.00600	.00200	.04
250,001–500,000	.018	.011	.007	.00525	.00175	.04
500,001–1,500,000	.016	.010	.006	.00450	.00150	.04
1,500,001–3,000,000	.014	.009	.005	.00375	.00125	.04
3,000,000–Over	.012	.008	.004	.00300	.00100	.04

*Monthly processing volume represents the sum of POD Capture and Inclearings Capture.

Other Fees

Return processing and other existing ancillary inclearing services	Available upon request.

Clearing Fees

Deposited items	Local $.01 RCPC $.018 Country $.017 Transit $.05

Relationship Fees

Account Maintenance	$12.00
Daily Statements	
Via SMARTS	No Charge
Paper Daily Advice (per day)	2.50
Balance Reporting—Manual	75.00
Credit Transactions	0.35
Debit Transactions	0.15
SMARTS Electronic Connection, Basic	No Charge
Wire Transfer	
Incoming	3.00
Outgoing	4.00
With Phone Advice	6.00
Internal Transfer	No Charge
Collections	
Bonds/Coupons Per Envelope	
Local/Government	5.00
Out-of-Town	7.00
Domestic/Checks	15.00 (Plus Actual)
Canadian Items	.25
Foreign Collections	25.00 (Plus Actual)
Food Coupons—Loose	0.02

Terms of Account

Payment of Processing Fees and Clearing Fees are made by a direct charge to the account or by payment of our invoice. Payment of Relationship Fees are made only by balance compensation.

Payment of Processing Fees and Clearing Fees are also available by balance compensation of slightly different rates. Contact the Federal Home Loan Bank for prices.

The earnings credit rate is based on the average discount rate of the 91-Day Treasury Bill auction of the current month. Interest that approximates the Fed Funds rate will be paid to the account for excess balances. Deficient balances will be charged at the average Fed Funds rate of the current month.

Prices are subject to change without notice.

Des Moines, Minneapolis, Kansas City and St. Louis Regional Centers

Lockbox Fee Schedule

Basic Service

Open envelope; screen per instructions; verify payee, signature and amount. Record data on check, remittance, envelope, or correspondence as requested. Balance checks to remittances and post credits to account specified.

Mortgage	$.12–.25
Consumer	.09–.15
Retail-Commercial	.07–.15
Wholesale-Commercial	.15–.55
Credit Card	.07–.15
Data Capture and Transmit	.015–.030
Includes use of derogatory file as required..	
Rejects pulled, balanced and returned per instructions..	
Item Preparation Charge; Data Entry As required. Includes preparation of new or substitute machine-readable documents.	.05/item
Microfilm Remittances or Checks	.01/item
Credit/Posting Advice	.25/advice
Photocopies	
Recurring	.05/copy
On Request	.25/copy
Facsimile Transmissions	
Recurring	.85/page
On Request	1.50/page
Microfilm Copies	2.75/copy
Payment Discounts Calculated	.25/discount
Telephone Inquiry or Notification	1.00/call
Foreign Item Processing	
U.S. Dollars	.75/check
Foreign Currency	3.50/check
Process Cash Payment	5.00/each
Daily Reporting	50.00/month
Courier/Postage	Actual
Storage: Envelopes and remittance material retained unsorted for 14 days and destroyed Safekeeping beyond 14 days.	Negotiated
Minimum Monthly Billing (Excludes Actual Charges).	175.00
New Account Set-Up	50.00–500.00
Special Services	Negotiated

Statement Rendering Fee Schedule

Statements Per Month, Non-Truncated	
First 5,000	$.18
Next 5,000	.165
Over 10,000	.15
Statements Per Month, Truncated	.05
Statement Inserts	.01
Other Mailings	.05
Surcharge for One Cycle Per Month	10%
Fine Sort Counter Items for Statement Insertion	.005
Sort Counter Items Without MICR	.02
Courier, Postage and Envelopes	Actual
Pre-Sort Only	.02/item

Note: Members that have changed Data Processors or have more than one MICR account number corresponding to one statement account number are subject to additional fees.

Pricing to Forward Cycle Items to Data Processor for Statement Handling

Insertion of Trigger/Separator Tickets	
Sorting	$.003/item
Trigger Ticket Expense	.012/account
Insertion of Rejects	.040/reject
Photocopies of Missing Items	2.75/copy
Courier, Postage and Boxes	Actual
Monthly Fee for Special Handling	25.00/cycle ($75.00 minimum)

District. 10.—Federal Home Loan Bank of Topeka (1994 NOW/DDA Services)

Cash Letter Processing

Encoded Processing Fees

State	Local	RCPC	Country	Transit
Colorado	$.015	$.023	$.029	$.067

State	Local	RCPC	Country	Transit
Nebraska	.025	.038	.038	.067
Oklahoma	.025	.038	.038	.067
Kansas	.020	.039	.039	.067

Other Cash Letter

Encoding Fee	.023 per item
Rejects on Encoded Items	.15 per item
Returns/Redeposits	.80 per item
Collections	6.50 per item
Coin and Currency	2.50 per call
Courier/Armored Car Cost	As charged
Research/Mass Photocopy	.15 per item/$12/hour
ACH Settlement	.50 per trans.
Item Retrieval	2.25 per item
Facsimile	1.75 per page
Postage	At cost
Electronic Inquiry	No charge

Demand Disbursement Processing

Full Service DDA	
Cycled	.15 per item
Truncated	.12 per item
Basic DDA	
Cycled	.11 per item
Truncated	.08 per item
Additional DDA Fees	
Large Item Return Notification	3.00 per item
Mass Photocopy Requests	.15 per item/$12/hour
Additional Statement	2.00 per statement
Item Retrieval	2.25 per item
Facsimile	1.75 per page
Postage	At cost
Monthly Maintenance Fee	
User	$25
Non-user	$50

(User is any customer that also utilizes the Bank for item or cash letter processing or clears at least 100 checks per month.

Inclearing Processing (fees are per item)

1–10,000	.018	.035
10,001–25,000	.016	.034
25,001–50,000	.014	.031
50,001–100,000	.012	.026
100,001–250,000	.009	.020
250,001–500,000	.009	.015
500,001–750,000	.008	.013
750,001–1,000,000	.008	.011
1,000,001–above	.007	.010

(Transit items charged to cash letter fees)

Proof of deposit processing items per month	Fee
1–10,000	$.020
10,001–25,000	.018
25,001–50,000	.015
50,001–100,000	.013
100,001–250,000	.011
250,001–500,000	.010
500,001–750,000	.009
750,001–1,000,000	.008
1,000,001–above	.007
Item account number sort fee	.010

Return item per month	Fee
1–2,500	$1.41
2,501–4,000	1.11
4,001–6,000	.76
6,001–8,000	.46
8,001–12,000	.41
12,001–above	.36
Other inclearing fees (per month unless otherwise)	
Minimum Processing Fee	$500
Settlement w/FHLB Processing	No fee

Return item per month	Fee
Settlement Only	100
Item Retrieval (per item)	2.25
Mass Photocopy ($12 per hour and per item of)	.15
Over-the-Counter Items (Per item)	.03
Large Item Return Notification (Per item)	3.00
Facismie (Per item)	1.75
Postage	At cost
Statement and Lockbox Processing	
Statement processing	
Truncated Statement	.08
Cycled Statement	.20
Per Insert	.01
Postage	At cost
Envelopes/Statements	By user
Electronic Statement Printing	.03
($150 minimum monthly fee)	Per image
Lockbox Processing (per item)	
1–50,000 monthly items	.110
50,001–80,000 monthly items	.105
80,001–120,000 monthly items	.100
120,001–160,000 monthly items	.095
160,001–above monthly items	.090
Exception Item Review/Processing	.070
Photocopy Retrieval	2.25
Postage	At cost
Monthly Processing Fee	$100
Safekeeping and Wire Transfer and Reserve Processing	
Safekeeping processing	
Transaction Fees	
Federal Reserve Book-entry Securities	5.00
Reclaims and DKs	2.50
PTC Depository GNMAs and DTCs	35.00
Physical Securities	40.00
Euro/Cedel Securities	75.00
Interest Payment Fees	
Federal Reserve Principal & Interest	5.00
PTC, DTC and Physical P&I	8.50
Segregation and Pledge Activity Fees	
Joint Custody, Pledges to Third Party, Pledges to the Bank as Collateral for Advances, Other Pledges, Segregation and Pledge Releases.	10.00
Account Maintenance Fees	
Federal Reserve Book-entry Securities	5.50
Other	6.50
In-house	.25
Registration, Postage, other miscellaneous	At cost
Wire transfer processing fee	
Incoming	3.65
Outgoing	5.65
Pass-through Reserves (per month)	25.00

District 11.—Federal Home Loan Bank of San Francisco (1994 NOW/DDA Services)

(Services not provided)

District 12.—Federal Home Loan Bank of Seattle (1994 NOW/DDA Services)

(Services not provided)

By the Federal Housing Finance Board

Rita I. Fair,

Acting Managing Director.

[FR Doc. 94–19498 Filed 8–10–94; 8:45 am]

BILLING CODE 7625–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

West Travel, Inc. (d/b/a Alaska Sightseeing/Cruise West), 4th and Battery Building, Suite 700, Seattle, Washington 98121

Vessel: SPIRIT OF COLUMBIA

Dated: August 5, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–19646 Filed 8–10–94; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Reissuance of License

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.	Name/address	Date reissued
2361	ISC Transport Ltd., 71–08 51st Avenue, Woodside, NY 11377	July 18, 1994.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 94–19581 Filed 8–10–94; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 2464
Name: NOCS International, Ltd.
Address: 1091 Remount Road, Charleston, SC 29406
Date Revoked: June 17, 1994
Reason: Surrendered license voluntarily.

License Number: 3527
Name: Martha Mendivil
Address: 10233–35 NW 9th Street, Miami, FL 33172
Date Revoked: June 24, 1994
Reason: Failed to maintain a valid surety bond.

License Number: 2401
Name: Phoenician Transport, Inc.
Address: 128 Berger Street, Wood-Ridge, NJ 07075
Date Revoked: June 26, 1994
Reason: Failed to maintain a valid surety bond.

License Number: 3020
Name: H and K Transportation, Inc.
Address: 3424 Lakeside Drive, Oklahoma City, OK 73120
Date Revoked: July 6, 1994
Reason: Surrendered license voluntarily.

License Number: 3178
Name: Marvin L. Nelson Company
Address: 2200 Sixth Ave., Ste. 407, Seattle, WA 98121
Date Revoked: July 10, 1994
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 94–19582 Filed 8–10–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Banco Santander, S.A., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 31, 1994.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *Banco Santander, S.A.*, Santander, Spain; to engage *de novo* through its subsidiary Santander Investment Securities Inc., New York, New York, in providing investment and financial advisory services specified in § 225.25(b)(4) of the Board's Regulation Y and engaging in the securities brokerage activities specified in § 225.25(b)(15), with respect to all types of securities, subject to the limitations set forth in those sections and § 225.125 of the Board's Regulation Y.

2. *Dresdner Bank AG*, Frankfurt, Germany; to engage *de novo* through its subsidiary Oechsle International Advisors, L.P., Boston, Massachusetts, in providing foreign exchange advisory services, including currency overlay activities, pursuant to § 225.25(b)(17) of the Board's Regulation Y, as expanded to include the commodities and instruments listed in the attachment to SR 93-27 (FIS) of May 21, 1993, as that list may be amended from time to time.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Synovus Financial Corp.*, Columbus, Georgia; and TB&C Bancshares, Inc., Columbus, Georgia, to engage *de novo* through a new subsidiary Synovus Securities, Inc., Columbus, Georgia, in the providing of securities brokerage services in combination with investment advisory services, related securities, credit

activities, and incidental activities such as offering custodial services, individual retirement accounts and cash management services with such services being limited to buying and selling securities solely as agent for the accounts of customers to the extent allowable and subject to the limitations set forth in § 225.25(b)(15) and 225.25(b)(4) of the Board's Regulation Y. Applicants currently engage in these activities through their Section 20 subsidiary, also known as Synovus Securities, Inc. Upon consummation, the activities listed above will be transferred from Applicants' Section 20 subsidiary to Company, and Applicants' Section 20 subsidiary will be renamed Synovus Capital Markets, Inc. The proposed activity will be conducted throughout the state of Georgia.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Colt Investments, Inc., Leawood, Kansas; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 5, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-19601 Filed 8-10-94; 8:45 am]

BILLING CODE 6210-01-F

First Citizens BancShares, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 5, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Citizens BancShares, Inc., Raleigh, North Carolina; to acquire First Republic Savings Bank, FSB, Roanoke Rapids, North Carolina, and thereby engage in operating a federal savings bank § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Commerce Corporation, New Orleans, Louisiana; to acquire Wolcott Mortgage Group, Inc., Metairie, Louisiana, and thereby engage in mortgage lending activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 5, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-19602 Filed 8-10-94; 8:45 am]

BILLING CODE 6210-01-F

City Holding Company, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 5, 1994.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. City Holding Company, Charleston, West Virginia; to acquire 100 percent of the voting shares of Hinton Financial Corporation, Hinton, West Virginia, and thereby indirectly acquire The First National Bank of Hinton, Hinton, West Virginia.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Citizens Central Bancorp, Inc., Macomb, Illinois; to acquire 100 percent of the voting shares of Roseville State Bank, Roseville, Illinois.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. F & M State Bancshares, Inc., Cawker City, Kansas; to become a bank holding company by acquiring 92.50 percent of the voting shares of Farmers & Merchants State Bank, Cawker City, Kansas.

Board of Governors of the Federal Reserve System, August 5, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-19603 Filed 8-10-94; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[DKT. C-3508]

AJM Packaging Corporation; et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting

unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Michigan seller of disposable paper plates and its president from representing that any product it sells offers any environmental benefit unless it can substantiate the claim, or from misrepresenting that any paper product or package is capable of being recycled, or the extent to which recycling collection programs for it is available.

DATES: Complaint and Order issued July 19, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Mary Engle, FTC/H–476, Washington, D.C. 20580. (202) 326–3161.

SUPPLEMENTARY INFORMATION: On Friday, May 6, 1994, there was published in the **Federal Register**, 59 FR 23718, a proposed consent agreement with analysis In the Matter of AJM Packaging Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19613 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3504]

America's Favorite Chicken Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Georgia-based fast-food corporation from misrepresenting the extent to which any product or package is capable of being recycled, or the extent to which recycling collection programs are available for such products, and from making claims about any environmental benefit of its products or packaging unless it possesses competent and reliable scientific evidence to substantiate the claims.

DATES: Complaint and Order issued July 5, 1994.[1]

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Catherine Fuller, FTC/Chicago Regional Office, 55 East Monroe St., Suite 1437, Chicago, IL. 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: On Thursday, April 21, 1994, there was published in the **Federal Register**, 59 FR 19015, a proposed consent agreement with analysis In the Matter of America's Favorite Chicken Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19611 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3505]

Columbia Healthcare Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the respondents to operate the HCA Aiken Regional Medical Center, in South Carolina, as separate, independent hospital until it is divested to a Commission-approved acquirer. In addition, for ten years, the order prohibits the respondents from acquiring, without prior Commission approval, any other hospital in the Augusta-Aiken area.

DATES: Complaint and Order issued July 5, 1994.[1]

FOR FURTHER INFORMATION CONTACT: David Narrow, FTC/S–3115, Washington, DC 20580. (202) 326–2744.

SUPPLEMENTARY INFORMATION: On Friday, March 4, 1994, there was published in the **Federal Register**, 59 FR 10388, a proposed consent agreement with analysis In the Matter of Columbia Healthcare Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19612 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3503]

Manzella Productions, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a New York wholesaler of gloves, and its owner, from misrepresenting the extent to which any gloves or other items of wearing apparel are made in the United States or any other country, and from violating any provision of the Wool Products Labeling Act, and requires them to pay $7,500 in disgorgement in lieu of consumer redress.

DATES: Complaint and Order issued June 30, 1994.[1]

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint, the Decision and Order, and statements by Commissioners Azcuenaga and Owen are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Brinley Williams, FTC/Cleveland Regional Office, 668 Euclid Ave., Suite 520–A, Cleveland, OH. 44114. (216) 522–4210.

SUPPLEMENTARLY INFORMATION: On Thursday, April 21, 1994, there was published in the Federal Register, 59 FR 19017, a proposed consent agreement with analysis In the Matter of Manzella Productions, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (6)) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68)

Benjamin I. Berman

Acting Secretary.

[FR Doc. 94–19610 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3509]

Mia Rose Products, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based corporation and its officer from making any representation about the efficacy or performance of any air cleaning, air freshening, or insecticidal product, unless the respondents possess and rely upon competent and reliable scientific evidence to substantiate the representation.

DATES: Complaint and Order issued July 19, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Linda Badger, FTC/San Francisco Regional Office, 901 Market St., Suite 570, San Francisco, CA 94103. (415) 744–7920.

SUPPLEMENTARY INFORMATION: On Friday, May 6, 1994, there was published in the **Federal Register**, 59 FR 23724, a proposed consent agreement with analysis In the Matter of Mia Rose Products, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19614 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3502]

Nissan Motor Corporation in U.S.A.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a California-based corporation to disclose clearly and prominently in each advertisement either any significant restrictions that apply to obtaining a promotional benefit in connection with a test-drive offer, or that there are significant restrictions that apply to obtaining the benefit, and prohibits the respondent from misrepresenting the existence, nature or any conditions, restrictions or limitations on any promotional benefit it offers consumers in the future.

DATES: Complaint and Order issued June 29, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, Michael Milgrom or Melissa Sternlicht, FTC/Cleveland Regional Office, 668 Euclid Ave., Suite 520–A, Cleveland, Ohio 44114. (216) 522–4210.

SUPPLEMENTARY INFORMATION: On Monday, March 21, 1994, there was published in the **Federal Register**, 59 FR 13330, a proposed consent agreement with analysis in the Matter of Nissan Motor Corporation in U.S.A., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19609 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3511]

James R. Wyatt; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the owner of the Wyatt Marketing Corporation from distributing an infomercial, from making false claims regarding a book on the availability of government grants and loans, and from making or selling any commercial that misrepresents it as an independent program, rather than a paid advertisement. The respondent is required to have a disclosure statement for any commercial 15 minutes or longer, and to have substantiation for future claims regarding the availability of grants, loans or other benefits from any source, the terms or conditions of getting government loans or grants, and methods for starting or operating a business.

DATES: Complaint and Order issued July 27, 1994.[1]

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint, the Decision and Order, and statements by Commissioners Yao, Azcuenaga, Owen and Starek are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Bloom, FTC/New York Regional Office, 150 William St., 13th Floor, New York, NY 10038. (212) 264–1207.

SUPPLEMENTARY INFORMATION: On Wednesday, May 18, 1994, there was published in the **Federal Register**, 59 FR 25904, a proposed consent agreement with analysis In the Matter of Wyatt Marketing Corporation, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19616 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3510]

Wyatt Marketing Corporation, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based company from distributing an infomercial, from making false claims regarding a book on the availability of government grants and loans, and from making or selling any commercial that misrepresents it as an independent program, rather than a paid advertisement. The respondent is required to have a disclosure statement for any commercial 15 minutes or longer, and to have substantiation for future claims regarding the availability of grants, loans or other benefits from any source, the terms or conditions of getting government loans or grants, and methods for starting or operating a business.

DATES: Complaint and Order issued July 27, 1994.[1]

FOR FURTHER INFORMATION CONTACT: Michael Bloom, FTC/New York Regional Office, 150 William St., 13th Floor, New York, N.Y. 10038. (212) 264–1207.

SUPPLEMENTARY INFORMATION: On Wednesday, May 18, 1994, there was published in the **Federal Register**, 59 FR 25904, a proposed consent agreement with analysis In the Matter of Wyatt Marketing Corporation, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 94–19615 Filed 8–10–94; 8:45 am]

BILLING CODE 6750–01–M

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[1] Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94F–0282]

Rhone-Poulenc Animal Nutrition; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Rhone-Poulenc Animal Nutrition has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(2-vinylpyridine-co-styrene) as a coating agent in the preparation of rumen-stable, abomasum-dispersible nutrient products for dairy cattle and dairy replacement heifers.

DATES: Written comments on the petitioner's environmental assessment by October 25, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1731.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2231) has been filed by Rhone-Poulenc Animal Nutrition, 42, Avenue Aristide Briand, B. P. 100, 92164 Antony Cedex, France. The petition proposes to amend the food additive regulations in § 573.870 (21 CFR 573.870) to provide for the safe use of poly(2-vinylpyridine-co-styrene) as a coating agent in the preparation of rumen-stable, abomasum-dispersible nutrient products for dairy cattle and dairy replacement heifers.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before October 25, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's findings of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: August 3, 1994.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 94–19655 Filed 8–10–94; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of proposed expansion of system purpose, addition of a new category of records in the system, addition of new routine uses, and administrative update.

SUMMARY: HCFA proposes revising the system notice for the "Medicaid Statistical Information System (MSIS)," System No. 09–70–6001, by: Adding "drug data" as a new category of records in the system; expanding the purpose of the system to include actuarial forecasting and statistical profiling; modifying a current route use (number 5); and adding a new route use (number 6) for the release of data without individuals' consent

HCFA has developed drug data which will be helpful in supporting such things as research, policy, effectiveness of care, and statistical reporting. These data are being added to the "Categories of records in the system."

The purpose of the system of records is also being expanded in order to be more specific, by including actuarial forecasting and statistical profiling as distinct purposes.

Routine use No. 5 allows release to employees of a State for specific purposes. The modification would add the language, "or for management and/or administration of the Medicaid program."

The proposed new routine use would permit release of data to other Federal agencies. This routine use has two purposes. First, disclosure would be permitted to another Federal agency to enhance the accuracy of Medicaid's payment of heath benefits. Second, disclosure would be permitted when necessary to enable another Federal agency to fulfill the requirements of a Federal statute or regulation. HCFA has recently received several requests from other Federal agencies asking for help in coordinating benefits or implementing Federal statutes or regulations that involve Medicare and Medicaid beneficiaries. A primary purpose of this system of records is to ensure high quality and effective use of data on the Medicaid program. We believe that this purpose can be better accomplished through coordination of Medicaid beneficiary data between and among Federal agencies.

In addition, administrative updates, such as current language and address changes are proposed.

EFFECTIVE DATES: HCFA filed a revised system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on August 4, 1994. To ensure all parties have adequate time in which to comment, the revised system of records, including routine uses, will become effective 40 days from the publication of this notice or from the date submitted to OMB and the Congress, whichever is later, unless HCFA receives comments which require alterations to this notice.

ADDRESSES: The public should address comments to Mr. Richard A. DeMeo, HCFA Privacy Act Officer, Office of Customer Relations and Communications, HCFA, Room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. Comments received will be available at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Beisel, Director, Division of Medicaid Statistics, Bureau of Data Management and Strategy, HCFA, Room 2–A–1, Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, Telephone (410) 597–3902.

SUPPLEMENTARY INFORMATION: We are publishing this notice to inform the public of our intent to expand the purpose, add a category of records, modify a routine use, add a routine use, and make administrative and language updates to the MSIS System of Records. The purpose of the system of records is being expanded in order to be more specific, by including actuarial forecasting and statistical profiling as distinct purposes. HCFA has developed drug data which will be helpful in supporting such things as research, policy, effectiveness of care, and statistical reporting. These data are being added as a "Category of records in the system." Routine Use No. 5, which allows release to employees of a State for specific purposes, is being modified by adding, "or for management and/or administration of the Medicaid program." The new routine use will be numbered (6) and will read as follows:

6. To another Federal agency: (1) To contribute to the accuracy of HCFA's proper payment of Medicaid health benefits, and/or (2) to enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation, if HCFA:

(a) Determines that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

(b) Determines that the purpose for which the disclosure is to be made cannot reasonably be accomplished unless the data are provided in individually identifiable form;

(c) Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Make no further use or disclosure of the record except:

(a.) In emergency circumstances affecting the health or safety of any individual;

(b.) For use on another project under the same conditions, and with written authorization from HCFA; and

(c.) When required by law;

(3) Secure a written statement attesting to the recipient's understanding of, and willingness to abide by the following provisions:

(a.) Not to use the data for purposes that are not related to the subject project;

(b.) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that persons could be identified (i.e., the data to be published must not be person-specific and must be aggregated to a level where no data cells have 10 or fewer persons); and

(c.) Not to publish any aggregation of the data without HCFA's approval.

Because these proposed changes will change the purpose for which the information is collected or otherwise significantly alter the system, we are preparing a report of altered system of records under 5 U.S.C. 552a(r). We are publishing the notice in its entirety below for the convenience of the reader.

Dated: July 28, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

09–70–6001

SYSTEM NAME:

Medicaid Statistical Information System (MSIS).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. (Contact system manager for location of computerized records.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons enrolled in Medicaid in participating States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medicaid enrollment records, paid health care claims records, and drug data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1902(a)(6) of the Social Security Act (42 U.S.C. 1396a(a)(6)).

PURPOSE(S):

1. To establish an accurate and timely database on the Medicaid program for the purpose of Federal administration of the Medicaid program by collecting from State programs standardized enrollment and paid claims data that will be reported, verified, and maintained on an ongoing basis.

2. To establish a single source of Medicaid data at the Federal level for maintaining a single, accurate, and comprehensive Medicaid database that can be analyzed to produce statistical reports; to support research of important policy, of quality and effectiveness of care, and of epidemiological issues; to support actuarial forecasting; to support statistical profiling; and to support the detection of fraud, abuse, and waste in regard to the Medicaid program.

3. To eliminate the need for special data collection efforts to support special studies.

4. To reduce the State reporting burden by eliminating redundant reporting and the need to prepare complex, time-consuming summary information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To a contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying and/or manipulating it with ADP software. Data would also be available to a contractor incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

2. To the congressional office of an individual, in response to an inquiry from that congressional office at the request of the individual involved.

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components;

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or the study of the costs of providing health care, if HCFA:

(a) Determines that the use of disclosure does not violate legal limitations under which the record was provided, collected, or obtained.

(b) Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) There is reasonable probability that the objective for the use would be accomplished.

(c) Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and guards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

a. In emergency circumstances affecting the health or safety of any individual;

b. For use in another research project, under these same conditions, and with written authorization of HCFA;

c. For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

d. When required by law.

(d) Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

5. To employees of a State government for the purposes of investigating potential fraud, abuse, or waste related to the Medicaid program, for research relating to the Medicaid program, or for management and/or administration of the Medicaid program.

6. To another Federal agency; (1) to contribute to the accuracy of HCFA's proper payment of Medicaid health benefits, and/or (2) to enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation, if HCFA:

(a) Determines that the use or disclosure does not violate legal limitations under which the data were provided, collected, or obtained;

(b) Determines that the purpose for which the disclosure is to be made cannot reasonably be accomplished unless the data are provided in individually identifiable form;

(c) Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Make no further use or disclosure of the record except:

(a.) In emergency circumstances affecting the health or safety of any individual;

(b.) For use on another project under the same conditions, and with written authorization from HCFA; and

(c.) When required by law;

(3) Secure a written statement attesting to the recipient's understanding of, and willingness to abide by the following provisions:

(a.) Not to use the data for purposes that are not related to the subject project;

(b.) Not to publish or otherwise disclose the data in a form raising unacceptable possibilities that persons could be identified (i.e., the data to be published must not be person-specific and must be aggregated to a level where no data cells have 10 or fewer persons); and

(c.) Not to publish any aggregation of the data without HCFA's approval.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored in hard copy and/or on magnetic media

RETRIEVABILITY:

Records may be retrieved by the MSIS identification number (which may be either a State-assigned identifier or a social security number).

SAFEGUARDS:

For computerized records, safeguards are established in accordance with department standards and National Institute of Standards and Technology guidelines (e.g., security codes) will be used, limiting access to authorized personnel. System security safeguards are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; and the HCFA Administrative Issuance System (AIS) Guide for Systems Security Policies.

RETENTION AND DISPOSAL:

Records are maintained with identifiers as long as needed for program research.

SYSTEM MANAGER AND ADDRESS:

Director, Bureau of Data Management and Strategy, Health Care Financing Administration, Room 1–A–11 Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the system manager at the address above. the requester must specify the State, Medicaid Identifier number, date of birth, and/or social security number (SSN). Divulgence of the requester's SSN is voluntary, unless the requester's record cannot be located without their SSN.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Individuals in the system should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department regulations (45 CFR 5b.5.).

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, reasonably identify the record (provide State, Medicaid identifier number, date of birth, and social security number), and specify the information to be contested. State the reason for contesting it; e.g., why the information is inaccurate, irrelevant, incomplete or not current. (These procedures are in accordance with Departmental Regulations (45 CFR 5b.7).)

RECORD SOURCE CATEGORIES:

HCFA obtains the identifying information in this system from State Medicaid Agencies. Almost all information in the proposed system is derived from States' Medicaid Management Information Systems. Drug data is obtained from the National Drug Data File.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 94–19578 Filed 8–10–94; 8:45 am]

BILLING CODE 4120–03–M

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the provisions of the Privacy Act of 1974, we are proposing to establish a new system of records, "Individuals Authorized Access to the Health Care Financing Administration (HCFA) Data Center," HHS/HCFA/BDMS, No. 09–70–0064. We have provided background information about the system in the **SUPPLEMENTARY INFORMATION** section below.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives; the Chairman of the Committee on Governmental Affairs of the Senate; the Administrator, Office of Information and Regulatory Affairs; and the Office of Management and Budget (OMB) on August 4, 1994. The system of records, including routine uses, will become effective 40 days from the date published unless HCFA receives comments which would necessitate changes to the system.

ADDRESS: Members of the public should address comments to Mr. Richard A. De Meo, Privacy Act Officer, Office of Customer Relations and Communications, Health Care Financing Administration, Room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Gene Strother, ADP Services Branch, Office of Computer Operations, Bureau of Data Management and Strategy, Health Care Financing Administration, Room 100, Lyon Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187, telephone (410) 966–4088.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records that controls and monitors access to and use of HCFA computerized information and resources, pursuant to the authority of 42 CFR 401.101–401.148 and section 1106(a) of the Social Security Act, 42 U.S.C. 1306(a). These regulations and directives establish the conditions under which information about the access to and use of HCFA's computerized information and resources shall be made available to the public as well as Freedom of Information Act rules that apply to such disclosures of information.

Subsection (b)(3) of the Privacy Act (5 U.S.C. 552a(b)(3)) permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosure for purposes that are compatible with the purpose for which we collect the information. The proposed routine uses in the system meet the compatibility criteria since the information is collected for the purposes of assigning, controlling, tracking, and reporting authorized access to and use of HCFA's computerized information and resources.

We anticipate that disclosure under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: August 2, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

SYSTEM NAME:

Individuals Authorized Access to the Health Care Financing Administration (HCFA) Data Center.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, Bureau of Data Management and Strategy, 7131 Rutherford Road, Baltimore, Maryland 21244.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals with an approved need for access to the computer resources and information maintained

by the Health Care Financing Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains name, work address, work phone number, an assigned user identification (UserID) number, an associated password, and the software system(s) that the individual is authorized to use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552(e)(10)

PURPOSE:

This system is used for assigning, controlling, tracking, and reporting authorized access to and use of HCFA's computerized information and resources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure may be made to:

1. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

a. HHS, or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof when HHS determines that the litigation is likely to affect HHS or any of its components;

Is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that each disclosure is compatible with the purpose for which the records were collected.

3. To a contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating it with ADP software. Data would also be available to users incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in magnetic media (e.g., magnetic tape and computer diskettes) and in paper form.

RETRIEVABILITY:

Magnetic records may be retrieved by name or UserId number. Paper records are retrieved by UserID number.

SAFEGUARDS:

Physical safeguards are established in accordance with Department standards and National Institute of Standards and Technology guidelines (e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program, and HCFA Automated Information Systems (AIS) Guide, Systems Security Policies. All HCFA agency employees and contractor personnel will be notified of the confidentiality of the records and of criminal sanctions for unauthorized disclosure of the information.

RETENTION AND DISPOSAL:

HCFA retains hardcopy for 3 years following expiration of an individual's authorized use of HCFA's computerized information and resources. When an individual is no longer authorized access to HCFA's computer resources, their record is deleted from magnetic media.

SYSTEM MANAGER AND ADDRESS:

Director, Bureau of Data Management and Strategy, Health Care Financing Administration, Room 1–A–1, Security Office Park Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

NOTIFICATION PROCEDURES:

An individual can determine if this system contains a record about him or her and its contents by writing to the system manager at the above address. When requesting notification, the individual should provide his or her name, assigned UserID number, and signature. Further details of the procedure are contained in 45 CFR 5b.5.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should reasonably specify the records content being sought. They may also request an accounting of disclosures that have been made of their records, if any. Further details of the procedure are contained in 45 CFR 5b.5(a)(2).

CONTESTING RECORDS PROCEDURE:

Same as notification procedures. Requestors should reasonably identify the record, specify the information they are contesting, and state the corrective action sought. The statement should also contain the reasons for the correction with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. Further details of the procedure are contained in 45 CFR 5b.7.

RECORD SOURCE CATEGORIES:

User identification (name, work address, work phone number) is provided by HCFA by the individual. HCFA specifies the unique UserID number and the software system(s) authorized for use by the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 94–19579 Filed 8–10–94; 8:45 am]
BILLING CODE 4120–03–M

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration.

The Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Request:* Extension; *Title of Information Collection:* ESRD Beneficiary Selection; *Form No.:* HCFA–382; *Use:* This form is used by beneficiaries to select or change the payment method for home dialysis; *Frequency:* One-time; *Respondents:* Businesses, individuals or households, small businesses or organizations; *Estimated Number of Responses:* 3,100; *Average Hours Per Response:* 5 min; *Total Estimated Burden Hours:* 258.3.

2. *Type of Request:* New; *Title of Information Collection:* Drug Utilization Review (Medicaid); *Form No.:* HCFA–R–153; *Use:* Information collection requirements contained in this regulation provide for states to obtain, record and maintain patient profiles. States are required to collect and keep records of drug utilization data from claims *Frequency:* Annually; *Respondents:* Businesses or other for

profit, small businesses or organizations, State and local governments; *Estimated Number of Responses:* 3000; *Average Hours Per Response:* 60; *Total Estimated Burden Hours:* 669,900.

3. *Type of Request:* Revised; *Title of Information Collection:* Home Health Agency (HHA) Cost Report; *Form No.:* HCFA–1728; *Use:* The form is completed by Home Health agencies participating in the Medicare program to report reimbursement for services rendered to Medicare beneficiaries; *Frequency:* Annually; *Respondents:* Businesses or other for profit, small businesses or organizations, State and local governments; *Estimated Number of Responses:* 4,824; *Average Hours Per Response:* 160; *Total Estimated Burden Hours:* 771,840.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 3001, Washington, D.C. 20503.

Dated: August 1, 1994.

Kathleen Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 94–19658 Filed 8–10–94; 8:45 am]

BILLING CODE 4120–03–P

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Pub.L. 92-463, notice is hereby given of the meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council in September 1994.

The meeting of the CSAT National Advisory Council will include a discussion of the mission and programs of the Center, policy issues and administrative announcements. Attendance by the public will be limited to space available.

A summary of the meeting and/or roster of council members may be obtained from: Ms. D. Winstead, Committee Management Specialist, CSAT, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-5050.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: The Center for Substance Abuse Treatment, National Advisory Council

Meeting Dates: September 8–9, 1994

Place: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, Maryland 20857

Open: September 8, 9:00 a.m.—adjournment September 9, 9:00 a.m.—12:00 Noon

Closed: September 9, 1:00 p.m.—Adjournment

Contact: Penni St. Hilaire, Rockwall II Building, Suite 619, Telephone (301) 443-5050.

Dated: August 5, 1994.

Peggy Cockrill,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 94–19553 Filed 8–10–94; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–94–3809]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

DATES: Comments due: September 12, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 4, 1994.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Random Digit Fair Market Rent Telephone Surveys.

Office: Policy Development and Research.

Description Of The Need For The Information And Its Proposed Use: The telephone surveys will provide the Department with a fast and inexpensive way of estimating Section 8 Fair Market Rents (FMRs). The surveys will be used to derive FMR updating factors and to test the accuracy of FMRs in selected areas.

Form Number: None.

Respondents: Individuals or Households.

Frequency of Submission: On Occasion, Annually, and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Surveys	562,600		Varies		Varies		7,976
Recordkeeping	1		1		40		40

Total Estimated Burden Hours: 8,016.

Status: Extension with changes.

Contact: Alan Fox, HUD, (202) 708–0590; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: August 4, 1994.

Proposal: Certification Regarding Adjustment for Damage or Neglect Pursuant to 203.379(c).

Office: Housing.

Description Of The Need For The Information and Its Proposed Use: This information is needed for documentation purposes by the mortgagees to support their certification that they are entitled to convey a fire damaged property without penalty to the claim for insurance benefits.

Form Number: None.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Documentation	280		1		.5		140

Total Estimated Burden Hours: 140.

Status: Extension, no changes.

Contact: Theodore Green, HUD, (202) 708–1719; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: July 21, 1994.

Proposal: Historically Black Colleges and Universities Program.

Office: Community Planning and Development.

Description Of The Need For The Information and Its Proposed Use: The purpose to this information collection is to provide grants to Historically Black Colleges and Universities to help them expand their role and effectiveness in addressing community development needs. This can include neighborhood revitalization and housing and economic development in their localities.

Form Number: None.

Respondents: Non-Profit Institutions.

Frequency of Submission: Recordkeeping, On Occasion, and Quarterly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	100		1		40		4,000
Quarterly Report	15		4		6.25		375
Recordkeeping	15		1		32		480

Total Estimated Burden Hours: 4,855.

Status: Extension, no changes.

Contact: James Turk, HUD, (202) 708–3176; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: July 21, 1994.

Proposal: Performance Funding System Data Collection Forms.

Office: Public and Indian Housing.

Description Of The Need For The Information And Its Proposed Use: These forms are used by Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) to calculate the annual operation subsidy eligibility under the Performance Funding System. They are used by the Department to evaluate the PHAs/IHAs' annual operating budget. PHAs and IHAs will no longer apply a Heating Degree Day Factor when calculating operating subsidy eligibility for utilities.

Form Number: HUD–52720A, 52720B, 52720C, 52721, 52722A, 52722B, and 52723.

Respondents: State or Local Governments.

Frequency of Submission: Annually and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	3,119		Varies		Varies		8,635
Recordkeeping	3,119		Varies		Varies		11,583

Total Estimated Burden Hours: 20,218.

Status: Revision.

Contact: John T. Comerford, HUD, (202) 708–1872; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: July 21, 1994.

Proposal: Minimum Property Standards—Request for Local Review.

Office: Housing.

Description Of The Need For The Information And Its Proposed Use: This information is needed to determine if local codes are comparable to one of the recognized model codes that have been accepted by HUD. If the local codes have been previously submitted by state or local jurisdictions and approved, the information is needed to determine if there have been any changes.

Form number: None.

Respondents: Businesses or Other For-Profit and Small Businesses or Organization.

Frequency Of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Review	1,350		1		8		10,800
Recordkeeping	1,350		1		1		1,350

Total Estimated Burden Hours: 12,150.

Status: Reinstatement, no changes.

Contact: Donald R. Fairman, HUD, (202) 708–7440; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: July 26, 1994.

Proposal: Mortgagee's Certification and Application for Assistance or Interest Reduction Payments and Monthly Summary of Assistance Payments.

Office: Housing.

Description Of The Need For The Information And Its Proposed Use: Section 235 of the Housing and Urban Rural Recovery Act of 1983 limits the period of assistance for mortgages insured under this program to ten years. Therefore, all assistance payments disbursed under this program must be monitored by HUD. Mortgagors are required to submit certain information to HUD so that assistance payments can be calculated and disbursed to the mortgagees each month.

Form Number: HUD–93102 and HUD–300.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: Monthly and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–93102	962		18		.25		4,329
HUD–300	962		Varies		1		13,224
Recordkeeping	962		1		.5		481

Total Estimated Burden Hours: 18,034.

Status: Extension, no changes.

Contact: Florence B. Brooks, HUD, (202) 708–1719; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: July 11, 1994.

[FR Doc. 94–19634 Filed 8–10–94; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–94–3807]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: September 12, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: August 3, 1994.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Current Population Survey: Effects of Disclosure on Public Awareness of Lead Paint Hazard

Office: Lead-Based Paint Abatement and Poisoning Prevention

Description of the Need For The Information And Its Proposed Use: Section 1061 of the Housing and Community Development Act of 1992 requires HUD to conduct a survey on the effects of disclosure of lead paint hazards to buyers and prospective tenants. This information collection is needed to assess public awareness on lead paint hazards. HUD will use this information to report to Congress on lead paint hazard reduction activity

Form Number: None

Respondents: Individuals or Households

Frequency of Submission: On Occasion

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	57,000		1		.138		7,885

Total Estimated Burden Hours: 7,885
Status: New
Contact: Barbara A. Haley, HUD, (202) 708–1805; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 3, 1994.

[FR Doc. 94–19635 Filed 8–10–94; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–94–3806; FR–3693–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: September 12, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: July 6, 1994.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Technical Assistance and Training Grants for Anti-drug, Anti-Crime Efforts in Public and Indian Housing (FR–3693)
Office: Public and Indian Housing
Description Of The Need For The Information and Its Proposed Use: Individuals, businesses, non-profit institutions, small businesses, or organizations provide application information to compete for funding. They use the funding to provide technical assistance and training to public housing authorities and residents on anti-drug, anti-crime initiatives.
Form Number: None
Respondents: Individuals or Households, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Frequency Of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	60		1		40		2,400

Total Estimated Burden Hours: 2,400
Status: New
Contact: Julie B. Fagan, (202) 708–1197; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Date: July 6, 1994.

[FR Doc. 94–19636 Filed 8–10–94; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–94–3765; FR–3650–N–03]

Notice of Extension of Application Due Date for NOFA for the Affirmative Fair Housing Marketing Reinvention Lab Project

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Extension of Application Due Date for Notice of Funding Availability (NOFA).

SUMMARY: On June 16, 1994, HUD published a NOFA that announced up to $1.0 million of FY 1993 Fair Housing Initiatives Program funding for a special project under the Education and Outreach Initiative. The purpose of this Notice is to extend the application period from August 15, 1994 to August 31, 1994.

DATES: The application due date is extended to August 31, 1994.

ADDRESSES: To obtain a copy of the application kit, please write the Fair Housing Information Clearinghouse, Post Office Box 6091, Rockville, MD 20850 or call the toll free number 1–800–343–3442.

FOR FURTHER INFORMATION CONTACT: Laurence D. Pearl, Director, Office of

Program Standards and Evaluation, (202) 708–0288, or William Dudley Gregorie, Director, Program Standards Division, Office of Fair Housing and Equal Opportunity, Room 5226, 451 Seventh Street, SW., Room 5224, Washington, DC 20410, (202) 708–2287. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–2287. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A Notice of Funding Availability (NOFA) announcing the availability of up to $1.0 million of FY 1993 Fair Housing Initiatives Program funding for an Affirmative Fair Housing Marketing Reinvention Lab Project to be carried out in the Chicago, Illinois metropolitan area was published on June 16, 1994 (59 FR 31072). This Notice amends that NOFA by extending the application due date. Due to administrative considerations within the Department of Housing and Urban Development, the due date for receipt of applications is extended from August 15, 1994, to Wednesday, August 31, 1994. The time for receipt and location for receipt of applications remain the same.

Authority: Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note); Title VIII, Civil Rights Act of 1968, as amended (42 U.S.C. 3601–3619); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 29, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–19659 Filed 8–10–94; 8:45 am]

BILLING CODE 4210–28–P

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–94–3804; FR–3758–N–01]

Mortgagee Review Board Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with Section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: William Heyman, Director, Office of Lender Activities and Land Sales registration, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–1824. The Telecommunications Device for the Deaf (TDD) number is (202) 708–4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by Section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) requires that HUD "publish in the **Federal Register** a description of and the cause for administrative action against a HUD-approved mortgagee" by the Department's Mortgagee Review Board. In compliance with the requirements of Section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from April 1, 1994 through June 30, 1994.

1. Georgia Bankers Bank, Atlanta, Georgia

Action: Settlement Agreement that includes payment to the Department the amount of $252,000 and compliance with HUD–FHA loan origination requirements.

Cause: Failure to properly underwrite 17 single family mortgages in accordance with HUD–FHA requirements. The violations of the Department's requirements included: failure to properly underwrite large investor loans; failure to obtain borrower's tax returns and year-to-date profit and loss statements; failure to adequately establish borrower's income; failure to use diligence and prudent lending practices in verifying borrower documentation to support income; and failure to adequately establish borrower's Social Security Number.

2. Kadilac Mortgage Bankers, Ltd., Great Neck, New York

Action: Settlement Agreement that includes payment to the Department the amount of $300,000, compliance with HUD–FHA requirements, and a review of the company's HUD–FHA loan origination procedures within 120 days of the date of the Agreement.

Cause: A HUD–FHA monitoring review that cited violations of HUD–FHA single family program requirements that included: failure to conduct a face-to-face interview with prospective borrowers; use of inaccurate documentation to approve mortgagors; failure to resolve conflicting documentation; failure to secure required documentation for a HUD–FHA loan; closing loans that exceeded HUD–FHA maximum mortgage amounts; failure to reflect all charges to the buyers and sellers on the HUD—1 Settlement Statement; failure to properly verify the source and/or adequacy of the funds to close and the mortgagor's credit history; failure to include recurring obligations when underwriting a loan; exceeding HUD–FHA guidelines without documenting significant compensating factors; and failure to document the commitment fees charged to mortgagors.

3. Keyrose Mortgage Company, Glendale, California

Action: Proposed Settlement Agreement that includes a civil money penalty in the amount of $1,000, and corrective action to assure compliance with HUD–FHA requirements.

Cause: A HUD monitoring review that disclosed violations of HUD–FHA program requirements that included: improper use of mortgage brokers to originate HUD–FHA insured mortgages; improper payments to mortgage brokers; failure to implement a Quality Control Plan for the origination of HUD–FHA insured mortgages; failure to meet the principal activity requirement of a HUD–FHA approved loan correspondent; failure to conduct face-to-face interviews with borrowers; and failure to maintain complete loan files.

4. Centennial Mortgage, Inc., South Bend, Indiana

Action: Letter of Reprimand and proposed civil money penalty in the amount of $5,000.

Cause: A false statement made to the Department in connection with an application for HUD-FHA mortgage insurance for a multifamily mortgage. The company certified that certain funds of the mortgagor entity were on deposit in a bank account prior to the time the account was established.

5. New England Funding Group, Inc. Marblehead, Massachusetts

Action: Withdrawal of HUD-FHA mortgagee approval.

Cause: Misrepresentation by the company that it was an approved Government National Mortgage Association (GNMA) seller/servicer.

6. Lambrecht Company, Southfield, Michigan

Action: Withdrawal of HUD–FHA mortgagee approval.

Cause: Failure to meet HUD–FHA mortgagee approval requirements due to cessation of operations.

7. Wells Federal Bank, Wells, Minnesota

Action: Proposed Settlement Agreement that provides for reimbursement to the Department for the overpayment of a claim in

connection with a Title I property improvement loan.

Cause: Improper submission of an insurance claim to the Department in connection with a Title I property improvement loan.

8. Approved Mortgage Corporation, Homestead, Florida

Action: Letter of Reprimand and proposed civil money penalty in the amount of $500.

Cause: A HUD monitoring review that cited the company for failure to implement a Quality Control Plan for loan origination in accordance with HUD–FHA requirements.

9. Pacific Northwest Mortgage, Renton, Washington

Action: Letter of Reprimand and proposed civil money penalty in the amount of $500.

Cause: A HUD monitoring review that cited the company for failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

10. Centerbank Mortgage Company, Waterbury, Connecticut

Action: Settlement Agreement that includes payment to the Department in the amount of $5,000 and compliance with HUD-FHA loan servicing requirements.

Cause: A HUD monitoring review that disclosed violations of HUD–FHA loan servicing requirements that included: failure to implement an adequate Quality Control Plan; failure to properly recertify Section 235 mortgages; and failure to provide detailed explanations in notices sent to mortgagors advising them of rejection for the assignment program.

11. Canyon Springs Financial d/b/a American Builders Mortgage Santa Ana, California

Action: Letter of Reprimand and proposed civil money penalty in the amount of $1,000.

Cause: A HUD monitoring review which cited the company for failure to implement an acceptable Quality Control Plan, and failure to comply with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

12. Meridian Mortgage Financial Corporation, Aurora, Colorado

Action: Letter of Reprimand and proposed civil money penalty in the amount of $1,000.

Cause: A HUD monitoring review which cited the company for failure to implement an acceptable Quality Control Plan, and failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

Dated: August 4, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 94–19633 Filed 8–10–94; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–920–4191–04]

Reopening of Public Land in Socorro County, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening Order.

SUMMARY: Notice is hereby given that effective August 11, 1994, the following lands are now reopened for all public uses.

T. 5 S., R. 6 E.,
Section 30, lots 1 through 6, NE¼, E½W½, N½SE¼.
Section 31, lots 1 through 11, E½NW¼, NE¼SW¼, N½SE¼.
T. 6 S., R. 5 E.,
Section 1, lots 1 through 4, S½N½,S½.

The emergency closure of public land in Socorro County, New Mexico was published in the **Federal Register** on October 12, 1993 (58 FR 52786) and corrected in the **Federal Register** on January 24, 1994 (59 FR 3558). The purpose of the closure was to protect public health and safety.

FOR FURTHER INFORMATION CONTACT: Stephen Salzman, Acting Area Manager at the BLM Socorro Resource Area, 198 Neel Avenue, NW, Socorro, New Mexico 87801 or telephone (505) 835–0412.

Dated: August 3, 1994.

Stephanie Hargrove,

Associate District Manager.

[FR Doc. 94–19619 Filed 8–10–94; 8:45 am]

BILLING CODE 4310–FB–M

National Park Service

Availability of Plan of Operations and Environmental Assessment for the Plugging and Abandonment of the W.R. Carr Lease, Well No. 1; Caskids Operating Company, Big Thicket National Preserve, Hardin County, TX

Notice is hereby given in accordance with § 9.52(b) of title 36 of the Code of Federal Regulations that the National Park Service has received from Caskids Operating Company a Plan of Operations for the Plugging and Abandonment of the W.R. Carr Lease, Well No. 1 within the Lance Rosier Unit of the Big Thicket National Preserve, Hardin County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Big Thicket National Preserve, 3785 Milam, Beaumont, Texas; and the Southwest Regional Office, National Park Service, 1220 South St. Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Southwest Regional Office, Post Office Box 728, Santa Fe, New Mexico 87504–0728, and will be sent upon request.

Dated: August 3, 1994.

Mary R. Bradford,

Acting Regional Director, Southwest Region.

[FR Doc. 94–19625 Filed 8–10–94; 8:45 am]

BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park Commission Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held at 1:00 p.m., Saturday, September 17, 1994, at McMahon's Mill, Williamsport, Maryland.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairman, Washington, DC
Ms. Diane C. Ellis, Brunswick, Maryland
Brother James T. Kirkpatrick, F.S.C., Cumberland, Maryland
Ms. Anne L. Gormer, Cumberland, Maryland
Ms. Elise B. Heinz, Arlington, Virginia
Mr. George M. Wykoff, Jr., Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, DC
Mr. Barry A. Passett, Washington, DC
Mrs. Jo Reynolds, Potomac, Maryland
Ms. Nancy C. Long, Glen Echo, Maryland
Ms. Mary E. Woodward, Shepherdstown, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mr. Terry W. Hepburn, Hancock, Maryland
Mr. Laidley E. McCoy, Charleston, West Virginia
Ms. Jo Ann M. Spevacek, Burke, Virginia
Mr. Charles J. Weir, Falls Church, Virginia

The agenda for this meeting includes Superintendent's report and old and new business.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements, may contact the Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: August 4, 1994.

Terry R. Carlstrom,

Deputy Regional Director, National Capital Region.

[FR Doc. 94–19626 Filed 8–10–94; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice annouces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Wednesday, August 17, 1994; 1:30 p.m. until 4:30 p.m.

ADDRESSES: Kirby Episcopal House, Sunset Road, Glen Summit, PA 18707.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: August 3, 1994.

David B. Witwer,

Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 94–19561 Filed 8–10–94; 8:45 am]

BILLING CODE 6820–PE–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Judith Groves, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability:

AB–3 (SUB–NO. 117X), MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN SALINE COUNTY, KANSAS (TRIGO INDUSTRIAL LEAD). EA available 8/1/94.

Comments on the following assessment are due 30 days after the date of availability:

AB–55 (SUB–NO. 486), CSX TRANSPORTATION, INC.—ABANDONMENT BETWEEN BLOOMINGDALE AND MONTEZUMA IN PARKE COUNTY, INDIANA. EA available 8/5/94.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–19620 Filed 8–10–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that three proposed consent decrees in *United States* v. *Enpro Contractors, Inc., et al.*, Civil Action No. CIV LR–C–92–415, was lodged on July 26, 1994 with the United States District Court for the Eastern District of Arkansas, Western Division.

This case arises from alleged violations by Defendants, Enpro Contractors, Inc., Jimmy A. Patton Contractor, Inc., Train Properties, Inc., Flake Investments, Inc., and Flake, Tabor, Tucker, Wells & Kelley, Inc. of the Clean Air Act and the Asbestos National Emission Standards for Hazardous Air Pollutants ("NESHAP"), 42 U.S.C. 7412, 7413 and 7414. The violations occurred at the MOPAC Hospital in Little Rock, Arkansas in July of 1990. The Enpro Consent Decree provides that Enpro Contractors, Inc. shall pay a civil penalty of $20,000. The Patton Decree provides that Jimmy A. Patton Contractor, Inc. shall pay a civil penalty of $10,000. The Train/Flake Decree provides that Train Property, Inc., Flake Investments, Inc., and Flake, Tabor, Tucker, Kelley & Wells, Inc. shall jointly pay a civil penalty of $12,700. All three Decrees require the defendants to comply with the Asbestos NESHAP.

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 decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Enpro Contractors, Inc., et al.*, DOJ. Ref. #90–5–2–1–1543.

The proposed consent decrees may be examined at the office of the United States Attorney, 425 West Capitol Avenue, Suite 500, Little Rock, AR, 72201; the Region VI, Office of the Environmental Protection Agency, 1445 Ross Ave., Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $2.50 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environment and Natural Resources Division.

[FR Doc. 94-19621 Filed 8-10-94; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree in Action Brought Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Boehringer*, Civil Action No. 8:CV93-303, was lodged with the United States District Court for the District of Nebraska on July 27, 1994. This Consent Decree resolves a Complaint filed by the United States against Boehringer Ingelheim Animal Health, Inc. ("Boehringer") pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9607.

The United States Department of Justice brought this action on behalf of the U.S. Environmental Protection Agency, seeking to recover costs incurred by EPA in response to releases of hazardous substances at the Economy Products warehouse ("the warehouse"), located in downtown Omaha, Nebraska.

The settlement in this case requires defendant Boehringer to reimburse the United States in the amount of $100,000.00 for cleanup costs incurred by EPA at the warehouse. This settlement figure is based on the minimal amount of hazardous substances sent to the warehouse by Boehringer.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Boehringer*, DOJ number 90-11-2-914.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, District of Nebraska, 7401 Zorinsky Federal Building, 215 North 17th Street, Omaha, Nebraska 68101-1228, and at the U.S. Environmental Protection Agency, Office of the Regional Counsel, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed Consent Decree may also be obtained from the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005. A copy of the proposed Consent Decree may be obtained by mail or in person from the Consent Decree Library. When requesting a copy of the Consent Decree, please enclose a check in the amount of $3.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-19570 Filed 8-10-94; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Joint Stipulation and Order of Dismissal Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree Among the United States, the State of Texas, Settling Defendants, Settling Federal Agencies, and Settling State Agencies in *United States of America* v. *David Bowen Wallace, et al.*, Civil Action No. 3-93CV0838-P (consolidated with No. C:93-CV-0841-G) was lodged on August 1, 1994 with the United States District Court for the Northern District of Texas, Dallas Division.

On April 30, 1993, the United States and the State of Texas filed a Complaint pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607, as amended ("CERCLA") for reimbursement of response costs incurred and to be incurred by the United States for response actions related to the release or threatened release of hazardous substances at the Bio-Ecology Superfund Site in Grand Prairie, Texas. Subsequently, the United States, the State of Texas, Settling Defendants, Settling Federal Agencies, and Settling State Agencies reached a settlement which resolves many of the issues set forth in the Complaint. Under the Consent Decree, the Settling Defendants shall pay $4,025,433 to the United States, and Settling State Agencies shall pay $7,500 to the United States. The Settling Federal Defendants shall cause to be transferred $4,312,353 to the EPA Hazardous Substances Superfund as reimbursement of EPA past response costs. This amount shall be subject to a credit of and reduced by $3,176,032, which represents the amount already paid by the Settling Federal Agencies toward remediation at the Bio-Ecology Site.

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 Acting Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *David Bowen Wallace et al.*, DOJ Ref. No. 90-11-3-204A.

The proposed Consent Decree may be examined at the office of the United States Attorney, United States Courthouse, 1100 Commerce Street, Room 16G28, Dallas, Texas 75242; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $27.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-19571 Filed 8-10-94; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Final (Consent) Judgment Pursuant to the Clean Water Act and the Rivers and Harbors Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a Final (Consent) Judgment in *United States* v. *Westinghouse Communities of Naples, Inc.*, Civil Action No. 94-234-CIV-FTM-17D (M.D. Fla.), was lodged with the United States District Court for the Middle District of Florida on July 18, 1994.

The proposed Final (Consent) Judgment concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344, and section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 403, as a result of the discharge of fill material into a tidal pond and the unauthorized construction of a bulkhead. The Defendant, Westinghouse Communities of Naples, Inc., was issued a permit by the U.S. Army Corps of Engineers in 1981, which authorized the filling of approximately 76 acres of wetlands as part of a residential development project. In mitigation, the permit required Defendant to excavate a 5-acre tidal pond to create a shoreline habitat and it contained an express condition

that no bulkhead or other structures would be allowed in Clam Bay's system or adjacent wetlands. Defendant subsequently discharged approximately 7 cubic yards of fill into the 5-acre mitigation pond in connection with the construction of a 400-foot-long vertical bulkhead and a portion of the bulkhead was placed over the fill. Those activities were contrary to the specific terms and conditions of the 1981 permit and, therefore, constituted violations of the Clean Water Act and the Rivers and Harbors Act.

The site of the violations is north, east and west of Upper Clam Bay and south of Vanderbilt Beach Road (SR862) in Sections 32 and 33, Township 48 South, Range 25 East and Sections 4, 5, 8 and 9, Township 49, South, Range 25 East in Collier County, Florida. The property contains wetlands adjacent to Upper Clam Bay-Pelican Bay and those wetlands are waters of the United States as defined in the Clean Water Act.

The Final (Consent) Judgment requires Westinghouse Communities of Naples, Inc. to pay a civil penalty in the amount of $15,000 for its violations of the permit. Under the settlement, the fill material and the bulkhead will be authorized to remain in place under Nationwide Permit No. 32.

The Department of Justice will receive written comments relating to the Final (Consent) Judgment for a period of 30 days from the date of publication of this notice. Comments should be addressed to Michael A. Cauley, Assistant U.S. Attorney, Middle District of Florida, 500 Zack Street, Suite 400, Tampa, FL 33602, and should refer to *United States v. Westinghouse Communities of Naples, Inc.*, Civil Action No. 94–234–CIV–FTM–17D (M.D. Fla.).

The Consent Decree may be examined at the Clerk's Office, United States District Court for the Middle District of Florida, Forty Myers Division, First and Lee Street, Ft. Myers, Florida 33901.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 94–19572 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Request for Comments on Draft Antitrust Guidelines for the Licensing and Acquisition of Intellectual Property

AGENCY: Antitrust Division, Department of Justice.

ACTION: Notice.

SUMMARY: The Antitrust Division has drafted proposed new Antitrust Guidelines for the Licensing and Acquisition of Intellectual Property. The Guidelines, when adopted in final form by the Department of Justice, will state the antitrust enforcement policy of the Department with respect to the licensing and acquisition of intellectual property, and will supersede section 3.6 in Part I, "Intellectual Property Licensing Arrangements," and cases, 6, 10, 11, and 12 in Part II of the U.S. Department of Justice 1988 Antitrust Enforcement Guidelines for International Operations. Comments should be submitted in writing within 60 days of publication of these draft Guidelines.

FOR FURTHER INFORMATION CONTACT: Submit views to Richard Gilbert, Deputy Assistant Attorney General, Antitrust Division, Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530, 202–514–2408.

SUPPLEMENTARY INFORMATION: As announced by the Assistant Attorney General in charge of the Antitrust Division, Anne K. Bingaman, in published speeches on January 10, 1994 and June 16, 1994, these proposed guidelines were drafted to state the current views of Antitrust Division with respect to the licensing and acquisition of intellectual property.

The Guidelines are not intended to create or recognize any legally enforceable right in any person. They are not intended to affect the admissibility of evidence or in any other way necessarily to affect the course or conduct of any present of future litigation. Moreover, changes in the relevant statutory framework, legal precedent, and methods of internal Department analysis may occur over time, and these changes will not always be simultaneously reflected in amendments to the Guidelines. Parties seeking to know the Department's specific enforcement intentions with respect to any particular transaction should consider seeking a Business Review pursuant to 28 CFR 50.5.

Dated: August 8, 1994.

Richard Gilbert,

Deputy Assistant Attorney General, Antitrust Division.

U.S. Department of Justice Antitrust Guidelines for the Licensing and Acquisition of Intellectual Property [1]

1. Intellectual Property Protection and the Antitrust Laws

These Guidelines state the antitrust enforcement policy of the U.S. Department of Justice with respect to the licensing and acquisition of intellectual property protected by patent, copyright, and trade secret law.[2] By stating its general policy, the Department hopes to assist those who need to predict whether the Department will challenge a practice as anticompetitive. However, these Guidelines cannot remove judgment and discretion in antitrust law enforcement. Moreover, the standards set forth in these Guidelines must be applied in unforeseeable circumstances. Each case will be evaluated in light of its own facts, and these Guidelines will be applied reasonably and flexibly.

In the United States, patents confer rights to exclude others from making, using, or selling in the United States the invention claimed by the patent for a period of seventeen years from the date of issue.[3] To gain patent protection, an invention (which may be a product, process, machine, or composition of matter) must be novel, nonobvious, and useful. Copyright protection applies to original works of authorship embodied in a tangible medium of expression.[4] A copyright protects only the expression, not the underlying ideas. Unlike a patent, which protects an invention not only from copying but also from independent creation, a copyright does not preclude others from independently creating similar expression. Trade secret protection applies to information whose economic value depends on its not being generally known. Trade secret protection is conditioned upon efforts to maintain secrecy and has no fixed term. As with copyright protection, trade secret protection does not preclude independent creation by others.[5]

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[1] These Guidelines supersede section 3.6 in Part I, "Intellectual Property Licensing Arrangements," and cases 6, 10, 11, and 12 in Part II of the U.S. Department of Justice 1988 Antitrust Enforcement Guidelines for International Operations.

[2] These Guidelines do not cover the antitrust treatment of trademarks. Although the same general antitrust principles that apply to other forms of intellectual property apply to trademarks as well, these Guidelines deal with innovation-related issues that typically arise with respect to patents, copyrights, and trade secrets, rather than with product-differentiation issues that typically arise with respect to trademarks.

[3] See 35 U.S.C. 154 (1988). In the case of process patents, the protection extends to importation of goods made by a patented process. *See* 19 U.S.C. 1337 (1988 & Supp. V 1993); 35 U.S.C. 271(g) (1988).

[4] *See* 17 U.S.C. 102 (1988 & Supp. V 1993). Copyright protection lasts for the author's life plus 50 years, or 75 years from first publication (or 100 years from creation, whichever expires first) for works made for hire. *See* 17 U.S.C. 302 (1988).

[5] The principles stated in these Guidelines also apply to protection of mask works fixed in a semiconductor chip product (*see* 17 U.S.C. 901 *et seq.* (1988)), which is analogous to copyright protection for works of authorship. These principles also generally apply to licensing of know-how and other collections of information which may not be protected by intellectual property rights, but which may nonetheless have value to a licensee or

Continued

Although there are clear and important differences in the purpose, extent, and duration of protection provided under the intellectual property regimes of patent, copyright, and trade secret, the governing antitrust principles are the same. Antitrust analysis takes differences among these forms of intellectual property into account in evaluating the specific market circumstances in which transactions occur, just as it does with other particular market circumstances.

The intellectual property laws and the antitrust laws share the common purpose of promoting innovation and enhancing consumer welfare.[6] The intellectual property laws provide incentives for innovation and its dissemination and commercialization by establishing enforceable property rights for the creators of new and useful products, more efficient processes, and original works of expression. In the absence of intellectual property rights, imitators could more rapidly exploit the efforts of innovators and investors without compensation, thereby reducing the commercial value of innovation and eroding the incentives to invest. The antitrust laws promote innovation and consumer welfare by prohibiting certain actions by firms that deter those firms and others from competing with respect to either existing or new ways of serving consumers.

2. General Principles

2.0 These Guidelines embody three general principles: (a) For the purpose of antitrust analysis, the Department regards intellectual property as being essentially comparable to any other form of property; (b) the Department does not presume that intellectual property creates market power in the antitrust context; and (c) the Department recognizes that intellectual property licensing allows firms to combine complementary factors of production and is generally procompetitive.

2.1 Standard Antitrust Analysis Applies to Intellectual Property

The Department applies the same general antitrust principles to conduct involving intellectual property that it applies to conduct involving any other form of tangible or intangible property. That is not to say that intellectual property is in all respects the same as any other form of property. Intellectual property has important characteristics that distinguish it from many other forms of property. These characteristics can be taken into account by standard antitrust analysis, however, and do not require the application of fundamentally different principles.

Intellectual property law bestows on the owners of intellectual property certain rights to exclude others. These rights help the owners to profit from the use of their property. An intellectual property owner's rights to exclude are similar to the rights enjoyed by owners of other forms of private property. As with other forms of private property, certain acquisitions of intellectual property, and certain types of agreements with respect to such property, may have anticompetitive effects against which the antitrust laws can and do protect. Intellectual property is thus neither particularly free from scrutiny under the antitrust laws, nor particularly suspect under them.

2.2 Intellectual Property and Market Power

Market power is the ability profitably to maintain prices above, or output below, competitive levels for a significant period of time.[7] The Department will not presume that a patent, copyright, or trade secret necessarily confers market power upon its owner. Although the intellectual property right confers the power to exclude with respect to the *specific* product, process, or work in question, there will often be sufficient actual or potential close substitutes for such product, process, or work to prevent the exercise of market power.[8] If a patent or other form of intellectual property does confer market power, that market power does not by itself offend the antitrust laws. As with any other tangible or intangible asset that enables its owner to obtain significant supracompetitive profits, market power (or even a monopoly) that is solely "a consequence of a superior product, business acumen, or historical accident" does not violate the antitrust laws.[9] Nor does such market power impose on the intellectual property owner an obligation to license that technology to others. *See, e.g., SCM Corp. v. Xerox Copy.*, 645 F.2d 1195 (2d Cir. 1981), *cert. denied*, 455 U.S. 1016 (1982). As in other antitrust contexts, however, market power could be illegally acquired or maintained, or, even if lawfully acquired and maintained, would be relevant to the ability of an intellectual property owner to harm competition through unreasonable conduct in connection with such property.

2.3 Procompetitive Benefits of Licensing

Intellectual property typically is one component among many in a production process and derives value from its combination with complementary factors. Complementary components of production include manufacturing and distribution facilities, workforces, and other items of intellectual property. The owner of intellectual property has to arrange for its combination with other necessary inputs to realize its commercial value. Often, the owner finds it most efficient to contract with others for these inputs, to sell rights to the intellectual property, or to enter into a joint venture arrangement for its development, rather than supplying these complementary inputs itself.

Licensing, cross-licensing, or otherwise transferring intellectual property (hereinafter "licensing") can facilitate its integration with complementary factors of production. This integration can lead to more efficient exploitation of the intellectual property, benefiting consumers through the reduction of costs and the introduction of new products. Such arrangements increase the value of intellectual property to consumers and to the developers of the technology. By potentially increasing the expected returns from intellectual property, licensing also can increase the incentive

transferee because of the form into which they are assembled.

[6] "[T]he aims and objectives of patent and antitrust laws may seem, at first glance, wholly at odds. However, the two bodies of law are actually complementary, as both are aimed at encouraging innovation, industry ad competition." Atari Games Corp. v. Nintendo of America, Inc., 897 F.2d 1572, 1576 (Fed. Cir. 1990).

[7] Market power can be exercised in other economic dimensions, such as quality, service and innovation. It is assumed in this definition that all competitive dimensions are held constant except the ones in which power is being exercised; it would not, of course, be indicative of market power that a seller is able to charge higher prices for a higher-quality product. The definition in text is stated in terms of a seller with market power; a buyer could also exercise market power (*e.g.*, by maintaining the price below the competitive level, thereby depressing output).

[8] The Department notes that the law is unclear on this issue. *Compare Jefferson Parish Hospital District No. 2 v. Hyde*, 466 U.S. 2, 16 (1984) (expressing the view in dictum that if a product is protected by a patent, "it is fair to presume that the inability to buy the product elsewhere gives the seller market power") *with id.* at 37 n.7 (O'Connor, J., concurring) ("[A] patent holder has no market power in any relevant sense if there are close substitutes for the patented product."). *Compare also Abbott Laboratories v. Brennan*, 952 F.2d 1346, 1354–55 (Fed. Cir. 1991) (no presumption of market power from intellectual property right) with *Digidyne Corp. v. Data General Corp.*, 734 F.2d 1336, 1341–42 (9th Cir. 1984) (requisite economic power is presumed from copyright), *cert. denied*, 473 U.S. 908 (1985).

[9] *United States v. Grinnell Corp.*, 384 U.S. 563, 571 (1966); *see also United States v. Aluminum Co. of America*, 148 F.2d 416, 430 (2d Cir. 1945) (Sherman Act is not violated by the attainment of market power solely through "superior skill, foresight and industry").

for its creation and thus promote greater investment in research and development.

Sometimes the use of one item of intellectual property requires access to another. An item of intellectual property "blocks" another when the second cannot be practiced without using the first. For example, an improvement on a patented machine can be blocked by the patent on the machine. Licensing promotes the coordinated development of technologies that are in a blocking relationship.

Field-of-use, territorial, and other limitations on intellectual property licenses may serve procompetitive ends by allowing the licensor to exploit its property as efficiently and effectively as possible. These various forms of exclusivity can be used to give a licensee an incentive to invest in the commercialization and distribution of products embodying the licensed intellectual property and to develop additional applications for the licensed property. The restrictions may do so, for example, by protecting the licensee against free-riding on the licensee's investments by other licensees or by the licensor. They may also promote the licensor's incentive to license, by protecting the licensor from competition in the licensor's own technology in a market niche that it prefers to keep to itself. These benefits of licensing restrictions apply to patent, copyright, and trade secret licenses.

Example 1 [10]

Situation: Delta, Inc. develops a new software program for inventory management. The program has wide application in the health field. Delta licenses the program in an arrangement that imposes both field of use and territorial limitations. Some of Delta's licenses permit use only in hospitals; others permit use only in group medical practices. Delta charges different royalties for the different uses. All of Delta's licenses permit use only in specified geographic areas. The license contains no provisions that would prevent or discourage licensees from developing, using, or selling any other program. None of the licensees are actual competitors of Delta in the sale of inventory management programs.

Discussion: The key competitive issue raised by the licensing arrangement is whether it harms competition that would likely have taken place in its absence. (See section 3.) Such harm could occur if the licenses foreclose access to competing technologies (in this case, most likely competing computer programs), prevent licensees from developing their own competing technologies (again, in this case most likely computer programs), structure royalties to impose an effective requirements contract upon licensees, or facilitate market allocation or price-fixing for any product or service supplied by the licensees. If the license agreements contained such provisions, the Department would analyze their competitive effects as described in sections 3–5 of these Guidelines. In this hypothetical, there are no such provisions, and there is no apparent harm to competition. The arrangement appears to do no more than increase the value of the licensed technology by subdividing it among different fields of use and territories and charging royalties that differ among licensees. The Department therefore would be unlikely to object to this arrangement. The result would be the same whether the technology was protected by copyright, patent, or trade secret. The Department's conclusion as to competitive effects could differ if, for example, the license barred licensees from using any other inventory management program.

3. Antitrust Concerns and Modes of Analysis

3.1 Nature of the Concerns

While intellectual property licensing arrangements are typically welfare-enhancing and procompetitive, antitrust concerns may arise when licensing arrangements impede competition that likely would have taken place in the absence of the license. Licensing arrangements that may raise antitrust concerns include restrictions on goods or technologies other than the licensed technology, contractual provisions that penalize licensees for dealing with suppliers of substitute technologies, and acquisitions of intellectual property that lessen competition in a relevant antitrust market.

For example, a licensing agreement that transfers little or no useful intellectual property, but imposes restraints upon entities that otherwise would compete using alternative technologies, might have significant adverse effects in downstream goods markets or in other markets. (See, e.g., Example 5.) An arrangement that effectively merges the research and development activities of two of only a few entities that could plausibly engage in research and development in the relevant field might harm competition for development of new intellectual property. (See section 3.2.3, "Innovation Markets.")

Intellectual property licensing between actual or likely potential competitors [11] may raise antitrust concerns by reducing or eliminating competition in the market(s) in which they compete or are likely to compete. In addition, license restrictions with respect to one market may reduce competition in another market by, for example, foreclosing access to or raising the price of an important input (other than as a natural consequence of the licensee acquiring a licensed technology for its own use).

3.2 Markets Affected by Licensing Arrangements

A licensing arrangement may affect competition in a variety of markets. In general, for goods markets and technology markets affected by a licensing arrangement, the Department will approach the delineation of relevant market and the measurement of market share in the intellectual property area in the same way that it treats such questions under section 1 of the 1992 Horizontal Merger Guidelines. In addition, the Department may define an innovation market to aid in assessing whether a licensing arrangement would be likely substantially to reduce investment in research and development.

3.2.1 Technology Markets

Technology markets consist of the intellectual property that is licensed, transferred, or acquired and the technologies that are close substitutes for it. The owner of a process for producing a particular good may be constrained in its conduct with respect to that process not only by other processes for making that good, but also by other goods that compete with the downstream good and by the processes used to produce those other goods.

In many cases, particularly in the case of a product patent, there may be little to be gained by analyzing competitive effects in a separate technology market in addition to analyzing effects in the associated goods market. Moreover, there may be practical problems in gathering appropriate data to determine "prices" for the technology and its substitute processes. For example, the

[10] The examples in these Guidelines are hypothetical and do not represent judgments about the actual market circumstances of the named industries.

[11] A firm will be treated as a likely potential competitor if its entry is likely under the standards of section 3.3 of the U.S. Department of Justice and Federal Trade Commission, Horizontal Merger Guidelines (April 2, 1992), or if there is evidence of likely actual entry by that firm. Competitive concerns are more likely to arise when the number of actual and likely potential competitors is not large.

technology may be licensed royalty-free in exchange for the right to use other technology, or it may be licensed as part of a package license. When complicating factors preclude delineating a relevant market in which the licensed technology competes, the Department may focus its attention on effects in the associated goods markets.

To estimate the market share of a participant using new technology, the Department generally will forecast market acceptance over a two-year period using the best available information. For technologies not yet commercialized, the two-year period will begin with commercial introduction. When market shares or other indicia of market power are not readily available, and it appears that competing technologies are all equally efficient,[12] the Department's analysis will treat each participant in the technology market as having an equal market share.

3.2.2 Goods markets. A number of different goods markets may be relevant to evaluating the effects of a licensing arrangement. A restraint in a licensing arrangement may have competitive effects in markets for final or intermediate goods made using the intellectual property, or it may have effects upstream, in markets for goods that are used as inputs, along with the intellectual property, to the production of other goods.

3.2.3 Innovation markets. Firms compete in research and development that may result in new or improved products or processes. If the capacity for research and development activity that likely will produce innovation in technology is scarce and can be associated with identifiable specialized assets or characteristics of specific firms (which may or may not currently participate in the relevant technology or goods markets), in may be appropriate to consider separately the impact of the conduct in question on competition in research and development among those firms. The firms identified as possessing these specialized assets or characteristics can be thought of as competing in a separate innovation market. *See* Complaint, *United States* v. *General Motors Corp.*, Civ. No. 93–530 (D. Del., filed Nov. 16, 1993). Alternatively, innovation markets may be used to assist with the identification of competitive effects in relevant goods and technology markets. *See, e.g.*, Complaint, *United States* v. *Flow International Corp.*, Civ. No. 94–71320 (E.D. Mich., filed Apr. 4, 1994).

Example 2

Situation: Two companies agree to cross-license future patents relating to the development of a new component for aircraft jet turbines. Innovation in the development of the component requires the capability to work with very high tensile strength materials. Aspects of the licensing arrangement raise the possibility that competition in research and development of this and related components will be lessened. The Department is considering whether to define an innovation market in which to evaluate the competitive effects of the arrangement.

Discussion: If the firms that have the capability to work with very high tensile strength materials can be reasonably identified, the Department will consider defining a relevant innovation market for development of the new component. If the number of firms with the required capability is small, the Department may employ the concept of an innovation market to analyze the competitive effects of the arrangement in that market, or as an aid in analyzing competitive effects in technology or goods markets. In this analysis, the Department would take into account the specific nature of the restraint, the likelihood that other firms may in the future acquire the requisite capability, other competitive factors, and any efficiency justifications for the licensing arrangement.

If the number of firms with the required capability is very large (either because there are a large number of such firms in the jet turbine industry, or because there are many firms in other industries with the required capability), then the Department will conclude that the innovation market is competitive. Under these circumstances, it is unlikely that any single firm or plausible aggregation of firms could acquire a large enough share of the assets necessary for innovation to have an adverse impact on competition.

If the Department cannot reasonably identify the firms with the required capability, it will not attempt to define an innovation market.

Just as goods markets are improperly defined if the firms in the market, were they to coordinate their decisions, would not profitably increase price above competitive levels, so too innovation markets are improperly defined if hypothetical coordination among the firms in the candidate market would not profitably retard or restrict innovation in the technology

When a relevant innovation market has been defined, the Department may assess the competitive significance of each participant based on shares of those identifiable assets or characteristics upon which innovation depends, on shares of research and development expenditures, on shares of the related product, or on equal shares assigned to reflect the equal likelihood of innovating, depending on the facts of each case. *Cf.* 1992 Horizontal Merger Guidelines § 1,41 & n.15. In evaluating competitive effects, the Department would also take into account other factors such as competitive harms from the elimination of alternative research paths and efficiency benefits from the integration of complementary research and development programs.

3.3 Horizontal and Vertical Relationships

As with other property transfers, antitrust analysis of intellectual property licensing arrangements examines whether the relationship of the parties to the arrangement is primarily horizontal or vertical in nature, or whether it has substantial aspects of both.

A licensing arrangement has a horizontal component with respect to a technology market if it involves the acquisition of rights to technologies that are economic substitutes for technologies that the licensee owns or controls. For analytical purposes, the Department ordinarily will treat a relationship between a licensor and its licensees as horizontal with respect to a particular goods market when the licensor and its licensees would be actual or likely potential competitors in that market absent the license.

An arrangement has a vertical component when it affects activities that are in a complementary relationship, as is typically the case in a licensing arrangement. Such a relationship exists when the licensor and its licensees stand in a seller-buyer relationship, or operate at different levels of the chain of production and distribution. For example, the licensor's primary line of business may be in research and development, and the licensees, as manufacturers, may be buying the rights to use technology developed by the licensor. Alternatively the licensor may be a component manufacturer owning intellectual property rights in a product that the licensee manufactures by combining the component with other inputs, or the licensor may manufacture the product, and the licensees may operate primarily in distribution and marketing. Although licensing arrangements typically have a vertical

[12] In this analysis, the Department will regard two technologies as being "equally efficient" if they can be used to produce, at the same cost, goods perceived by consumers to be close substitutes.

component, the licensor and its licensees may also have a horizontal relationship in the market containing the technology being licensed or in other markets in which they are actual or likely potential competitors.

The existence of a horizontal relationship between a licensor and its licensees is not inherently suspect. Identification of such relationships is merely an aid in determining whether there may be anticompetitive effects arising from a licensing arrangement. Such a relationship need not give rise to an anticompetitive effect, nor does a purely vertical relationship assure that there are no anticompetitive effects.

The following examples illustrate different competitive relationships among a licensor and its licensees.

Example 3

Situation: Alpha, a manufacturer of farm equipment, develops a new emission control technology for its tractor engines and licenses it to Beta, another farm equipment manufacturer. Alpha's emission control technology is far superior to the technology currently owned and used by Beta, so much so that Beta's technology does not discipline the prices that Alpha could charge for its technology. Beta has no likelihood of developing an improved emissions control technology on its own.

Discussion: Alpha's and Beta's emission control technologies are not economic substitutes for each other. Beta is a consumer of Alpha's technology and is not an actual or likely potential competitor of Alpha in the relevant market for technologically superior emission control devices of the kind licensed by Alpha. This means that the relationship between Alpha and Beta with regard to the supply and use of emissions control technology is vertical. Assuming that Alpha and Beta sell farm equipment products that are economic substitutes for each other, their relationship is horizontal in the relevant markets for farm equipment.

Example 4

Situation: Beta develops a new value technology for its engines and enters into a cross-licensing arrangement with Alpha, whereby Alpha licenses its emission control technology to Beta and Beta licenses its valve technology to Alpha. Alpha already owns an alternative valve technology that is an economic substitute for Beta's valve technology. Before adopting Beta's technology, Alpha was using its own valve technology in its production of engines and was licensing (and continues to license) that technology for use by others. As in Example 3, Beta does not own or control an emission control technology that is an economic substitute for the technology licensed from Alpha.

Discussion: Beta is a consumer and not a competitor of Alpha's emission control technology. As in Example 3, their relationship is vertical with regard to this technology. The relationship between Alpha and Beta in the relevant market that includes engine valve technology is vertical in part and horizontal in part. It is vertical in part because Alpha and Beta stand in a complementary relationship, in which Alpha is a consumer of a technology supplied by Beta. However, the relationship between Alpha and Beta in the relevant market that includes engine valve technology is also horizontal in part, because both firms own valve technologies that are economic substitutes for each other. Whether the firms license their valve technologies to others is not important for the conclusion that the firms have a horizontal relationship in this relevant market. Even if Alpha's use of its valve technology were solely captive to its own production, the fact that the two valve technologies are economic substitutes means that the two firms have a horizontal relationship. For the firms to be in a horizontal relationship, it is also not necessary that Alpha actually uses its valve technology prior to licensing technology from Beta, provided that Alpha's technology is an economic alternative to Beta's.

As in Example 3, the relationship between Alpha and Beta is horizontal in the relevant markets for farm equipment.

3.4 The Rule of Reason and per se Rules

In the vast majority of cases, restraints in intellectual property licensing arrangements are evaluated under the rule of reason (*see* section 4). In some cases, however, the courts conclude that a restraint's "nature and necessary effect are so plainly anticompetitive" that it should be treated as unlawful per se, without an elaborate inquiry into the restraint's purpose and effect, *National Society of Professional Engineers* v. *United States*, 435 U.S. 679, 692 (1978). Among the restraints that have been held per se unlawful are naked price-fixing, output restraints, and market division among horizontal competitors, as well as certain group boycotts and resale price maintenance.

To determine whether a particular restraint in a licensing arrangement is given per se or rule of reason treatment, the Department will first determine whether the restraint in question can be expected to contribute to an efficiency-producing integration of economic activity. In general, licensing arrangements promote such integration because they facilitate the combination of the licensor's intellectual property with complementary factors of production owned by the licensee. A restraint in a licensing arrangement may further such integration by, for example, aligning the incentives of the licensor and the licensees to promote the development and marketing of the licensed technology, or by substantially reducing transactions costs.

In assessing whether a particular restraint contributes to an efficiency-producing integration, the Department briefly will review, inter alia, the business of the parties to the license, the markets in question, and the purpose and effect of the particular restraint. If there is no efficiency-producing integration of economic activity and if the type of restraint is one that otherwise is appropriately accorded per se treatment, the Department will challenge the restraint under the per se rule. Otherwise, the Department will apply a rule of reason analysis.

Because licensing arrangements typically involve vertical relationships that create significant integrative efficiencies, restraints associated with those arrangements usually will have sufficient relationship to an efficiency-producing integration to merit analysis under the rule of reason. An ordinarily suspect restraint incorporated in a licensing agreement will not escape per se treatment, however, if the putative integration itself is a sham or if there is an insufficient relationship between the restraint and an efficiency-producing integration.

Example 5

Situation: Gamma, which manufactures Product X using its patented process, offers a license for its process technology to every other manufacturer of Product X. The process technology does not represent an economic improvement over the available existing technologies. Indeed, although several manufacturers accept licenses from Gamma, none of the licensees actually uses the licensed technology. The licenses provide that each manufacturer has an exclusive right to sell Product X manufactured using the licensed technology in a designated geographic area and that no manufacturer may sell Product X, however manufactured, outside the designated territory.

Discussion: The manufacturers of Product X are in a horizontal

relationship in the goods market for product X. Those that are licensees of Gamma's process technology would also be in a vertical relationship with Gamma if they actually used Gamma's technology, although in this example, that is not the case. Any manufacturers of Product X that control technologies that are economic substitutes for Gamma's process are also horizontal competitors of Gamma in the relevant technology market.

The licensing arrangement restricts competition in the relevant goods market among manufacturers of Product X. The restriction applies both to Product X that is manufactured with the licensed technology and to Product X manufactured with any other technology. The latter restriction is the key competitive concern because it harms competition that would have taken place in the absence of the licensing agreement. Such a restriction could conceivably benefit competition by promoting the adoption of Gamma's technology (see Example 6). In this example, however, the technology is not being used despite being licensed. If further investigation shows that there is no likelihood that the manufacturers of Product X will use Gamma's technology, the Department is likely to conclude that there are no conceivable benefits from the license restrictions.

If the Department concludes that the restraint does not contribute to an efficiency-producing integration of economic activity, the Department would be likely to challenge the arrangement under the per se rule as a horizontal territorial market allocation scheme and to view the intellectual property aspects of the arrangement as a sham intended to cloak its true nature. Since such a restraint is per se unlawful, the Department likely would challenge the arrangement even absent proof of substantial market power by the licensor and the licensees.

The competitive implications do not generally depend on whether the licensed technology is protected by patent, is a trade secret or other know-how, or is a computer program protected by copyright. Nor do the competitive implications generally depend on whether the allocation of markets is territorial, as in this example, or functional, based on fields of use.

Example 6

Situation: As in Example 5, Gamma offers a license to every other manufacturer of Product X for the patented process that it uses to manufacture Product X. The license provides that each manufacturer has an exclusive right to sell Product X manufactured using the licensed technology in a designated geographic area, and that no manufacturer may sell Product X, however manufactured, outside its designated territory. As in Example 5, several manufacturers accept licenses. In this example, however, the licensed process is an advance over their previously used process. Furthermore, Gamma's licensed process is the sole technology used by the licensees.

Discussion: The competitive relationships of the firms in this example are the same as in Example 5 and the licensing restraint has a similar effect on competition among the manufacturers of Product X. This example is distinguished from the previous example in that the licensed technology is useful, and, indeed, is used extensively by the licensees. As a consequence, the vertical dimension of the licensing agreement, and the benefits of the licensing restrictions in promoting the adoption of the technology, assume greater importance.

Again, the key competitive issue is the effect of the territorial restraint in the licensing arrangement on competition in the goods market that includes Product X. The restraint applies to all sales of Product X, without regard to whether it was made using the licensed technology. Such a restraint could have a benefit in promoting manufacturing and marketing efforts on behalf of the licensed technology, in part by making it easier for Gamma to monitor use of its licensed technology. The benefits come at the cost of restricting competition that would have taken place in the absence of the licensing arrangement. If the restraint contributes to an efficiency-enhancing integration of economic activity, the Department would evaluate this arrangement under the rule of reason. It would take into account such factors as the share of the licensor and the licensees in the relevant markets affected by the licensing arrangement, the level of concentration and difficulty of entry in these markets, and the promotional benefits to be gained by focusing manufacturing and marketing efforts on the licensed technology.

4. General Principles Concerning the Department's Evaluation of Licensing Arrangements Under the Rule of Reason

4.1 Antitrust "Safety Zone"

Absent extraordinary circumstances, the Department will not challenge a restraint in a licensing arrangement if (1) The restraint is not of a type that normally warrants condemnation under the per se rule and (2) the licensor and its licensees collectively account for no more than twenty percent of each relevant market affected by the restraint.[13] This "safety zone" is designed to provide owners of intellectual property with a degree of certainty, so as to encourage procompetitive licensing arrangements. It is not intended to discourage parties falling outside the safety zone from adopting restrictions in their license arrangements that are reasonably necessary to achieve an efficiency-producing integration of economic activity. The Department will analyze arrangements falling outside the "safety zone" based on the considerations outlined in this section.

This "safety zone" does not apply to transactions that amount to mergers or acquisitions, which are governed by the 1992 Horizontal Merger Guidelines.

The Department will include innovation market shares in its evaluation of whether a licensing arrangement falls within the safety zone only if the assets required to compete in research and development are specialized and identifiable. If not, the Department will confine its analysis to the goods and technology markets affected by the licensing arrangement.

4.2 General Statement of the Rule of Reason

In analyzing a restraint in a licensing arrangement under the rule of reason, the Department first inquires whether the restraint has an anticompetitive effect. If so, the Department next inquires whether the restraint is reasonably necessary to achieve procompetitive benefits that outweigh those anticompetitive effects. *See NCAA v. Board of Regents of the University of Oklahoma*, 468 U.S. 85 (1984); *see also* 7 Phillip A. Areeda, *Antitrust Law*, § 1502 (1986). In pursuing these inquiries, the Department will be guided by several general principles. These principles apply to both vertical and horizontal licensing restraints that are analyzed under the rule of reason.

4.3 Analysis of Anticompetitive Effects

The existence of anticompetitive effects resulting from a restraint in a licensing arrangement may be evaluated on the basis of a variety of factors taken together, including the following.

[13] As stated in section 1.41 of the 1992 Horizontal Merger Guidelines, market shares for goods markets "can be expressed either in dollar terms through sales, shipments, or production, or in physical terms through measurement of sales, shipments, production, capacity, or reserves." Special considerations affect the measurement of market shares in some technology markets. The measurement of market shares in that context is discussed in section 3.2.1.

4.3.1 Market structure, coordination, and foreclosure. When a licensor and its licensees compete in technology or goods markets, a restraint in a licensing arrangement may increase the risk of coordinated pricing, output restrictions, or the acquisition or maintenance of monopoly power. The potential for competitive harm generally increases with the degree of concentration in, the difficulty of entry into, and the inelasticities of supply and demand in markets in which the licensor and licensees are in a horizontal relationship. Cf. 1992 Horizontal Merger Guidelines, §§ 1.5, 3.

When the licensor and licensees are in a vertical relationship, harm to competition from a restraint may occur if it forecloses access to, or increases competitors' costs of obtaining, important inputs (other than as a natural consequence of the licensee acquiring a licensed technology for its own use). An example is a licensing arrangement with most of the established manufacturers in an industry preventing those manufacturers from using any technology. The risk of foreclosing access or increasing competitors' costs is related to the fraction of markets affected by the licensing restraint and to other characteristics of the input and output markets, such as concentration, difficulty of entry, and elasticities of supply and demand.

Harm to competition from a restraint in a vertical licensing arrangement also may occur if a licensing restraint facilitates coordination to raise prices or reduce output in markets in which one of the parties participates. For example, if owners of competing technologies impose similar restraints on their licensees, the licensors may find it easier to coordinate their pricing. Similarly, licensees that are horizontal competitors may find it easier to coordinate their pricing if they are subject to common license restraints imposed either by a common licensor or by competing licensors. The risk of anticompetitive coordination is increased when the relevant markets are concentrated and difficult to enter.

4.3.2 Licensing arrangements involving exclusivity. A licensing arrangement may involve exclusivity in two distinct respects. First, the licensor may grant one or more *exclusive licenses,* which restrict the right of the licensor to license others and possibly also to practice the technology itself. Generally, such as grant to exclusivity may raise antitrust concerns only if the licensees themselves, or the licensor and its licensees, are actual or potential competitors in a relevant technology or goods market in the absence of the licensing arrangement. Examples of exclusive licenses with possible competitive consequences include cross-leasing by parties collectively possessing market power (*see* section 5.5), grantbacks (*see* section 5.6), and acquisitions of intellectual property rights (*see* section 5.7).

A second form of exclusivity, *exclusive dealing,* arises when a license prevents or restrains the licensee from using competing technologies. Such restraints can have the effect of denying rivals sufficient outlets for exploiting their technologies and thus be anticompetitive. Exclusivity may be required by the licensor, as in an explicit exclusive dealing arrangement (*see* section 5.4), or induced through economic incentives. For example, a royalty arrangement based on total sales of a licensee's product, regardless of whether it is made using the licensed technology, may increase the cost to a licensee of substituting alternative technologies, and thus may have effects similar to an exclusive dealing arrangement. *See* Complaint, *United States* v. *Microsoft, Inc.,* Civ. No. 94–1564 (D.D.C., filed July 15, 1994); Competitive Impact Statement, *id.* (filed July 27, 1994). Whether a restraint of this kind has anticompetitive effects depends, inter alia, on the availability of other outlets for competitively viable exploitation of rival technologies.

Restraints that impose or encourage exclusive dealing may have procompetitive effects. For example, a licensing arrangements that prevents the licensee from dealing in other technologies may encourage the licensee to develop and market the licensed technology or specialized application of that technology. *See, e.g.,* Example 7. The Department will take into account such precompetitive effects in evaluating the reasonableness of the arrangement. *See* section 4.4.

The Department will focus on the actual practice and its effects, not to the formal terms of the arrangement. A license denominated as non-exclusive (either in the sense of exclusive licensing or in the sense of exclusive dealing) may nonetheless give rise to the same concerns posed by formal exclusivity. A non-exclusive license may have the effect of exclusive licensing if it is structured so that the licensor is unlikely to license others or to practice the technology itself. A license that does not explicitly require exclusive dealing may have the effect of exclusive dealing if it is structured to make it costly for licensees to use competing technologies. However, a licensing arrangement will not automatically raise these concerns merely because a party chooses to deal with a single licensee or licensor, or confines his activity to a single field of use or location, or because only a single licensee has chosen to take a license.

Example 7

Situation: Eta, the inventor of a new flat panel display technology, lacking the capability to bring a flat panel display product to market, grants Rho an exclusive license to make and sell a product embodying Eta's technology. Rho does not currently sell a product that would compete with the product embodying the new technology or control rights to another display technology. Several firms offer competing displays, the relevant markets for manufacturing and distribution of such displays are unconcentrated, and entry into these markets is relatively easy. Demand for the new technology is uncertain and successful market penetration will require considerable promotional effort. The license contains an exclusive dealing restriction preventing Rho from selling products that compete with the product embodying the licensed technology.

Discussion: This example illustrates both types of exclusivity in a licensing arrangement. The license is exclusive in that it restricts the right of the licensor to grant other licenses. In addition, the license has an exclusive dealing component in that it restricts the licensee from selling competing products.

The inventor of the display technology and its licensee are in a vertical relationship and do not compete in the manufacture or sale of display products or in the sale of technology. Hence, the grant of an exclusive license does not affect competition between the licensor and the licensee. The exclusive license may promote competition by encouraging Rho to develop and promote the new product in the face of uncertain demand by rewarding Rho for its efforts if they lead to large sales. Although the license bars the licensee from selling competing products, this exclusive dealing aspect is unlikely in this example to harm competition by foreclosing access or facilitating anticompetitive pricing because several firms offer competing products, the relevant manufacturing and distribution markets are unconcentrated, and entry is easy. On these facts, the Department would be unlikely to challenge the arrangement.

4.3.3 Benefits to the parties from reduction of competition. In some cases, the benefits of a restraint in a licensing arrangement to the licensor or its

licensees may derive primarily from reductions in competition that likely would have occurred absent the license rather than from the restraint's relationship to efficiency-producing objectives of the arrangement. In determining whether to challenge a particular restraint in a licensing arrangement, the Department will assess evidence indicating which of these possibilities better describes the purpose and effect of the restraint.

4.3.4 Other factors. Factors such as a history of rivalry and a rapid pace of innovation are also relevant to an analysis of the potential for harm to competition. The presence of these factors may indicate that licensors and licensees are less likely successfully to engage in coordinated behavior to raise prices or restrict output, and their absence may signal a greater likelihood of such behavior.

4.4 Efficiencies and Justifications

If the Department finds that a restraint in a licensing arrangement has an anticompetitive effect, the Department will consider whether the restraint produces offsetting procompetitive effects, such as by facilitating the efficient development and exploitation of intellectual property. If offsetting benefits are established, the Department will determine whether the restraint is reasonably necessary to achieve the efficiencies. If the restraint is reasonably necessary, and if the efficiencies outweigh the anticompetitive effect, the Department will not challenge the licensing arrangement.

The Department's comparison of anticompetitive harms and procompetitive efficiencies is necessarily a qualitative one. The risk of anticompetitive effects in a particular case may be insignificant compared to the expected benefits, or vice versa. As the expected anticompetitive effects in a particular licensing arrangement increase, the Department will look for evidence establishing with greater certainty that the arrangement achieves net benefits.

The existence of practical and significantly less restrictive alternatives is relevant to a determination of whether a restraint is reasonably necessary. If it is clear that the parties could have achieved similar efficiencies by means that are significantly less restrictive, then the Department will not give weight to the parties' efficiency claim. In making this assessment, however, the Department will not engage in a search for a theoretically least restrictive alternative that might be easier to construct in hindsight than in the practical prospective business situation faced by the parties.

When a restraint has an anticompetitive effect, the duration of that restraint can be an important factor in determining whether it is reasonably necessary to achieve the putative procompetitive effect. The effective duration of a restraint may be dependent on a number of factors, including the option of the affected party to terminate the arrangement unilaterally and the presence of contract terms (*e.g.*, unpaid balances on minimum purchase commitments) that encourage the licensee to renew a license arrangements. Consistent with its approach to less restrictive alternative analysis generally, the Department will not attempt to draw fine distinctions regarding duration; rather, its focus will be on situations in which the duration clearly exceeds the period needed to achieve the procompetitive effect.

The evaluation of procompetitive efficiencies, of the reasonable necessity of a restraint to achieve them, and of the duration of the restraint may depend on the market context. A restraint that may be justified by the needs of a new entrant, for example, may not have a procompetitive efficiency justification in different market circumstances. *Cf. United States* v. *Jerrold Electronics Corp.*, 187 F. Supp. 545 (E.D. Pa. 1960), *aff'd per curiam*, 365 U.S. 567 (1961).

4.5 Restraints Subject to a Quick-Look Analysis

A rule of reason analysis may require no more than a "quick look" at the anticompetitive effects of a particular restraint and the extent to which the restraint is reasonably necessary to achieve an efficiency-producing integration. When the restraint is one that ordinarily warrants per se treatment, and a quick look at the claimed efficiencies reveals that the restraint is not reasonably necessary to achieve procompetitive efficiencies, the Department will likely challenge the restraint without further analysis. *See FTC* v. *Indiana Federation of Dentists*, 476 U.S. 447, 459–60 (1986); *NCAA* v. *Board of Regents of the University of Oklahoma*, 468 U.S. 85, 109–10 & n.39 (1984).

5. Application of General Principles

This section illustrates the application of these principles to particular licensing restraints and to arrangements that involve the cross-licensing, pooling, or acquisition of intellectual property. The restraints and arrangements identified are typical of those that are likely to encounter antitrust scrutiny; however, they are not intended as an exhaustive list of practices that could raise competitive concerns.

5.1 Horizontal Restraints

While licensing arrangements among horizontal competitors, like joint ventures, often promote rather than hinder competition, there are a number of circumstances in which antitrust scrutiny is warranted. Generally speaking, the licensor and the licensee are deemed to be horizontal competitors only if they own or control technologies that are economic substitutes for each other or if they are competitors in a goods market other than through the use by the licensee of the licensed technology. *See* section 3.3. Consistent with the principles set forth in section 3.4, the Department will challenge certain types of horizontal restraints as per se unlawful in appropriate cases. Horizontal restraints in licensing arrangements that constitute price fixing, allocation of markets or customers, agreements to reduce output, and certain group boycotts may merit per se treatment. In other cases, the restraints will be evaluated under the rule of reason, following the general principles set forth in section 4.

Example 8

Situation: Two of the leading manufacturers of a consumer electronic product hold patents that cover alternative circuit designs for the product. None of the patents is blocking; that is, each of the patents can be practiced without infringing a patent owned by the other firm. The different circuit designs are economic substitutes. Each permits the manufacture at similar cost of products that consumers consider to be interchangeable. The manufacturers assign their patents to a separate corporation wholly owned by the two firms. That corporation licenses the right to use the circuit designs to other consumer product manufacturers and establishes the license royalties.

Discussion: In this example, the manufacturers are horizontal competitors in the goods market for the consumer product and in the related technology markets. The competitive issue with regard to a joint assignment of patent rights is whether the assignment has an adverse impact on competition in technology and goods markets that is not outweighed by procompetitive benefits in the use or dissemination of the technology. Each of the patent owners has a right to exclude others from practicing its patent. That right does not extend, however, to the agreement to assign rights jointly. To the extent that the patent rights cover

technologies that are substitutes, the joint determination of royalties may result in higher royalties and higher goods prices than the owners would have charged on their own. In the absence of evidence establishing efficiencies from the joint assignment of patent rights, the Department may conclude that the joint marketing of competing patent rights constitutes horizontal price fixing and could be challenged as a per se unlawful horizontal restraint of trade. If there are plausible efficiency justifications for the joint marketing arrangement, the Department would evaluate the arrangement under the rule of reason. However, the Department may conclude that the anticompetitive effects are sufficiently apparent, and the proposed integrative efficiencies are sufficiently weak or unrelated to the restraints, to require only a "quick look" rule of reason analysis (*see* section 4.5).

5.2 Resale Price Maintenance

Resale price maintenance is illegal when "commodities have passed into the channels of trade and are owned by dealers." *Dr. Miles Medical Co.* v. *John D. Park & Sons Co.*, 220 U.S. 373 (1911). It has been held per se illegal for a licensor of an intellectual property right in a product to fix a licensee's resale price of that product. *United States* v. *Univis Lens Co.*, 316 U.S. 241, 243–45, 249–51 (1942); *Ethyl Gasoline Corp.* v. *United States*, 309 U.S. 436, 446–48, 452, 457 (1940).[14] Consistent with the principles set forth in section 3.4, the Department will enforce the per se rule against resale price maintenance in the intellectual property context.

5.3 Tying Arrangements

A transaction is said to involve tying if: (1) There are two separate products, and (2) the sale of one product is conditioned on the purchase of the other. Thus, conditioning the ability of a customer to license one or more items of intellectual property on the customer's purchase of another item of intellectual property or a good or service has been held to constitute illegal tying. *See, e.g., United States* v. *Paramount Pictures, Inc.*, 334 U.S. 131, 156–58 (1948) (copyrights); *International Salt Co.* v. *United States*, 332 U.S. 392 (1947) (patents). Tying can, however, be efficiency-enhancing under some circumstances. *See, e.g., Jerrold Electronics Corp.* v. *Westcoast Broadcasting Co.*, 341 F.2d 653 (9th Cir.), *cert. denied*, 382 U.S. 817 (1965). The Department would be likely to challenge a tying arrangement if: (1) The seller has sufficient economic power in the market for the tying product to enable it to restrain trade in the market for the tied product, (2) the arrangement has an adverse effect on competition in the relevant market for the tied product, and (3) efficiency justifications for the arrangement do not outweigh the anticompetitive effect.[15] The Department will not presume market power solely from the existence of a patent or other intellectual property right.[16]

Package licensing—the licensing of multiple items of intellectual property in a single license or in a group of related licenses—may be a form of tying arrangement, but only if the items licensed constitute "separate products" and the licensing of one product is used to force the acceptance of a license of another. Such practices can be efficiency enhancing under some circumstances. When multiple licenses are needed to practice any single item of intellectual property, for example, a package license may present such efficiencies. If a package license constitutes a tying arrangement, the Department will evaluate its competitive effects under the same principles it applies to other tying arrangements.

5.4 Exclusive dealing

In the intellectual property context, exclusive dealing occurs when a license prevents the licensee from licensing, selling, distributing, or using a competing technology. Although such restraints can be procompetitive in some circumstances, in other situations they can deny rivals sufficient outlets for competitively viable exploitation of their technologies and thus can be anticompetitive. See section 4.3.2.

5.5 Cross-Licensing and Pooling Arrangements

Cross-licensing and pooling arrangements are agreements of two or more owners of different items of intellectual property to license one another or third parties. These arrangements may promote economic welfare by integrating complementary technologies, reducing transactions costs, clearing blocking positions, and avoiding costly infringement litigation. By promoting the dissemination of technology, cross-licensing and pooling arrangements are often procompetitive.

Cross-licensing and pooling arrangements can have anticompetitive effects in certain circumstances. When these arrangements are a mechanism to accomplish price fixing, or market or customer allocation, they can lead to a significant lessening of competition. *See United States* v. *New Wrinkle, Inc.*, 342 U.S. 371 (1952) (price fixing); *United States* v. *United States Gypsum Co.*, 333 U.S. 364 (1948) (customer allocation). The joint marketing of pooled intellectual property rights, with collective price setting or coordinated output restrictions, may violate section 1 of the Sherman Act. *Compare NCAA* v. *Board of Regents of the University of Oklahoma*, 468 U.S. 85 (1984) (output restriction on college football broadcasting held unlawful because it was not reasonably related to any purported justification) *with Broadcast Music, Inc.* v. *CBS*, 441 U.S. 1 (1979) (blanket license for music copyrights upheld because the cooperative price was found necessary to the creation of a new product).

Settlements involving the cross-licensing of intellectual property rights can be an efficient means to avoid litigation over infringement and interference proceedings, and, in general, courts favor such settlements. When such cross-licensing involves horizontal competitors, however, the Department will consider whether the effect of the settlement is to diminish rivalry that would otherwise have occurred. In the absence of offsetting efficiencies, such settlements may be challenged as unlawful restraints of trade. *Cf. United States* v. *Singer Manufacturing Co.*, 374 U.S. 174 (1963) (cross-license agreement was part of broader combination to exclude competitors).

[14] *But cf. United States* v. *General Electric Co.*, 272 U.S. 476 (1926) (holding that an owner of a product patent may condition a license to manufacture the product on the fixing of the *first* sale price of the patented product). Subsequent lower court decisions have distinguished the *GE* decision in various contexts. *See, e.g., Royal Indus.* v. *St. Regis Paper Co.*, 420 F.2d 449, 452 (9th Cir. 1969) (observing that *GE* involved a restriction by a patentee who also manufactured the patented product and leaving open the question whether a nonmanufacturing patentee may fix the price of the patented product); *Newburgh Moire Co.* v. *Superior Moire Co.*, 237 F.2d 283, 293–94 (3rd Cir. 1956) (grant of multiple licenses each containing price restrictions does not come within the *GE* doctrine); *Cummer-Graham Co.* v. *Straight Side Basket Corp.*, 142 F.2d 646, 647 (5th Cir.) (owner of an intellectual property right in a process to manufacture an unpatented product may not fix the sale price of that product), *cert. denied*, 323 U.S. 726 (1944); *Barber-Colman Co.* v. *National Tool Co.*, 136 F.2d 339, 343–44 (6th Cir. 1943) (same).

[15] As is true throughout these Guidelines, the factors listed are those that guide the Department's internal analysis in exercising its prosecutorial discretion. They are not intended to circumscribe how the Department will conduct the litigation of cases that it decides to bring, nor to opine on how the courts should resolve questions that are currently unsettled in the case law.

[16] *See* section 2.2. This policy is consistent with the requirement that market power be demonstrated to establish patent misuse based on tying. 35 U.S.C. § 271(d) (1988) (as amended by Pub. L. No. 100–703, 201 Stat. 4676 (1988)).

Pooling arrangements and the like generally need not be open to all who would like to join. Cross-licensing and pooling arrangements among parties that collectively possess market power may, under some circumstances, harm competitions by significantly disadvantaging competitors. *Cf Northwest Wholesale Stationers, Inc* v. *Pacific Stationery & Printing Co.*, 472 U.S. 284 (1985) (exclusion of a competitor from a purchasing cooperative not unlawful absent a showing of market power).

Another possible anticompetitive effect of pooling arrangements may occur when participation in the arrangement deters or discourages participants from engaging in research and developing, thus retarding innovation. A pooling arrangement in which members grant licenses to each other for current and future technology at minimal cost may encourage free-riding and reduce the incentives of its members to compete in their research and development efforts. *See generally United States* v. Automobile Manufacturers Association, 307 F. Supp. 617 (C.D. Cal 1969), *modified sub nom. United States* v. *Motor Vehicle Manufacturers Association*, 1982–83 Trade Cas. (CCH) ¶ 65,088 (C.D. Cal 1982); *United States* v. *Manufacturers Aircraft Association*, 1976–1 *Trade Cas.* (CCH) ¶ 60,810 (S.D.N.Y. 1975). Such an arrangement is more likely to cause competitive problems where the arrangement includes a large fraction of the potential participants in research and development.

Example 9

Situation: As in Example 8, two of the leading manufacturers of a consumer electronic product hold patents that cover alternative circuit designs for the product. The manufactures assign several of their patents to a separate corporation wholly owned by the two firms. That corporation licenses the right to use the circuit designs to other consumer product manufacturers and establishes the license royalties. In this example, however, the manufacturers assign to the separate corporation only patents that are blocking. None of the patents assigned to the corporation can be practiced without infringing a patent owned by the other firm.

Discussion: Unlike the previous example, the joint assignment of patent rights to the wholly owned corporation in this example can have procompetitive benefits in the use of dissemination of the technology. Because the manufacturer's patents are blocking, the manufacturers are not in a horizontal relationship with respect to those patents. Neither patent can be practiced without the right to a patent owned by the other firm, so the patents are not economic substitutes. (The pooling of patents also would not raise competitive problems in the relevant technology market if the pool involved complementary patents and enabled licensing of a package whose value exceeded the sum of its component patents.)

As in Example 8, the firms are horizontal competitors in the relevant goods market. In the absence of evidence suggesting that the joint assignment of patent rights is also contributing to coordinated pricing of the firms' final products, the Department would be unlikely to challenge this arrangement.

5.6 Grantbacks

A grantback is an arrangement under which a licensee agrees to extend to the licenser of intellectual property the right to use the licensee's improvements to the licensed technology. Grantbacks can have procompetitive effects, such as providing a means for the licensee and the licensor to share risks and rewarding the licensor for making possible further innovation based on or informed by the licensed technology. Such arrangements can both promote innovation in the first place and promote the subsequent licensing of the results of the innovation.

Grantbacks may adversely affect competition, however, if they substantially reduce the licensee's incentives to engage in research and development and limit rivalry in innovation markets. In deciding whether to challenge a grantback, the Department will consider the extent to which, as compared with no license at all, the license with the grantback provision may diminish total research and development investment or lessen competition in innovation or technology markets.

5.7 Acquisition of Intellectual Property Rights

The legality of transactions resulting in an actual or effective acquisition of intellectual property rights is analyzed under section 7 of the Clayton Act and sections 1 and 2 of the Sherman Act. *SCM Corp.* v. *Xerox Corp.*, 645 F.2d 1195, 1210 (2d Cir. 1981) (patents); *United States* v. *Columbia Pictures Corp.*, 189 F. Supp. 153, 183 (S.D.N.Y. 1960) (copyrights). The Department will analyze such transactions as acquisitions of assets just as it does other asset acquisitions. When a license is non-exclusive, the exclusivity is temporary, or the acquisition is otherwise structured to allow the parties freedom to compete independently in related products, the Department will take these aspects of the arrangement into account, as it does in the case of other asset acquisitions and joint ventures.

With respect to horizontal acquisitions, the Department will apply the analysis contained in the 1992 Horizontal Merger Guidelines. The Department will evaluate the effects of an acquisition of intellectual property in affected technology, innovation, and goods markets. As described in section 4 of the 1992 Horizontal Merger Guidelines, the Department takes into account integrative efficiencies that could not reasonably be achieved without the acquisition as well as any anticompetitive effects of the acquisition from the lessening of competition among existing technologies or goods or from the lessening of competition to develop new technologies.

Example 10

Situation: Omega develops a new, patented pharmaceutical for the treatment of a particular disease. The only drug on the market approved for the treatment of this disease is sold by Zeta, which has invested large sums in advertising to achieve brand name recognition. Omega's patented drug has almost completed regulatory approval by the Food and Drug Administration. Omega has invested considerable sums in testing market acceptance for its new drug. However, rather than enter the market as a direct competitor of Zeta, Omega licenses to Zeta the exclusive right to manufacture and sell Omega's patented drug.

Discussion: Assuming that Zeta would manufacture and sell Omega's patented drug, the relationship of Omega and Zeta is in part vertical, because Zeta would be a customer of Omega in the technology market. However, their relationship is also horizontal in part, because Omega is a likely potential competitor of Zeta in the relevant goods market as well as in the relevant technology market. Although the vertical aspects of this arrangement pose no threat to competition in this example, the horizontal aspects would require further analysis. The Department would evaluate Zeta's acquisition of Omega's patent rights as an acquisition of the assets of a likely potential competitor, using the methodology described in the Department's merger guidelines. The Department would consider the impact of the acquisition on market concentration, other factors that affect

the likelihood that competition would be affected by the acquisition, and possible efficiency defenses. In this example, Zeta's market position prior to the acquisition as the only seller of a drug treatment of this disease makes it more likely that the acquisition would have anticompetitive effects.

6. Enforcement of Invalid Intellectual Property Rights

The Department may challenge the enforcement of invalid intellectual property rights as antitrust violations. The Supreme Court has held that enforcement of a patent obtained by fraud on the Patent and Trademark Office can violate section 2 of the Sherman Act if all the elements otherwise necessary to establish a section 2 monopolization charge are proved. *Walker Process Equipment, Inc.* v. *Food Machinery & Chemical Corp.*, 382 U.S. 172 (1965). Enforcement of a patent obtained by mere inequitable conduct before the Patent and Trademark Office, however, cannot be the basis of a section 2 claim, because inequitable conduct does not involve knowing and willful patent fraud. *Argus Chemical Corp.* v. *Fibre Glass-Evercoat Co.*, 812 F.2d 1381 (Fed. Cir. 1987). An objectively baseless infringement action, brought in bad faith, when the complainant knows the intellectual property right to be invalid, may violate section 2 of the Sherman Act. *See Professional Real Estate Investors, Inc.* v. *Columbia Pictures Industries, Inc.*, 113 S. Ct. 1920, 1928 (1993); *Handgards, Inc.* v. *Ethicon, Inc.*, 743 F.2d 1282, 1288–89 (9th Cir. 1984). *cert. denied*, 469 U.S. 1190 (1985) (patents); *Handgards, Inc.*, v. *Ethicon, Inc.*, 601 F.2d 986, 992–96 (9th Cir. 1979), *cert. denied*, 444 U.S. 1025 (1980) (patents); *CVD, Inc.* v. *Raytheon Co.*, 769 F.2d 842 (1st Cir. 1985) (trade secrets).

[FR Doc. 94–19657 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bellcore Ventures, Inc.

Notice is hereby given that, on February 4, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Bellcore Ventures, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore and Motorola Core Ventures, Inc. ("Motorola") simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes. 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. Pursuant to Section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and Motorola, Schaumburg, IL. Bellcore and Motorola entered into an agreement effective as of December 18, 1992, which agreement was re-formed on December 17, 1993.

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 Bellcore intends to file additional written notifications disclosing all changes in membership.

On March 24, 1992, Bellcore 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 April 22, 1993 (58 FR 21597).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–19624 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project 93–23

Notice is hereby given that, on July 6, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et. seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project 93–23, titled "Removal of Soluble Oil from Produced Water: Technology Evaluation," filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to Project No. 93–23 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 to the project are: Shell Development Company, Houston, TX; Mobile Research and Development Corporation, Dallas TX; Phillips Petroleum Company, Houston, TX; Texaco Inc., Bellaire, TX; Chevron Corporation, Richmond, CA; and Remediation Technologies, Inc., Pittsburgh, PA.

The nature and objective of the research program performed in accordance with PERF Project No. 93–23 is to test known methods for removal of oil and/or grease from water using pilot tests and/or field tests with the goal of identifying effective methods to remove these contaminants from streams such as discharge streams from oil production facilities.

Information regarding participation in the project may be obtained from, Dr. Z.I. Khatib, Shell Development Company, P.O. Box 1380, Houston, TX 77251–1380, telephone (713) 544–8575.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–19622 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Gas-Fueled Railway Research Program Feasibility and Infrastructure Study

Notice is hereby given that, on June 10, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. section 4310 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership status of a cooperative research project entitled "Gas-Fueled Railway Research Program Feasibility and Infrastructure Study". 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, SwRI and Burlington Northern Railroad have mutually agreed to the cancellation of Burlington Northern Railroad's participation in the cooperative research project effective September 16, 1993.

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 SwRI intends to file additional written notification disclosing all changes in membership.

On January 4, 1993, SwRI 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 25, 1993, 58 FR 6015.

The last notification was filed with the Department on October 28, 1993. A notice was published in the **Federal**

Register on December 30, 1993, 58 FR 69409.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–19623 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–01–M

National Institute of Corrections

Announcement of Grants, Services, and Training

The National Institute of Corrections (NIC), U.S. Department of Justice, has published its Annual Program Plan for Fiscal Year 1995. The document describes the technical assistance grants, programs, and services to be made available to the corrections field during the next fiscal year, which begins October 1, 1994 and ends September 30, 1995.

A separate document, the NIC Academy Schedule of Training and Services for Fiscal Year 1995, describes the training programs and services to be provided by the NIC Academy for state and local corrections practitioners.

Both documents contain relevant application forms and may be obtained by contacting the National Institute of Corrections, 320 First Street, NW, Washington, DC 20534 (telephone number: 202–307–3106x124; fax: 202–307–3361); or the NIC Longmont, Colorado, offices (1960 Industrial Circle, Suite A, Longmont, Colorado 80501) (telephone: 303–682–0382; fax: 303–682–0469); TDD 202–307–3156.

Morris L. Thigpen,

Director.

[FR Doc. 94–19618 Filed 8–10–94; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–051]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by September 12, 1994. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Eva L. Layne, Acting NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0012), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: T1BESSIE BERRY, NASA REPORTS OFFICER, (202) 358–1368.

Reports

Title: Aeronautics and Space Report.

OMB Number: 2700–0012.

Type of Request: Extension.

Frequency of Report: On occasion.

Type of Respondent: Businesses or other for-profit, non-profit institutions, small businesses or organizations.

Number of Respondents: 580.

Responses Per Respondent: 1.

Annual Responses: 580.

Hours Per Response: .3.

Annual Burden Hours: 174.

Number of Recordkeepers: 0.

Annual Hours Per Recordkeeping: 0.

Annual Recordkeeping Burden Hours: 0.

Total Annual Burden Hours: 174.

Abstract-Need/Uses: NASA produces video tapes each month to report status of its programs and research underway. These tapes are mailed to TV stations throughout the country for use as public service programming or as news features. This "post-card" report is used to measure the effectiveness of the tapes and provides the date and time they were aired.

Dated: August 4, 1994.

Eva L. Layne,

Acting Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 94–19604 Filed 8–10–94; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Panel on Hydrogeology and Geochemistry: Ground-Water Travel Time and the Regulatory Environment

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's Panel on Hydrogeology & Geochemistry will hold a meeting on Monday, September 12, and Tuesday, September 13, 1994, in Las Vegas, Nevada. The meeting will be held at the Holiday Inn Crowne Plaza, 4255 South Paradise Road, Las Vegas, NV 89109; tel (702) 369–4400, fax (702) 369–3770. *NOTE: Overnight accommodations are at the St. Tropez Hotel, 455 East Harmon Avenue, Las Vegas, Nevada 89109; telephone (702) 369–5400.* The meeting, which is open to the public, will run from 1:00 to 6:00 p.m. on Monday, September 12, then continue on Tuesday, September 13, at 8:25 a.m. The meeting on Tuesday will end at 5:00 p.m.

This panel meeting will address ground-water travel time and its relative importance to long-term repository performance. Participants will review and discuss the various regulatory and technical aspects of the issue. Specific presentations will cover, for example, the original intent of 10 CFR 60 and 960, the technical basis for the 1,000-year containment criterion, computational and conceptual problems posed by highly heterogeneous materials, and the Department of Energy's (DOE) proposed program approach to ground-water travel time. Round-table discussions involving Board members, presenters, and other participants and a period for questions and comments from the audience will end each day's activities.

The Nuclear Waste Technical Review Board was created in the 1987 amendments act to evaluate the technical and scientific activities in the DOE's civilian radioactive waste management program, including site characterization, storage, and transport. A site at Yucca Mountain, Nevada, currently is being characterized by the DOE for its suitability as the possible location of a permanent repository for civilian spent fuel and defense high-level waste.

Transcripts of the meeting will be available on computer disk or on a library-loan basis in paper format from Victoria Reich, Board librarian, beginning October 25, 1994. For further information, contact Frank Randall, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson

Boulevard, Suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated: August 8, 1994.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 94–19600 Filed 8–10–94; 8:45 am]

BILLING CODE 6820–AM–M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed change to systems of records.

SUMMARY: The purpose of this document is to give notice of a proposed routine use in one system of records and a modification of an existing routine use in another.

DATES: The systems of records for which a new routine use is proposed or revised shall be amended as proposed without further notice 30 calendar days from the date of this publication.

ADDRESS: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Privacy Act/FOIA Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, (312) 751–4548.

SUPPLEMENTARY INFORMATION: The modification of an existing routine use ("n" in RRB–20) would authorize the RRB to disclose to an insurance company administering a health and welfare plan for railroad workers information regarding Medicare eligibility. The Omnibus Budget Reconciliation Act of 1993 made substantial changes to the Medicare Secondary Payer (MSP) provisions. One change made Medicare the primary payer of benefits for disabled Medicare beneficiaries who do not have a current employment status with an employer. Previously, the private employer plan was the primary payer. Employers are required to notify the Medicare contractor of the name, date of birth, sex, social security number, and health insurance claim number of each Medicare beneficiary covered under the private plan who does not have a current employment status so that the carrier's records are annotated to show Medicare is the primary payer. To comply with the law an employer needs to know whether disabled employees are eligible under Medicare. For railroad employees, the Railroad Retirement Board is the best source for this information. The existing routine use permits disclosure of Medicare status to an employer, but only for the purpose of determining entitlement to benefits under the private plan. The modification would authorize the RRB to furnish Medicare status to the insurance company acting as agent of the employer for the purpose of enabling the employer to comply with the new provisions of the law.

The Railroad Retirement Board has determined that this proposed routine use meets the compatibility requirement because it is a necessary and proper use.

The proposed routine use ("ee" for RRB–21) would authorize the RRB to disclose to an insurance company administering a medical insurance program for railroad workers non-medical information relating to determinations of sickness benefits by the RRB for purposes of determining entitlement to payment or reimbursement of medical expenses under the program. Presently, under certain circumstances, the insurance company cannot determine from the medical bills submitted for reimbursement or current data available to it whether a railroad worker remains disabled. In these cases, the insurance company requires the employee to furnish proof of disability. This usually requires the employee to have a form completed by the treating physician, which causes a delay in reimbursement and often additional cost to the employee. When the plan calls for direct payment by the insurance company, the inability of the insurance company or its agent to determine entitlement in such cases results in a delay and an inconvenience to the railroad worker. Disclosure of the information as proposed in this routine use would eliminate these problems for the affected railroad workers.

The Railroad Retirement Board has determined that this proposed routine use meets the compatibility requirement because it is a necessary and proper use.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB–20

SYSTEM NAME:

Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare)—RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Routine use "n" is revised to read as follows:

* * * * *

Pursuant to a request from an employer covered under the Railroad Retirement Act or the Railroad Unemployment Insurance Act or from an insurance company acting as an agent of an employer, information regarding the RRB's determination of Medicare entitlement, entitlement data, and present address may be released to the requesting employer or insurance company acting as its agent for the purposes of either determining entitlement to and rates of supplemental benefits under private employer welfare benefit plans or complying with requirements of law covering the Medicare program.

* * * * *

RRB–21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System—RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

A new paragraph "ee" is added to read as follows:

ee. Non-medical information relating to the determination of sickness benefits may be disclosed to an insurance company administering a medical insurance program for railroad workers for purposes of determining entitlement to benefits under that program.

[FR Doc. 94–19576 Filed 8–10–94; 8:45 am]

BILLING CODE 7905–01

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Office: John J. Lane, (202) 942–8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extensions

Rule 17Ad–4 (b) and (c)—File No. 270–264
Rule 17f–2(a)—File No. 270–34
Rule 17g–1(g)—File No. 270–208
Rule 83—File No. 270–82

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget request for approval of extension on previously approved collections for the following rules:

Rule 17Ad–4 (b) and (c) is used to document when transfer agents are exempt, or no longer exempt, from the minimum performance standards and certain recordkeeping provisions of the Commission's transfer agent rule. Approximately 70 transfer agents will incur a total of 35 recordkeeping hours annually to comply with this rule.

Rule 17f–2(a) requires that securities professionals be fingerprinted. Approximately 10,500 respondents incur a total of 262,500 burden hours annually to comply with this rule.

Rule 17g–1(g) requires that a registered management investment company file with the Commission a copy of the bond covering its officers and employees and information about any claim or other action taken with respect to the bond. Approximately 3,500 respondents will incur a total of 3,500 burden hours annually to comply with this rule.

Rule 83 enables regulated subsidiaries, when dealing with foreign affiliates, to seek exemption from certain provisions of the Public Utility Holding Company Act of 1935. There have been no filings under this rule in recent years.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to John J. Lane, Associate Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, (Project Number 3235–0341, 3235–0034, 3235–0213, and 3235–0181), Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 2, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–19648 Filed 8–10–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34492; File No. SR–NYSE–94–28]

Self-Regulatory organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Real Estate Investment Trusts ("REITs") Portfolio Market Index Target-Term Securities.

August 5, 1994.

Pursuant to Section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 15, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list for trading Market Index Target-Term Securities ("MITTS"),[2] the return on which is based upon a portfolio ("REIT Portfolio") of securities of U.S. Real estate investment trusts ("REITs"). Initially, the REIT Portfolio will contain the securities of 20 REITs that are traded in the United States on the NYSE or on the American Stock Exchange ("Amex").[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, 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

Pursuant to the listing criteria set forth in Section 703.19 of the Exchange's Listed Company Manual ("Manual"), the Exchange proposes to list for trading MITTS on the REIT Portfolio ("REIT Portfolio MITTS") issued by Merrill Lynch. MITTS are securities that entitle the holder to receive from the issuer upon maturity an amount based upon the change in the market value of a stock index or portfolio, provided that a minimum amount (90% of the principal amount) will be repaid.

REIT Portfolio MITTS will allow investors to combine protection of a substantial portion of the principal amount of the MITTS with potential additional payments based on a portfolio of securities of selected REITs and the dividend stream related to the components of that portfolio. The REIT Portfolio MITTS will provide that at least 90% of the principal amount thereof will be repaid at maturity.

The Security

REIT Portfolio MITTS will entitle the owner at maturity to receive an amount in cash based upon the "Total Return Portfolio Value;" provided, however, that the amount payable at maturity will not be less than $9 for each $10 principal amount of the REIT Portfolio MITTS. The "Total Return Portfolio Value" will be an amount based upon the change in the "Original Portfolio Value" and the value of the REIT Portfolio at maturity, plus the aggregate dollar amount of dividends paid on the components of the REIT Portfolio after the issuance of the REIT Portfolio MITTS and prior to maturity. The Original Portfolio Value will equal $10, *i.e.*, the value of the REIT Portfolio on the date the REIT Portfolio MITTS are priced by the issuer for initial offering to the public. The value of the REIT Portfolio at maturity will be based on the average of the closing prices for the components of the REIT Portfolio for a specified number of days immediately prior to maturity date of the REIT Portfolio MITTS.[4]

[1] 15 U.S.C. § 78s(b)(1) (1982).

[2] "MITTS" is a registered service mark and "Market Index Target-Term Securities" is a service mark of Merrill Lynch & Co., Inc. ("Merrill Lynch").

[3] The REITs represented in the REIT Portfolio are: Carr Realty Corporation; Duke Realty Investments, Inc.; Federal Realty Investment Trust; Gables Residential Trust; Health Care Property Investors Inc.; Health and Rehabilitation Properties Trust; JP Realty, Inc.; Kimco Realty Corporation; Nationwide Health Properties, Inc.; New Plan Realty Trust; Simon Property Group, Inc.; Trinet Corporate Realty Trust, Inc.; Urban Shopping Centers, Inc.; Excel Realty Trust, Inc.; Weingarten Realty Investors; General Growth Properties, Inc.; Taubman Centers, Inc.; Burnham Pacific Properties, Inc.; Western Investment & Real Estate Trust; and Wellsford Residential Property Trust.

[4] In particular, the Total Return Portfolio Value will be based on the average of the REIT Portfolio values for the first 45 NYSE trading days of the Calculation Period. The Calculation Period is defined as the period from and including the ninetieth scheduled NYSE trading day prior to the

If the market value of the REIT Portfolio plus the cumulative value of the dividends paid on the component REITs has declined below the Original Portfolio Value, the holder will receive not less than a specified percentage of the principal amount of the security. For example, if the Total Return Portfolio Value has declined more than 10% below the Original Portfolio Value, the owners of the REIT Portfolio MITTS will receive 90% of the principal amount of the securities. The payment at maturity is based on changes in the value of the REIT Portfolio and the payment of dividends on the securities that comprise the REIT Portfolio.

As with other MITTS, REIT Portfolio MITTS may not be redeemed prior to maturity and are not callable by the issuer.[5] Owners may sell the security on the Exchange. The Exchange anticipates that the trading value of the security in the secondary market will depend in large part on the value of the REIT Portfolio and also on other factors, including dividend rates, the levels of interest rates, the volatility of the value of the REIT Portfolio, the time remaining to maturity, and the creditworthiness of the issuer, Merrill Lynch.

The Exchange will only list for trading this issue of REIT Portfolio MITTS if there are at least one million outstanding securities, at least 400 holders, a minimum life of one year, a market value of at least $4 million, and the issue is in compliance with the Exchange's initial listing criteria. In addition, the Exchange will monitor the issue to verify that it complies with the Exchange's continued listing criteria.[6]

Merrill Lynch will deposit registered securities representing REIT Portfolio MITTS with a depository, The Depository Trust Company ("DTC"), so as to permit book-entry settlement of transactions by participants in DTC.

The Portfolio

The REIT Portfolio consists of the common stock of 20 highly capitalized REITs. As of June 6, 1994, the market capitalizations (*i.e.*, the market price multiplied by the number of shares outstanding) of the 20 companies range from a high of $2.3 billion to a low of $216 million. Also on that date, the market prices of their common stocks ranged from a high of $40.25 to a low of $11.25.

The common stocks of 19 of the 20 component REITs are listed on the Exchange. The common stock of the other component REIT is traded on the Amex. The initial weighings of the components of the REIT Portfolio will be based upon that stock's relative liquidity (*i.e.*, relative trading volume in dollars) in the United States.

To determine relative liquidity, Merrill Lynch will compare the average daily consolidated dollar volume of the stock over the 90 day period immediately preceding the date on which the REIT Portfolio MITTS are priced for issuance to the average daily consolidated dollar volume for all of the stocks in the REIT Portfolio for that 90 day period. As of June 6, 1994, the highest weighting for any stock in the REIT Portfolio was 10.22% and the weighting for the five components with the highest relative liquidity was 42.64%. Also as of that date, the lowest weighting for any stock in the REIT Portfolio was 1.58% and the weighting for the five components with the lowest relative liquidity was 9.88%.

Except for certain multiplier adjustments discussed below, once the initial weighings have been determined, the multipliers will remain constant throughout the term of the REIT Portfolio MITTS. The value of the REIT Portfolio MITTS at any point in time will equal the aggregate for the components of the price of each component times the multiplier for that component plus the cumulative dividends paid on that component since issue date for the REIT Portfolio MITTS. The multipliers assigned to the component REITs will be adjusted for certain events such as stock splits, reverse stock splits, or stock dividends, and the value of the common stock of the component REITs will also be adjusted for certain events including a liquidation, bankruptcy, insolvency, merger, or consolidation involving the issuer of the underlying shares. For example, if the issuer of the shares underlying a component REIT has been subject to a merger or a consolidation and is not the surviving entity, then a value for such common stock will be determined at the time such issuer is merged or consolidated and will equal the last available market price for such common stock and that value will be constant for the remaining term of the REIT Portfolio MITTS.[7]

Based upon the reported prices of the common stock of the component REITs, an independent third party will calculate and disseminate the value of the REIT Portfolio no less frequently than once every minute through the trading day.

The Issuer

The Exchange has determined that the issuer of the REIT Portfolio MITTS, Merrill Lynch, meets the listing criteria set forth in Section 703.19 of the Manual. The Exchange states that Merrill Lynch is an Exchange-listed company in good standing and has sufficient assets to justify the issuance of MITTS offerings of the size contemplated by the proposed rule change.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commision 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. Persons making written submissions

maturity date to and including the fourth scheduled NYSE trading date prior to the maturity date.

[5] *See, e.g.*, Securities Exchange Act Release No. 32840 (September 2, 1993), 58 FR 47485 (September 9, 1993) (approval order for Global Telecommunications Portfolio MITTS).

[6] *See* Section 703.19 of the Manual.

[7] Merrill Lynch will not attempt to find a replacement stock or to compensate for the extinction of a security due to bankruptcy or a similar event.

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–28 and shoud be submitted by September 1, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 94–19565 Filed 8–10–94; 8:45 am]

BILLING CODE 5010–01–M

[Rel. No. IC—20444; International Series Release No. 696; 812–9056]

The Bank of New York; Notice of Application

August 5, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Bank of New York.

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) for an exemption from the provisions of section 26(a)(2)(D).

SUMMARY OF APPLICATION: Applicant seeks a conditional order that would permit applicant to deposit foreign securities, held by unit investment trusts for which it serves as trustee, with the securities clearance and depository facilities operated by Morgan Guaranty Trust Company of New York ("Morgan Guaranty") in Brussels, Belgium in its capacity as operator of the Euroclear System ("Euroclear"), or with Central de Livraison de Valeurs Mobilieres, S.A. ("CEDEL"). Euroclear and CEDEL are sometimes referred to as the "Transnational Agencies."

FILING DATES: The application was filed on June 15, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 30, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, The Bank of New York, 101 Barclay Street, New York, New York 10286.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563 or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a trust company incorporated and doing business under the laws of the State of New York. Applicant meets the qualifications of section 26(a)(1) of the Act for a trustee or custodian of a unit investment trust. Applicant currently serves as trustee of various unit investment trusts sponsored or co-sponsored by, among others, Van Kampen Merritt; Merrill Lynch, Pierce, Fenner & Smith Incorporated; Nike Securities L.P.; Dean Witter Reynolds Inc.; Quest For Value; Bear, Stearns & Co. Inc.; and Unison Investment Trusts Ltd. and may in the future act as trustee of trusts sponsored by these and other sponsors. Under each trust indenture, and as required by the Act, applicant has responsibility for the custody of the securities held in the trust.

2. Various sponsors of trusts for which applicant acts as trustee have created, or have expressed an interest in creating, trusts whose investment objectives contemplate investment in securities denominated in foreign currencies and in foreign securities. Foreign securities, especially securities issued in the European market, are issued generally in bearer form. With the growth of the European securities markets, the problems with bearer instruments entailed by the necessity for presentment of certificates or coupons for payment of principal of or interest on the securities have led to the increased importance of a book-entry system to speed clearance of trades and collection of principal and interest payments.

3. Euroclear and CEDEL are the largest clearance and custody systems of internationally traded securities in the world. They were organized principally to provide a simple, economic and automated means of settling secondary market transactions in internationally traded securities regardless of the geographical location of the parties to the transaction. The branch of Morgan Guaranty in Brussels, Belgium operates Euroclear, and is subject to regulation by the New York and federal banking authorities and the Belgian Banking Commission. Belgian law governs Morgan Guaranty's liability as custodian and operator of Euroclear under the contract between Euroclear and each participating entity. CEDEL was founded as a limited company under the laws of the Grand Duchy of Luxembourg. CEDEL is headquartered in Luxembourg and has representative offices in London, Tokyo, New York, and Hong Kong. CEDEL operates under the supervision of the Institute Monetaire Luxembourgeois, the Luxembourg Monetary Authority, which is also the banking control authority.

4. Applicant believes that securities deposited in Euroclear or CEDEL are at least as effectively protected as the same securities would be if directly deposited with a foreign branch of a United States bank, or shipped to the United States for custody, for several reasons, including:

(a) the insurance coverage for Euroclear and CEDEL depositaries and their outstanding loss records;

(b) the expertise and experience of the banks holding securities for Euroclear or CEDEL;

(c) the efficiencies resulting from handling large quantities of the same issue;

(d) the excellent track records of Euroclear and CEDEL;

(e) the close scrutiny of Euroclear and CEDEL services resulting from the market's dependence upon (and hence concern for) these services and the oversight of the depositaries; and

(f) the depositary agreements pursuant to which securities are held by Euroclear and CEDEL depositaries,

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[8] 17 CFR 200.30–3(a)(12) (1993).

which impose high standards of care on the depositaries.

5. Applicant believes that the exposure to certain custodial risks is reduced when securities are held through Euroclear or CEDEL, rather than directly by a United States bank branch, since securities held in Euroclear or CEDEL do not have to be transported for deposit outside these systems to effect sale. Furthermore, holding foreign securities outside of Euroclear and CEDEL would give rise to substantially higher costs and probably would involve other significant problems.

Applicant's Legal Analysis

1. Section 26(a)(1) provides that a unit investment trust must be governed by a trust indenture that designates one or more trustees or custodians, each of which is a bank, and section 26(a)(2)(D) requires that the trust indenture provide that the trustee or custodian have possession of all securities and other property in which the funds of the trust are invested.

2. Euroclear and CEDEL do not qualify under the Act as custodians for unit investment trust assets. The term "bank" is defined in section 2(a)(5) as a banking institution organized under the laws of the United States, a member bank of the Federal Reserve System, and any other banking institution or trust company doing business under the laws of any state or the United States that receives deposits or exercises fiduciary powers. The SEC has stated that an overseas branch of a domestic bank is the only facility located outside the United States that qualifies as a custodian under section 26. *See* Exemption for Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 13724 (Jan. 17, 1984). The SEC also has indicated that a foreign-incorporated subsidiary does not meet this definition. *See* International Resources Funds, Inc., Investment Company Act Release No. 2874 (May 4, 1959). Accordingly, neither Euroclear nor CEDEL meets the definition of a bank under the Act, and, as a result, neither qualifies as a custodian.

3. Section 6(c) provides in relevant part that the SEC, by order upon application, may exempt any transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant believes that the requested relief satisfies the section 6(c) standard.

4. Rule 17f–5 permits a registered management investment company to hold foreign securities in foreign security depositories or clearing agencies such as Euroclear or CEDEL, subject to certain provisions. Rule 17f–5 permits investment companies to place and maintain foreign securities, as defined in the rule, with certain foreign custodians, provided that a majority of the board of directors, (a) determines that maintaining the company's assets in a particular country is consistent with the best interests of the company and its shareholders, (b) determines that maintaining the company's assets with a particular foreign custodian is consistent with the best interests of the company and its shareholders, and (c) approves, as consistent with the best interests of the company and its shareholders, a written contract that will govern the manner in which such custodian will maintain the company's assets. The directors also must establish a system to monitor these arrangements and annually review and approve the continuance of these arrangements. Both Euroclear and CEDEL qualify as foreign custodians under rule 17f–5. There, however, is no rule analogous to rule 17f–5 applicable to the safekeeping of the assets of a unit investment trust when those assets are held outside of the United States.

5. Applicant proposes to provide to a trust custody services that would permit the foreign securities of the trust to be held abroad in the custody of Euroclear or CEDEL. These arrangements will be in total agreement with those applicable to registered management investment companies as contemplated by rule 17f–5, except that (a) certain duties and responsibilities of the directors of such companies will be performed by applicant as trustee, (b) applicant will provide indemnification to the unit holders, and (c) only Euroclear and CEDEL will qualify as foreign custodians for the trusts.

6. Applicant views the deposit of trust assets with Euroclear and CEDEL to be consistent with the purposes of section 26. Euroclear and CEDEL are the largest clearance and custody systems of internationally traded securities. Their insurance coverage, governing terms and conditions, and the high calibre of their depositories provide trust and unit holders with a great degree of security.

Applicant's Conditions

Applicant agrees that the exemptive order requested herein will be subject to the following conditions:

1. Applicant will comply with the provisions of Rule 17f–5 under the Act as if each trust was a registered investment company and applicant was its board of directors; except that Euroclear and CEDEL shall be the only qualified "eligible foreign custodians" for the trusts.

2. Applicant will indemnify and hold each of the trusts harmless from and against any loss that shall occur as the result of the failure of a Transnational Agency holding the foreign securities of a trust to exercise reasonable care with respect to the safekeeping of such foreign securities to the same extent that applicant would be required to indemnify and hold a trust harmless if applicant were holding such foreign securities in the jurisdiction of the United States whose laws govern the relevant trust indenture; provided, however, that applicant shall not be liable for loss except by reason of the gross negligence, bad faith, or willful misconduct of applicant or a Transnational Agency.

3. Applicant will assure that the sponsors of each of the trusts agree that the potential exposure of loss to unit holders resulting from the use of a Transnational Agency will be disclosed, if material, in the prospectus relating to the relevant trust.

4. Applicant will maintain and keep current written records regarding the basis for choice or continued use of a particular Transnational Agency, and such records will be available for inspection at applicant's offices at all reasonable times during its usual business hours by unit holders and the SEC.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–19563 Filed 8–10–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—20443; 811–3106]

Zweig Cash Fund, Inc.; Notice of Application

August 5, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Zweig Cash Fund, Inc. (formerly, DBL Cash-Link Fund Inc.)

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 5, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 30, 1994, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. Applicant, 5 Hanover Square, 17th Floor, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or Barry D. Miller, Senior Special Counsel at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a corporation under the laws of Maryland. On November 3, 1980, applicant registered under the Act as an investment company, and filed a registration statement to register shares of its Money Market Portfolio under the Securities Act of 1933. The registration statement was declared effective on February 12, 1981, and the initial public offering commenced on or about that date. On February 22, 1982, post-effective amendment No. 3 to applicant's registration statement became effective and public offering of applicant's Government Securities Portfolio began on or about that date. On April 30, 1991, applicant issued to the holders of shares of its Money Market Portfolio shares of its Government Securities Portfolio with an equivalent net asset value. At such time, all assets and liabilities of the Money Market Portfolio became assets and liabilities of the Government Securities Portfolio. Since that time the Government Securities Portfolio has been applicant's only portfolio.

2. On December 14, 1993, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Zweig Cash Fund, a series of Zweig Series Trust (the "Trust"), a registered open-end management investment company.[1]

3. On March 11, 1994, applicant distributed proxy materials to its shareholders. At a meeting on April 28, 1994, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on April 29, 1994, applicant transferred all of its assets to the Trust in exchange for Class M shares of Zweig Cash Fund. Applicant then distributed the shares of Zweig Cash Fund to its shareholders. After completion of the reorganization, each shareholder of applicant owned Class M shares of Zweig Cash Fund with the same aggregate net asset value as the shares of applicant owned by the shareholder immediately prior to the reorganization. On April 29, 1994, applicant had 92,292,699.36 shares outstanding, having an aggregate net asset value of $92,292,699.36 and a per share net asset value of $1.00.

5. Applicant's adviser, Zweig/Glaser Advisers, assumed all expenses in connection with the reorganization. Expenses totalled approximately $88,000.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant will file certificates of dissolution with Maryland authorities after the requested order is obtained.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–19564 Filed 8–10–94; 8:45 am]

BILLING CODE 8010–01–M

[1] According to a proxy statement dated March 10, 1994, applicant's board of directors, including all of the disinterested directors, found that the reorganization would be in the bests interests of applicant's shareholders and that the interests of applicant's existing shareholders would not be diluted as a result of the reorganization. The Proxy statement also states that the board no longer considered applicant to be viable as a separate fund because of its relatively small asset base, high operating expenses, and correspondingly low yield absent an expense reimbursement from applicant's adviser.

DEPARTMENT OF STATE

[Public Notice 2046]

Fine Arts Committee; Notice of Meeting

The Fine Arts Committee of the Department of State will meet on Friday, September 23, 1994 at 11:00 a.m. in the John Quincy Adams State Drawing Room. The meeting will last until approximately 12:30 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in April 1994 and the announcement of gifts and loans of furnishings as well as financial contributions from January 1, 1994 to September 1, 1994.

Public access to the Department of State is strictly controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Friday, September 16, 1994, telephone (202) 647–1990 to make arrangements to enter the building. the public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: July 25, 1994.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 94–19569 Filed 8–10–94; 8:45 am]

BILLING CODE 4710–38–M

[Public Notice 2048]

United States International Telecommunications Advisory Committee (ITAC) Standardization Sector; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Telecommunications Standardization Sector Study Group A will meet on September 8, 1994, in Room 1105 from 9:30 am to 3:00 pm, at the U.S. Department of State, 2201 "C" Street, N.W., Washington, DC 20520.

The agenda for this Study Group meeting will include: (1) initial preparations for the December meeting of ITU Study Group 3; (2) final preparations for the September 27—October 7, Geneva ITU–T Study Group 1 meeting; (3) discussion on preparatory procedures, and available contributions, for the October 18–26, 1994 meeting of Study Group 9 and its two working parties; and (4) debriefing of the numbering issues related to ITU–T Study Group 2 activities.

Members of the General Public may attend the meetings and join in the

discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. If you are not presently named on the mailing list of the Telecommunications Standardization Sector Study Group A, and wish to attend please call 202–647–0201 not later than 3 days before the meeting. Enter from the "C" Street Main Lobby. A picture ID will be required for admittance.

Dated: July 29, 1994.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunication Standardization.

[FR Doc. 94–19580 Filed 8–10–94; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket 49707]

U.S.-Argentina All-Cargo Frequencies

Summary

By this notice, we invite interested U.S. carriers to apply for allocation of the available frequencies for scheduled all-cargo operations in the U.S.-Argentina market during the period July 1, 1994 through December 1, 1996.

Background

Under the existing air services agreement between the United States and Argentina, U.S. carriers may operate a total of eight weekly frequencies for U.S.-Argentina all-cargo services. (Annex II of the 1985 U.S.-Argentina Air Transport Services Agreement (Agreement).) These frequencies are currently allocated to Federal Express (five weekly flights); Arrow Air (two weekly flights); and Florida West Airlines (one weekly flight).

On July 19, 1994, delegations of the United States and Argentina signed a Memorandum of Consultations (MOC) which, in part, amends Annex II of the Agreement to expand the number of all-cargo frequencies available for scheduled U.S. air carrier services. Specifically, the MOC provides that designated carriers of the U.S. may operate round trip all-cargo frequencies with narrow-body equipment or their wide-body equivalents as follows: From July 1, 1994 until September 30, 1995, a total of 10 weekly frequencies; from October 1, 1995 until November 30, 1996, a total of 11 weekly frequencies; and beginning December 1, 1996, a total of 12 weekly frequencies.[1] Thus, in a progressive fashion, the total number of narrow-body frequencies that U.S. carriers may operate from July 1, 1994-December 1, 1996, will increase from eight to twelve weekly flights.[2]

Applications

Given the provisions of the July MOC, we invite all U.S. carriers interested in using the available frequencies to file their applications with the Department in Docket 49707.[3]

Applications should include, at a minimum, the following information: (a) The number of weekly frequencies requested; (b) markets to be served (as well as the overall single-plane routing for the proposed operations); (c) frequencies per market and period of service in each market; (d) existing authority held to conduct the operations, if applicable;[4] (e) the aircraft to be used in each market and a statement of the number of frequencies required per aircraft type; and (f) proposed startup date.

Applicant carriers that have previously been allocated frequencies and operated flights during the past two years should also provide the following information with respect to those operations: (a) The number of flights previously allocated per year; (b) markets served and periods for each; (c) frequencies operated per market and period of service for each market; (d) aircraft type per market; and (e) manner of operation (nonstop, one-stop, two-stop, etc.) and routing of operations.[5]

Applicants are also free to submit any additional information that they believe will help us in making our decision.

An original and 12 copies of each application should be filed with the Department's Docket Section, Room 4107, 400 Seventh Street S.W., Washington, D.C. 20590, in Docket 49707 and should be served on all parties on the attached list.

Procedural Schedule

Two of the additional frequencies are available now. In these circumstances, it is important that we complete the allocation process as quickly as possible. Therefore, we will require that applications and responsive pleadings be filed in accordance with the following schedule:

Applications and Motions to Consolidate: August 15, 1994.

Answers: August 22, 1994.

Replies: August 29, 1994.

We will serve this notice upon all U.S. air carriers licensed to conduct scheduled foreign all-cargo services with large aircraft. We will also publish the Notice in the **Federal Register**.

By:

Dated: August 5, 1994.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

Attachment

R. Tenney Johnson, Counsel for Air Micronesia Inc, Suite 600, 2300 N Street NW, Washington DC 20037

John Gillick, Counsel for America West Airlines, Winthrop Stimson Putnam &, Suite 1200, 1133 Connecticut Ave NW, Washington DC 20036

Russell E Pommer, Counsel for Business Express Inc, Verner Liipfert Bernhard, Suite 700, 901 15th Street NW, Washington DC 20005–2301

Lorraine B Halloway, Counsel for Continental Micronesia d/b/a Continental/Air Micronesia, Crowell & Moring, 1001 Pennsylvania Ave NW, Washington DC 20004–2595

Richard P Taylor, Counsel for Evergreen Intl Airlines, Steptoe & Johnson, 1330 Connecticut Ave NW, Washington DC 20036

[1] The MOC amendments to Annex II, section 3, specify that for the purpose of frequencies narrow-body aircraft may be substituted, at the discretion of the designated airline, by wide-body aircraft at the following rates of conversion: One wide-body aircraft (*i.e.*, L–1011, DC–10, A–300, B–747SP, B–767 or similar aircraft) shall be equivalent to 1.5 narrow-body aircraft (*i.e.*, DC–8, B–707, B–727, B–737, B–757, MD–80 or similar aircraft), except that one B–747–100 or similar aircraft will be equivalent to two narrow-body aircraft, and one B–747 Combi (with main deck cargo) shall be equivalent to 1.5 narrow-body passenger aircraft and one narrow-body all-cargo aircraft.

[2] Pending conclusion of formal amendments to the Agreement, the delegations agreed to permit operations consistent with the amendments on the basis of comity and reciprocity.

[3] We note that the three incumbent carriers currently have pending applications for renewal of previously awarded frequencies and/or exemption authority. Federal Express, Docket 48545; Arrow Air, Docket 48545; and Florida West, Docket 46971. In view of the increased availability of frequencies, we will require that these carriers file new applications in the established docket for all frequencies they request to operate including those for which they have outstanding applications for renewal. The carriers are free to seek consolidation of the previously filed applications into the new docket established here. All applications, however, must include all information specified in this order.

[4] Applicant carriers without the requisite underlying authority to serve Argentina should file exemption applications to serve the affected markets no later than August 15, 1994. Response dates to such applications will correspond to those set forth in this notice for applications for frequency applications. Such applications, with the exception of the procedural dates, should follow the general guidelines set forth in Subpart D of Part 302 of our regulations.

[5] For any data applicable for less than the total period of service, state the period during which it is applicable. If there was a cessation of service, no matter how short, in any market for any period during the past two years, such interruption of service should be noted. If services were changed from one market to another this also should be indicated.

Nathaniel Breed, Counsel for Federal Express, Shaw Pittman Potts &, 2300 N Street NW, Washington DC 20037
Marshall S Sinick, Counsel for Alaska Airlines Inc, Suite 500, 1201 Pennsylvania Av NW, Washington DC 20004
Carl B Nelson Jr, Assoc General Counsel, American Airlines Inc, 1101 17th Street NW, Washington DC 20036
Robert N Duggan, Counsel for Carnival Air Lines Inc, Mercer Moore & Assoc, Suite 502, 700 S Royal Poinciana Bl., Miami Springs FL 33166
Robert E Cohn, Counsel for Delta Air Lines Inc, Shaw Pittman Potts &, 2300 N Street NW, Washington DC 20037
Carl B Nelson Jr, Counsel for Executive Airlines, d/b/a American Eagle, 1101 17th Street NW, Washington, DC 20036
Jonathan B Hill, Counsel for Hawaiian Airlines, Dow Lohnes & Albertson, 1255 23rd St NW, Washington DC 20037
Marshall S Sinick, Counsel for Aloha Airlines Inc, Suite 500, 1201 Pennsylvania Av NW, Washington DC 20004
Mark W Atwood, Counsel for American Trans Air, Galland Kharasch Morse &, 1054 31st Street NW, Washington DC 20007
R Bruce Keiner Jr, Counsel for Continental Airlines, Crowell & Moring, 1001 Pennsylvania Av NW, Washington DC 20004–2595
R Tenney Johnson, Counsel for DHL Airways, Suite 600, 2300 N Street NW, Washington DC 20037
Jonathan B Hill, Counsel for Express One Intl, Dow Lohnes & Albertson, 1255 23rd St NW, Washington DC 20037
John R Degregorio, Counsel for MGM Grand Air Inc, Galland Kharasch Morse &, 1054 31st Street NW, Washington, DC 20007–4492
Peter B Kenney Jr, Assoc General Counsel, Northwest Airlines Inc, 901 15th Street NW, Washington DC 20005
Carl B Nelson Jr, Counsel for Simmons Airlines Inc, d/b/a American Eagle, 1101 17th Street NW, Washington, DC 20036
Stephen L Gelband, General Counsel Tower Air, Hewes Moreles Gelband &, Suite 300, The Flour Mill, 1000 Potomac St NW, Washington DC 20007
Nathaniel Breed, Counsel for USAfrica Airways Inc, 11180 Sunrise Valley Dr, Reston VA 22091
Robert E Cohn/Sheryl Israel, Counsel for Worldwide Airlines Serv, Shaw Pittman Potts &, 2300 N Street NW, Washington DC 20037
Robert P Silverberg, Counsel for Aerial Transit, Klein Bagileo Silverberg &, 1101 30th St NW #120, Washington DC 22007
Allen Markham, Counsel for Arrow Air, 2733 36th St NW, Washington DC 20007–1422
Jim Marquez, Counsel for Private Jet Expeditions, McNair & Sanford, Madison Office Blg, Ste 400, 1155 15th Street NW, Washington DC 20005
Mark W Atwood, Counsel for Spirit Airlines Inc, Galland Kharasch Morse &, 1054 31st Street NW, Washington DC 20007–4492
Dick Fahy, Trans World Airlines, Suite 520, 808 17th Street NW, Washington, DC 20006
Frank Cotter, Asst General Counsel, USAir Inc, Crystal Park Four, 2345 Crystal Drive, Arlington VA 22227
David Vaughan, Counsel for United Parcel Service, Kelly Drye & Warren, 1200 19th St NW #500, Washington DC 20036
Robert P Silverberg, Counsel for Airborne Express, Klein Bagileo Silverberg &, 1101 30th St NW #120, Washington DC 22007
Bill Evans, Counsel for Atlas Air, Verner Liipfert Bernhard &, 901 15th St NW #700, Washington DC 20005–2301
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John L Richardson, Counsel for Amerijet Int'l, Richardson Berlin &, Market Square, 801 Pennsylvania Av NW #650, Washington DC 20004
William H Callaway, Counsel for Challenge, Zuckert Scoutt &, 888 17th St NW #600, Washington DC 20006
R Bruce Keiner Jr, Counsel for Emery Worldwide, Crowell & Moring, 1001 Pennsylvania Av NW, Washington DC 20004–2505
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Al Eichenlaub, Counsel for Polar Air Cargo, Ginsburg Feldman & Bress, 1250 Connecticut Ave NW #800, Washington DC 20036
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[FR Doc. 94–19654 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Civil Tiltrotor Development Advisory Committee, Infrastructure Subcommittee

Pursuant to Section 10(A) (2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltroter Development Advisory Committee (CTRDAC) Infrastructure Subcommittee will be on August 19, 1994, in Washington, D.C. at the offices of Airports Council International, 1775 K Street, N.W., Suite 500. The meeting will begin at 10:00 a.m. and conclude by 4:30 p.m.

The agenda for the second Infrastructure Subcommittee meeting will include the following:

(1) Review infrastructure position papers developed as a result of the June 29, 1994, Infrastructure Subcommittee meeting.

(2) Finalize Infrastructure Assumptions.

(3) Draft the Infrastructure Subcommittee Work Plan.

Persons who plan to attend the meeting should notify Ms. Lenora Harris on 202–267–8787. Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Lenora Harris at least 3 days prior to the meeting. Issued in Washington, D.C., August 3, 1994.

Richard A. Weiss,

Designated Federal Official, Civil Tiltrotor Development Advisory Committee.

[FR Doc. 94–19556 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–M

Civil Tiltrotor Development Advisory Committee

Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) to be held October 6 at 9:00 a.m. The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC in room 8ABC.

The agenda for the second meeting of the CTRDAC will include: a review of the May 20 meeting minutes; status reports from subcommittees; and further development of plans and processes needed to fulfill the committee's chartered objectives.

Since access to the FAA building is controlled, all persons who plan to attend the meeting must notify Ms. Lenora Harris, Staff Assistant to the Designated Federal Official, on (202) 267–8787 prior to September 30. Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Noncommittee members wishing to

present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Harris.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on August 3, 1994.

Richard A. Weiss,

Designated Federal Official, Civil Tiltrotor Development Advisory Committee.

[FR Doc. 94–19557 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sioux Gateway Airport, Sioux City, IA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sioux Gateway 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 September 12, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Randall S. Curtis, Executive Director, Sioux Gateway Airport Authority at the following address: 2403 Ogden Avenue, Sioux City, Iowa 51110.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Sioux Gateway Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ellie Anderson, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4728. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comments on the application to impose and use a PFC at Sioux Gateway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 29, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Sioux Gateway Airport Authority, Sioux City, Iowa, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 12, 1994.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: January 1, 1995

Proposed charge expiration date: May 1, 2006

Total estimated PFC revenue: $2,389,030

Brief description of proposed project(s): Airfield signage & marking; terminal access road construction; runway 13–31 reconstruction; snow removal equipment acquisition; land acquisition; taxiways A, E, and holding apron reconstruction; and storage building construction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

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 Sioux Gateway Airport.

Issued in Kansas City, Missouri, on August 1, 1994.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 94–19558 Filed 8–10–94; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 93–51, Notice No. 2]

Criteria for Use of Blue "Star of Life" for Emergency Medical Services

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends NHTSA's guidelines for the authorized use of the blue "Star of Life" symbol for emergency medical services. Comments received in response to an earlier notice suggested uses for this symbol that were not considered when these guidelines were first developed. These amendments are intended to provide additional flexibility to the States within the purposes for which the blue Star of Life was originally registered as a certification mark.

EFFECTIVE DATE: September 12, 1994.

FOR FURTHER INFORMATION CONTACT: Susan D. Ryan, Chief, Emergency Medical Service Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; phone (202) 366–5440.

SUPPLEMENTARY INFORMATION:

NHTSA's Authority

The Secretary of Transportation approved the use of the blue "Star of Life" as a symbol for the Department's Emergency Medical Services program in a memorandum dated November 18, 1976. On February 1, 1977, the Commissioner of Patents and Trademarks issued to NHTSA a certificate of registration for the blue "Star of Life" symbol as a certification mark.

This registration gives NHTSA exclusive legal authority to control the use of the mark throughout the United States, and remains in effect for 20 years. It may be renewed for an additional 10 years in accordance with 15 U.S.C. section 1059.

Current Guidelines

In accordance with its registration as a certification mark, the blue "Star of Life" may be used on emergency medical care vehicles to certify that they meet DOT standards, by emergency medical care personnel to certify that they are trained to meet DOT standards, and on road maps and highway signs to indicate the location of or access to qualified emergency medical care services.

In a memorandum dated September 14, 1977, NHTSA authorized States and Federal agencies that are involved with emergency medical services to permit use of the blue "Star of Life" certification mark in accordance with criteria and specifications outlined in the memorandum.

Request for Modification of Guidelines

In July 1992, a State requested an advisory opinion from NHTSA on the use of the blue "Star of Life" symbol in the State's Emergency Medical Services-Do Not Resuscitate (EMS–DNR) program. The State proposed to use the mark to alert State certified prehospital emergency medical care providers that a

person wearing a bracelet which displays the "Star of Life" and the letters "EMS–DNR" does not wish to be resuscitated. NHTSA determined that this use does not meet the criteria outlined in the memorandum dated September 14, 1977. Accordingly, NHTSA denied the State's request to use the "Star of Life" in connection with the EMS–DNR program.

In response to NHTSA's decision to deny the State's request, the National Association of EMS Physicians (NAEMSP), the National Association of State Emergency Medical Services Directors (NASEMSD), and the American College of Emergency Physicians (ACEP) contacted NHTSA to express their support for use of the blue "Star of Life" by the State's EMS–DNR program. These organizations made four primary arguments in support of the proposed use of the "Star of Life" for EMS–DNR purposes.

First, they contended that the proposed use would provide EMS personnel with a consistent location where they could look for EMS orders on terminally ill persons who desire not to undergo resuscitation. The organizations indicated that they consider the proposed use appropriate because the DNR bracelet would alert EMS personnel of a medical condition or appropriate medical treatment.

Second, the organizations asserted that the "Star of Life" is a unique symbol widely recognized by EMS personnel, which has come to symbolize the entire EMS system rather than the limited criteria in the September 1977 NHTSA memorandum.

Third, the organizations contended that since NHTSA has "historically" granted State EMS offices some discretionary authority regarding use of the "Star of Life," NHTSA should allow State EMS offices to determine the use of the "Star of Life" on EMS–DNR bracelets within their respective States.

Finally, at the time the guidelines were developed, the possibilities for the use of the "Star of Life" on a DNR bracelet were not considered. The organizations urged NHTSA to reexamine the appropriate use of the symbol and either rescind or reissue the guidelines to permit such use.

Federal Register Notice Requesting Comments

NHTSA continued to have concerns about expanding the authorized uses of the blue "Star of Life." However, it also recognized that the current guidelines for the authorized use of the blue "Star of Life" certification mark had not been revised since their publication in September 1977.

Accordingly, the agency decided that it was appropriate to reevaluate the guidelines in view of the current trends and possible uses for the symbol and to examinate the symbol's purpose and whether it should be expanded at this time.

On August 3, 1993, NHTSA published a notice in the **Federal Register** (58 FR 41316) announcing that it was considering whether to expand the purposes for which the blue "Star of Life" could be used and whether other changes to the guidelines for the authorized use of the symbol would be appropriate.

The notice requested comments from the public on whether the agency should authorize the use of the "Star of Life" symbol in EMS–DNR programs, including its use on personal items, such as bracelets or necklaces, to identify individuals who are DNR candidates. The notice also requested comments on whether the agency should make other revisions to its guidelines for the authorized use of the blue "Star of Life."

Comments Received

Eighteen comments were received by the agency in response to the August 3 notice. Commenters included one Federal agency (the U.S. Fire Administration), two national organizations (the American College of Emergency Physicians and the National Association of State EMS Directors), one medical school, eight State EMS Directors, four regional or local EMS officials and an interested individual.

Each of the comments addressed the central issue concerning whether to permit the use of the "Star of Life" symbol for DNR purposes. In addition, some comments made suggestions regarding other aspects of the criteria and specifications that were outlined in 1977.

Use of "Star of Life" for Do Not Resuscitate Programs

Of the eighteen comments received, only two States, two regional or local EMS officials and an interested individual opposed the use of the "Star of Life" symbol for a DNR program. The Federal agency, the medical school, both national organizations, six States and two regional or local EMS officials either supported or stated that they did not oppose the use of the "Star of Life" symbol for DNR purposes. Many of these comments expressed strong support for the symbol's use for these purposes.

To assist the agency in deciding whether to permit the use of the "Star of Life" for this purpose, NHTSA requested in its August 3, 1993 notice comments addressing a number of specific questions. These questions, and the comments we received responding to them, are discussed below.

1. State EMS–DNR Programs

NHTSA requested that comments provide examples of State EMS programs that have developed or are developing EMS–DNR identification programs and the identification symbols used in those programs.

The comments reported that the States of California and Virginia have developed statewide DNR programs. Genesee County, MI also reported that it has a DNR program. Virginia employs the "Star of Life" symbol; California employs the Medic-Alert symbol; Genesee County uses a purple wrist identification bracelet. The States of Washington, Maine and Maryland are all in the process of developing DNR programs. Each of these States indicated that it is interested in or would strongly consider using the "Star of Life" for its DNR program.

2. Confuse the Public

NHTSA sought comments on whether the proposed use of the "Star of Life" symbol would confuse the general public. In particular, the agency asked whether the use would likely confuse the public as to the identification and location of qualified EMS personnel and equipment.

Comments from California, San Diego, the Northern Mariana Islands and the Genesee County Medical Control authority in Genesee County, MI predicted that use of the "Star of Life" for DNR purposes would confuse the public. More specifically, California stated, "use of the 'Star of Life' on DNR bracelets would likely confuse individuals as to the identification of qualified EMS personnel." However, no evidence was cited for this prediction.

Virginia (which uses the "Star of Life" symbol for its DNR program) reported that there have been no instances of confusion. In addition, the State asserted its belief that it "would be very unlikely that anyone would mistake the patient with such a bracelet * * * for a qualified EMT," since patients who are eligible to wear such bracelets have been diagnosed with a terminally ill condition. The U.S. Fire Administration, the National Association of State EMS Directors and the State of New Jersey agreed with Virginia that use of the "Star of Life" symbol for DNR programs is extremely unlikely to confuse the public.

3. Difficulty with Identification.

NHTSA requested that States with established EMS–DNR programs explain the difficulties, if any, that EMS personnel are encountering with the identification symbols used for EMS–DNR candidates.

Virginia (which uses the "Star of Life" symbol) and California and San Diego (which use the Medic-Alert symbol) all reported that they were aware of no problems of identification or verification with the system they use.

4. Benefits and Disadvantages

NHTSA requested that comments discuss the benefits and disadvantages that are likely to result from using the "Star of Life" to identify persons requesting a particular treatment or withholding of treatment by qualified EMS personnel.

California and San Diego commented that they saw no benefit to expanding the use of the "Star of Life" symbol regarding the identification of patients who elect to execute DNR directives. In fact, California saw it simply as a training issue. The State said EMTs could as easily be trained to identify DNR candidates using other symbols.

California also asserted that use of the "Star of Life" for DNR services would be contrary to NHTSA training programs, which focus on the search for a Medic Alert bracelet to determine vital patient information. Comments from Virginia, on the other hand, point out that the DOT National Standard Curricula provide for EMTs and others "to check a patient's 'Medic Alert' bracelet as part of the patient assessment *after* initial resuscitative measures have been carried out."

California is correct that the DOT National Standard Curricula advise EMTs and others to seek patient information from medical identification items, such as "Medic Alert" bracelets. However, NHTSA disagrees that use of the "Star of Life" for DNR purposes is contrary to this training. As explained in Virginia's comments, EMTs and others are trained to seek patient information (as part of patient assessment) only after advanced directives (such as initial resuscitative measures and other treatment and transportation protocols) are followed. The 1994 edition of the DOT National Standard Curriculum for EMT-Basic makes clear the distinction between patient identification information and advanced directives. The Curriculum also indicates that the use of advanced directives (such as DNR) is a State issue and informs instructors to modify the curriculum to accommodate those advanced directives used in the State where the instruction is taking place.

A few commenters expressed the concern that use of the symbol for a DNR program would either dilute or be entirely incompatible with the original meaning of the "Star of Life." Leo R. Schwartz, who was Chief of NHTSA's Emergency Medical Services Division at the time the symbol was developed and registered as a certification mark with the Commissioner of Patents and Trademarks, argued that the mark was envisioned as and should remain "a symbol of life," not a "barrier" to care. He strongly objected to the use of the "Star of Life" with an "act of omission, with death as an end result."

Others disagreed with these comments, and strongly supported expansion of the use of the symbol. A number of comments, for example, recognized that the role of EMS has expanded since 1977, when the "Star of Life" was first registered as a certification mark, and asserted that the proposed expanded use of the symbol is not incompatible (indeed it is appropriate) with current broader EMS missions.

Other comments went further. The Department of Fire/Rescue Services, Frederick County, MD stated:

> The current request for an EMS–DNR program use is consistent with the direction of modern, managed health care, where the patient may give advance directives for their level of treatment. This is going to be more apparent in the health care reform recommendations that will be published in the near future.

Similar sentiments were expressed in comments from Dr. Nicholas Benson, East Carolina University School of Medicine:

> As our nation becomes more involved with health care reform, one of the key issues to be resolved is which patients with sudden cardiac death should be resuscitated and which should not * * * Physicians, including myself, do not wish to make this determination alone; this is a decision that must include the express wishes of the patient, or his/her legal guardian. The Prehospital Do Not Resuscitate programs across the nation seek to respond to this need by predetermining which patients wish to be resuscitated and under what conditions. NHTSA's cornerstone contribution to this should be the use of the Star of Life, because of its long-standing use as a symbol denoting professionalism and compassion in prehospital care.
>
> As the profession of EMS has grown in the past 20 years, the implications of the use of the Star of Life have grown, as well. It has become a universally recognized symbol of professionalism and expertise in emergency medical care. The use of the Star of Life in Prehospital Do Not Resuscitate programs is 100% consistent with this growth.

The benefit most often cited in support of using the "Star of Life" symbol for DNR purposes is the level of recognition enjoyed by the symbol. The comments were uniform in their acknowledgement of how highly visible and widely recognized the symbol has become. The U.S. Fire Administration commented that, "EMS personnel are already trained to look for these bracelets, and as such save valuable time in situations where time is a critical factor." Maine EMS stated, "The decision to begin resuscitation must be rapidly made by EMS personnel if it is to [be] implemented successfully * * * The Star of Life, alone or as part of a logo, is instantly recognized by EMS personnel * * * The availability of this universal symbol will greatly assist in this purpose."

The States of Washington and New Jersey could think of no disadvantages to using the "Star of Life" for a DNR program.

5. Competitive Effect

NHTSA requested comments on the competitive effect of the proposed "EMS–DNR" bracelet/"Star of Life" symbol on private organizations that offer services which alert EMS personnel to a patient's condition. We received no comments alleging any adverse competitive effects. One State commented that, if there are any such adverse effects, they will have to yield to the more important public interest in the use of symbols that are universally recognized.

6. Use of Symbol for Other Medical Conditions

Comments were sought regarding whether the agency should authorize the use of the "Star of Life" symbol for services or programs that would alert EMS personnel to other medical conditions of a patient, *i.e.*, diabetes, heart disease, high blood pressure.

Comments on this issue generally tracked the commenter's position on the use of the "Star of Life" for DNR. Commenters (such as Maryland) that favored use of the "Star of Life" for DNR purposes, supported the symbol's use for diabetes, heart disease, high blood pressure or other medical conditions. Commenters (such as San Diego) that did not favor use of the "Star of Life" for DNR purposes, opposed the symbol's use for these other purposes.

The State of California, however, expressed a different view. While it opposed use of the "Star of Life" for DNR purposes, it stated that *if* the symbol is approved for use in DNR programs, its use should also be approved for services and programs that

will alert EMS personnel to other medical conditions of the patient.

Change to Specifications for Use of Symbol

Based on the weight of the comments received, NHTSA has decided to amend the specifications. As amended, States and Federal agencies with emergency medical services involvement are authorized to permit use of the "Star of Life" symbol to alert emergency care providers to medical conditions or to identify appropriate treatment.

The States and Federal agencies then will have the authority to determine within their respective jurisdictions the medical conditions (*i.e.*, diabetes, heart disease, high blood pressure) and the treatments (*i.e.*, DNR) they wish to include. The "Star of Life" would be used for these purposes, in accordance with programs established by the State or Federal agency. This decision is consistent with many of the comments that favored giving States some discretionary authority to determine the appropriate uses for the "Star of Life" within their borders.

Other Issues Raised

Many of the comments pointed out that the "Star of Life" is currently being used in ways that are not restricted to "certified" vehicles and personnel. For example, they stated that the symbol is being used on patient care products, on personal items used by EMS personnel, and in logos of national, state and local EMS organizations. In addition, they alleged that many of the logos use formats that do not comply with the 1977 specifications. Some of the comments went so far as to question whether, as a result of such varied uses and formats, the "Star of Life" has become generic and lost its validity as a certification mark.

The commenters who noted that the "Star of Life" symbol is being used in ways, other than on "certified" vehicles and personnel, are correct. These uses are appropriate, provided they fall within the scope of the Criteria for the Use of the "Star of Life" Symbol. The criteria that were established in 1977 provided for the symbol to be used not only on ambulances and to indicate the location of EMS personnel, but also "to identify medical equipment and supplies for installation and use in . . . ambulances;" "on EMS personal items such as badges, lapel pins, plaques, buckles, names plates, etc.;" "on printed material having direct EMS application such as books, pamphlets, letterheads . . ." and "[by] entrepreneurs engaged in the production of goods or publication of printed material [having direct EMS application]." As explained below, NHTSA has made some changes to these criteria in today's notice, but in general continues to support these related uses of the "Star of Life."

There have been attempts to use the symbol for purposes that are not EMS-related (such as in connection with furniture or automobile repair businesses). When these inappropriate and unauthorized uses have come to NHTSA's attention, we have taken immediate steps to ensure that they do not continue. We strongly disagree that the symbol has become generic or lost its validity.

The agency recognizes that the "Star of Life" is currently being used or has been incorporated into the logos of some EMS organizations using formats that do not comply strictly with the 1977 specifications. We have decided some additional flexibility in this area is warranted and have, therefore, changed this aspect of the 1977 specifications, as explained below.

Some comments suggested that NHTSA, as well as State EMS Directors, should support additional programs aimed at educating the public about the meaning of the "Star of Life" symbol and when and how the symbol is to be used. The comments recommended also that efforts to supervise its proper use should be increased.

NHTSA will continue to take steps against the inappropriate and unauthorized use of the "Star of Life" symbol of which it becomes aware. We encourage State EMS Directors, or others in the EMS field, to bring such uses to the agency's attention. We also encourage State EMS Directors to educate EMS personnel on the proper use of the symbol, and to educate the public in their respective States on matters such as how to recognize and when to look for the "Star of Life."

One commenter seemed to believe that, since NHTSA owns the certification mark to the "Star of Life," the symbol may be used by NHTSA alone. We believe this comment reflects a misunderstanding of the nature of certification marks.

Unlike a trade or service mark, which creates for the owner exclusive rights to use the registered symbol, a certification mark is owned by one person and used by others. Such a mark is to be used, for example, to certify quality or other origin.

The "Star of Life" symbol was registered and is owned by NHTSA. NHTSA has authorized its use to certify compliance with certain standards (such as compliance by an ambulance with Federal Specifications or completion by EMS personnel of appropriate training courses). NHTSA has also authorized its use on goods employed or in connection with services performed as part of EMS systems, at the national, State or local level.

Other Changes to Criteria and Specifications

NHTSA requested comments on whether the agency should make other revisions to the criteria and specifications that were established on September 14, 1977. We received extensive and thoughtful comments from the National Association of State EMS Directors (NASEMSD). We have adopted some of the changes recommended by NASEMSD, as well as some additional changes based on our own review.

Many of the criteria have been amended to make them less restrictive. Some of the criteria, particularly those sections that attempted to detail the appearance of the "Star of Life" for various uses, have been deleted entirely and replaced instead with more general instructions and restrictions.

As amended, the criteria provide that the "Star of Life" may be used on emergency care vehicles that either meet Federal specifications or are authorized to be used for emergency responses by a State or Federal agency. They continue to provide that the symbol may be used to indicate the location of and access to qualified emergency medical care.

The criteria clarify that the "Star of Life" may be worn or used on patches, badges, lapel pins and other similar items by persons who have completed training and are authorized by a State or Federal agency to provide EMS care and by persons who by title and function are involved in the administration or supervision of or otherwise participate in an EMS system.

As explained above, the criteria have been amended to provide that the "Star of Life" may be used to inform providers of medical conditions (such as diabetes) or to identify appropriate treatment (such as DNR), in accordance with programs established by the State or Federal agency.

The criteria continue to provide that the symbol may be used on EMS training materials, other materials (such as letterheads and publications) having direct EMS application, medical equipment and supplies intended for use by EMS providers and by entrepreneurs engaged in the production or publication of these items.

With regard to the appearance of the "Star of Life," the specifications continue to include a sample of the registered blue "Star of Life" symbol

and to identify the color of the symbol and its dimensions. The criteria, as amended, indicate that deviations in size may be made, provided they are proportionate, and that other deviations may be made, provided they create the same commercial impression created by the registered mark. Deviations which change the basic, overall commercial impression created on the public are not permitted.

The criteria continue to provide instructions for including the symbol to show that the "Star of Life" is a registered certification mark. They have been amended to provide that some manner of demarcation should be used on patches, lapel pins and other similar items to distinguish whether the person wearing such item is an EMS provider or an individual involved in the administration or supervision of an EMS system. Provisions that attempted to detail the appearance of the "Star of Life" for these and other uses have been deleted.

Appendix A to this notice contains the revised criteria and specifications for the Use of the "Star of Life" Symbol.

Issued on: August 5, 1994.

Michael Brownlee,

Associate Administrator for Traffic Safety Programs.

Appendix A

Criteria and Specifications for the Use of the "Star of Life" Symbol

The "Star of Life" is a certification mark that was issued on February 1, 1977 (Certificate of Registration No. 1,058,022), by the Commissioner of Patents and Trademarks to the National Highway Traffic Safety Administration (NHTSA).

The certification mark is to be used on emergency medical care vehicles to certify that they meet Federal standards; by emergency medical care personnel to certify, based on their training and affiliation with a qualified emergency medical care system, that they are authorized to provide emergency medical care; on road maps and highway signs to indicate the location of or access to qualified emergency medical care services; and such other EMS-related uses that the Administrator of the National Highway Traffic Safety Administration (NHTSA) may authorize. Any other use is prohibited. Unauthorized use shall be reported to the NHTSA Administrator for investigation and legal action as may be required.

NHTSA authorizes the States (as defined in 23 U.S.C. § 401) and Federal agencies with EMS involvement to permit use of the "Star of Life" symbol for the following purposes:

1. To identify emergency medical care vehicles that meet the Federal Specifications for Ambulances—Emergency Care Vehicles (KKK–C–1822 GSA–FSS) or are authorized by a State or Federal agency involved in the provision of emergency medical care to respond to scenes requiring the provision of emergency medical care.

2. To indicate the location of and access to qualified emergency medical care services.

3. On patches or other apparel or personal items (such as badges, lapel pins, buckles, name plates, plaques, etc.) worn or used by an individual:

a. who:

i. has satisfactorily completed any training course that meets or exceeds the U.S. Department of Transportation National Standard Curricula or has been approved by a State or Federal agency involved in the provision of emergency medical care; and

ii. is authorized by a State or Federal agency involved in the provision of emergency medical care to participate in a qualified emergency medical care system; or

b. who by title and function is authorized by a State or Federal agency involved in the provision of emergency medical care to administer, directly supervise, or otherwise participate in all or a specific part of a qualified emergency medical care system.

4. On bracelets or other items of apparel worn by a patient to inform authorized emergency medical care providers to medical conditions or to identify appropriate treatment with regard to that patient, in accordance with programs established by a State or Federal agency involved in the provision of emergency medical care.

5. On training materials that meet or exceed the U.S. Department of Transportation National Standard Curricula or have been approved by a State or Federal agency involved in the provision of emergency medical care.

6. On materials such as books, pamphlets, letterheads, plans, manuals, reports, and publications that either have direct EMS application or were generated by an EMS organization. An EMS organization is an organization that either is involved in the provision of emergency medical care or represents persons or organizations who are so involved.

7. To identify medical equipment and supplies intended for use by authorized emergency medical care providers in the provision of emergency medical care.

8. By entrepreneurs engaged in the production of medical equipment and supplies or the publication of materials described above.

The following restrictions apply to the use of the "Star of Life":

1. As a registered certification mark, the "Star of Life" must always be accompanied by the symbol consisting of a capital letter R surrounded by a circle, *i.e.* ®. This marking shall appear immediately adjacent to the "Star of Life" on all decals, uniform patches, printed material, plaques, pins, buckles, name plates, etc. Where the item consists solely of the "Star of Life" and does not have an adjacent surface of surrounding area (*e.g.*, a lapel pin), the ® shall appear on the reverse side of the item.

2. The Specifications below include a sample of the registered blue "Star of Life" symbol, and identify the color of the symbol and its dimensions (for three sizes). Deviations in size may be made, provided they are proportionate. Other deviations may be made, provided they create the same commercial impression created by the registered mark.

3. Some manner of demarcation (such as function-identifying words or letters printed on bars and attached across the bottom separately, and edging of different colors) should be used on patches or other apparel or personal items (such as badges, lapel pins, buckles, name plates, plaques, etc.) worn or used by an individual, to distinguish those worn or used by an individual:

a. who:

i. has satisfactorily completed any training course that meets or exceeds the U.S. Department of Transportation National Standard Curricula or has been approved by a State or Federal agency involved in the provision of emergency medical care; and

ii. is authorized by a State or Federal agency involved in the provision of emergency medical care to participate in a qualified emergency medical care system;

from those worn or used by an individual:

b. who by title and function is authorized by a State or Federal agency involved in the provision of emergency medical care to administer, directly supervise, or otherwise participate in all or a specific part of a qualified emergency medical care system.

Specifications

BILLING CODE 4910–59–P

Specifications

COLOR: Pure Primary Blue (approximate). Above print may be used as sample. Detailed color range data will be provided.

DIMENSIONS:

	SIZES		
	A	B	C
Length of bar	3"	12"	16"
Width of bar	3/4"	3"	4"
Length of staff	2 1/2"	9 1/2"	12 1/2"
White background (if required)	4" sq.	14" sq.	18" sq.

All angles 60°. Deviations in size must be proportionate.

The registration mark R should be centered in the manner indicated above. The diameter of the circle should be 1/4 of the width of the bar. The letter R should not touch the circle.

Location: For appropriate location on the ambulance see the Federal Specifications for Ambulance–Emergency Care Vehicle * KKK-A-1822 GSA-FSS.[1]

Note: "Star of Life" symbols are not available from the Department of Transportation. Stencils or decals for applying the symbol must be purchased locally.

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1. Available from: General Services Administration, Automotive Commodity Center, 2611 Jefferson Davis Highway, Airport Plaza 2, Arlington, VA 22202

[FR Doc. 94–19562 Filed 8–10–94; 8:45 am]
BILLING CODE 4910–59–C

Sunshine Act Meetings

Federal Register
Vol. 59, No. 154
Thursday, August 11, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 94–19181.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, August 11, 1994, 10 a.m. Meeting Open to the Public.

The following item was added to the agenda:

MCFL Rulemaking: Summary of Comments and Draft Final Rules.

DATE AND TIME: Tuesday, August 16, 1994 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, August 18, 1994 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes
Advisory Opinion 1994–25: David K. Walter on behalf of the Libertarian National Committee
MCFL Rulemaking: Summary of Comments and Draft Final Rules (continued from meeting of August 11, 1994)
Revised Performance Appraisal and Awards System
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 94–19794 Filed 8–9–94; 2:30 pm]

BILLING CODE 6715–01–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Board of Directors of the Export-Import Bank of the United States

TIME AND PLACE: Tuesday, September 6, 1994, at 2:00 p.m. The meeting will be held at the Export-Import Bank in Room 1141, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

AGENDA: 1. Insurance Brokers

PUBLIC PARTICIPATION: The meeting will be open to public observation. In order to permit the Export-Import bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Barbara Lane, Room 1112, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 566–8982, not later than Friday, September 2, 1994. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 1, 1994, Barbara Lane, Room 1112, 811 Vermont Avenue, N.W., Washington, DC 20571, Voice: (202) 566–8982 or TDD: (202) 535–3913.

FURTHER INFORMATION: For further information, contact Barbara Lane, Room 1112, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 566–8982.

Tamzen C. Reitan,

Vice President, Management Services and Human Resources.

[FR Doc. 94–19793 Filed 3–9–94; 5:05 am]

BILLING CODE 6690–01–M

federal register

Thursday
August 11, 1994

Part II

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone; Amendment to the Phaseout of Ozone-Depleting Chemicals to Correct Allocation Numbers; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL-5040-4]

Protection of Stratospheric Ozone; Amendment to the Phaseout of Ozone-Depleting Chemicals to Correct Allocation Numbers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

SUMMARY: In the December 10, 1993 **Federal Register** the Environmental Protection Agency inadvertently omitted a paragraph that should have been carried over from the preceding phaseout rule; this paragraph is subsequently added back into the regulation through today's direct final rulemaking. Through this action, the Environmental Protection Agency is also updating its lists of Parties to the Montreal Protocol in Appendix C and of Article 5 countries in Appendix E.

EFFECTIVE DATE: This action will become effective October 11, 1994 unless EPA receives notice by September 12, 1994 that someone wishes to submit adverse or critical comments. If such comments are received, EPA would then publish a timely notice announcing its withdrawal before the effective date provided in today's action. A second document would then request comments, after which a final rule would be drafted and published, responding to such comments.

ADDRESSES: Materials relevant to the rulemaking are contained in Air Docket A-92-13 at: Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The public docket room is located in room M-1500, Waterside Mall (Ground Floor). Materials may be inspected from 8:30 a.m. until noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials. Information on this rulemaking may also be obtained from the Stratospheric Protection Information Hotline at 1-800-296-1996.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Protection Information Hotline at 1-800-296-1996 or Michael James, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, 6205J, (202) 233-9192.

SUPPLEMENTARY INFORMATION:

I. Today's Revisions to the Phaseout of Ozone-Depleting Substances

In today's action, EPA is re-inserting a paragraph under § 82.10, inadvertently omitted from the final rulemaking (58 FR 65018), to grant a limited level of consumption allowances to carbon tetrachloride producers under certain conditions. During the July 30, 1992 rulemaking (57 FR 33754), EPA intended to allocate carbon tetrachloride (Group IV) consumption allowances to all companies that received carbon tetrachloride production allowances. During the drafting of that rulemaking, EPA realized that complications existed in the development and calculation of the baseline for this chemical, such that some companies that had exported carbon tetrachloride would not receive baseline consumption allowances. Thus, companies that had intended to produce for export could not because of the requirement to hold both production and consumption allowances at the time of production.

To address this situation in the final rulemaking, EPA promulgated § 82.10(c) to allocate baseline consumption allowances to carbon tetrachloride producers who had exported in the baseline year, but had not received baseline consumption allowances. Producers who met these conditions would receive baseline consumption allowances equal to the level of production allowances received for the control period. In addition, this paragraph required that producers who received these allowances demonstrate that they had exported this chemical by providing documentation to EPA that they had indeed exported the chemical by February 15 of the year after the end of the control period.

During the development of the December 10, 1993 final rule (58 FR 65018), EPA inadvertently omitted this paragraph of the final rule. It was never the intention of EPA to eliminate this provision, and EPA believes that this provision is essential for companies to continue to produce this chemical for export markets, many of which use carbon tetrachloride as a feedstock in the production of other chemicals. For these reasons, EPA is today re-inserting former § 82.10(c) as 82.10(d) of the current rule, making the provisions of the new § 82.10(d) retroactive to January 1, 1994. In this way, companies will not be penalized as a result of the Agency's inadvertent omission.

With this notice, the Agency is also updating Appendix C to Subpart A—Annex 1 Parties to the Montreal Protocol and Appendix E to Subpart A—Article 5 Parties. The revised Appendix C reflects the following changes: additional countries that have signed onto the Montreal Protocol, existing or added Parties that have ratified the London Amendments, or existing or added Parties that have ratified the Copenhagen Amendments. The changes to Appendix E reflect additional developing countries that have signed onto the Montreal Protocol. These developing countries have also been added to Appendix C.

Because these changes are only correcting inadvertent omissions or typographical errors, they have no impact on the environment or on the implementation of the Stratospheric Protection Program. This action is being taken without prior proposal because EPA believes that this final decision is noncontroversial and anticipates no significant adverse comments on this action. If adverse comment on this rulemaking is received, EPA would withdraw this direct final notice, then propose as a separate notice, upon which comments would be solicited. A final rule would then be written, which would provide responses to comments.

II. Summary of Supporting Analysis

A. Executive Order 12866

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

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect 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 entitlement, 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 by OMB and EPA that this amendment to the final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

EPA believes that any impact that this amendment will have on the regulated community will serve only to provide relief from otherwise applicable regulations, and will therefore limit the negative economic impact associated with the regulations previously promulgated under Section 604. An examination of the impacts on small entities was discussed in the final rule (58 FR 65018). That final rule assessed the impact the rule may have on small entities. A separate regulatory impact analysis accompanied the final rule and is contained in Docket A–91–50. I certify that this amendment to the accelerated phaseout rule will not have any additional negative economic impacts on any small entities.

C. Paperwork Reduction Act

Any information collection requirements in a rule must be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Because no additional informational collection requirements are required by this amendment, EPA has determined that the Paperwork Reduction Act does not apply to this rulemaking and no new Information Collection Request document has been prepared.

List of Subjects in 40 CFR Part 82

Air pollution control, Chemicals, Exports, Imports, Reporting and recordkeeping requirements.

Dated: August 4, 1994.

Carol M. Browner,

Administrator.

40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.10 is amended by adding a new paragraph (d) to read as follows:

§ 82.10 Availability of consumption allowances in addition to baseline consumption allowances.

* * * * *

(d) On the first day of each control period the Agency will grant consumption allowances to any person that produced and exported a Group IV controlled substance in the baseline year and that was not granted baseline consumption allowances under § 82.6.

(1) The number of consumption allowances any such person will be granted for each control period will be equal to the number of production allowances granted to that person under § 82.7 for that control period.

(2) Any person granted allowances under this paragraph must hold the same number of unexpended consumption allowances for the control period for which the allowances were granted by February 15 of the following control period. Every kilogram by which the person's unexpended consumption allowances fall short of the amount the person was granted under this paragraph constitutes a separate violation.

(3) This paragraph will apply retroactively to January 1, 1994, in order that such consumption allowances will be granted for the 1994 control period.

3. Appendix C to subpart A is revised to read as follows:

APPENDIX C TO SUBPART A.—ANNEX 1—PARTIES TO THE MONTREAL PROTOCOL

Foreign State	Montreal protocol	London amendments	Copenhagen amendments
Algeria	✔	✔	
Antigua and Barbuda	✔	✔	✔
Argentina	✔	✔	
Australia	✔	✔	
Austria	✔	✔	
Bahamas	✔	✔	✔
Bahrain	✔	✔	
Bangladesh	✔		
Barbados	✔		
Belarus	✔		
Belgium	✔	✔	
Benin	✔		
Bosnia and Herzegovina	✔		
Botswana	✔		
Brazil	✔	✔	
Burnei	✔		
Bulgaria	✔		
Burkina Faso	✔		
Cameroon	✔	✔	
Canada	✔	✔	
Central African Republic	✔		
Chile	✔	✔	
China	✔	✔	
Colombia	✔		
Congo	✔		
Costa Rica	✔		
Cote Ivoire	✔		
Croatia	✔	✔	
Cuba	✔		
Cyprus	✔		
Czech Republic	✔		

APPENDIX C TO SUBPART A.—ANNEX 1—PARTIES TO THE MONTREAL PROTOCOL—Continued

Foreign State	Montreal protocol	London amendments	Copenhagen amendments
Denmark	✓	✓	✓
Dominica	✓	✓	
Ecuador	✓	✓	✓
Egypt	✓	✓	
El Salvador	✓		
European E.C.	✓	✓	
Fiji	✓		
Finland	✓	✓	✓
France	✓	✓	
Gabon	✓		
Gambia	✓		
Germany	✓	✓	✓
Ghana	✓	✓	
Greece	✓	✓	
Grenada	✓	✓	
Guatemala	✓		
Guinea	✓	✓	
Guyana	✓	✓	
Honduras	✓		
Hungary	✓	✓	
Iceland	✓	✓	
India	✓	✓	
Indonesia	✓	✓	
Iran	✓		
Ireland	✓	✓	
Israel	✓	✓	
Italy	✓	✓	
Jamaica	✓	✓	
Japan	✓	✓	
Jordan	✓	✓	
Kenya	✓		
Kiribati	✓		
Korea, Republic of	✓	✓	
Kuwait	✓		
Lebanon	✓	✓	
Libya	✓		
Liechtenstein	✓		
Luxembourg	✓	✓	
Malawi	✓	✓	✓
Malaysia	✓	✓	✓
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Malta	✓	✓	
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Poland	✓		
Portugal	✓	✓	
Romania	✓	✓	
Russian Federation	✓	✓	
Saint Kitts and Nevis	✓		
Saint Lucia	✓		
Samoa	✓		
Saudi Arabia	✓	✓	✓
Senegal	✓	✓	
Seychelles	✓	✓	✓

APPENDIX C TO SUBPART A.—ANNEX 1—PARTIES TO THE MONTREAL PROTOCOL—Continued

Foreign State	Montreal protocol	London amendments	Copenhagen amendments
Singapore	✓	✓	
Slovenia	✓	✓	
Solomon Islands	✓	✓	
South Africa	✓	✓	
Spain	✓	✓	
Sri Lanka	✓	✓	
Sudan	✓		
Swaziland	✓		
Sweden	✓	✓	✓
Switzerland	✓	✓	
Syrian Arab Republic	✓		
Tanzania, United Republic of	✓	✓	
Thailand	✓	✓	
Togo	✓		
Trinidad and Tobago	✓		
Tunisia	✓	✓	
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Tuvalu	✓		
Uganda	✓	✓	
Ukranian SSR	✓		
United Arab Emirates	✓		
United Kingdom	✓	✓	
United States	✓	✓	✓
Uruguay	✓	✓	
Uzbekistan	✓		
Venezuela	✓	✓	
Viet Nam	✓	✓	✓
Yugoslavia	✓		
Zambia	✓		
Zimbabwe	✓		

4. Appendix E to Subpart A is revised to read as follows:

Appendix E to Subpart A—Article 5 Parties

Algeria, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Cameroon, Central African Republic, Chile, China, Colombia, Costa Rica, Cote Ivoire, Croatia, Cuba, Dominica, Ecuador, Egypt, El Salvador, Fiji, Gambia, Ghana, Grenada, Guatemala, Guinea, Guyana, Honduras, India, Indonesia, Iran, Jamaica, Jordan, Kenya, Kiribati, Lebanon, Libya, Malawi, Malaysia, Maldives, Malta, Mauritius, Mexico, Myranmar, Namibia, Nicaragua, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Romania, Saint Kitts and Nevis, Saint Lucia, Samoa, Senegal, Seychelles, Slovenia, Solomon Islands, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

[FR Doc. 94–19640 Filed 8–10–94; 8:45 am]

BILLING CODE 6560–50–P

federal register

Thursday
August 11, 1994

Part III

The President

Proclamation 6713—Minority Enterprise Development Week, 1994

Federal Register
Vol. 59, No. 154
Thursday, August 11, 1994

Presidential Documents

Title 3—

The President

Proclamation 6713 of August 9, 1994

Minority Enterprise Development Week, 1994

By the President of the United States of America

A Proclamation

Growth and development in the minority business community are crucial to the social fabric, as well as to the overall economy, of this Nation. While racial and ethnic minorities constitute over 26 percent of the total U.S. population—a proportion that is constantly growing—minority citizens continue to be underrepresented in commerce and industry.

This lack of representation results in losses of opportunities and in losses to the American economy. This can and must be rectified. Every individual has a contribution to make and deserves to participate fully in the public and private sectors of the United States, without regard to racial or ethnic origin.

Minority business development is an essential element in helping to enable every American to become a full participant in the economic life of our country. Minority entrepreneurs often face tremendous odds on the road to success. However, the assistance and encouragement of our Government is available to all of our citizens. This includes up-to-date information regarding market opportunities, increased capital for business expansion, advice and experience in business management, and recognition of the quality goods and services minority-owned firms can provide.

Commerce in America is at a watershed: to achieve economic security, we must eliminate old ways of doing business and initiate practices that are inclusive. Discriminatory and exclusionary practices have no place in our Nation. Ours has always been a society comprised of minorities; diversity is our strength. And everyone must be included in this country's economic team.

We are definitely on the right track, as the economic policies of this Administration have already resulted in renewed economic growth that has generated 3.5 million new private-sector jobs for our citizens. And with the unemployment rates of our minority citizens showing improvement as well, this means we are producing more jobs for those Americans who have too often been excluded from the mainstream of our society. But more remains to be done, and we will need to look to minority businesspeople to become a cornerstone of an urban renaissance, creating even more jobs where we most need them. Minority business development is one place where a small investment can yield tremendous dividends.

Minority Enterprise Development Week highlights the benefits of commercial and economic expansion for minorities and offers us an opportunity to acknowledge the growing number of successful minority entrepreneurs and to pledge support for continued growth.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of October 9 through October 15, 1994, as "Minority Enterprise Development Week." I call on the people of the United States to recognize the contributions that minority-owned businesses make to the well-being of this Nation and to observe this occasion with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of August, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 93–19877
Filed 8–10–94; 11:19 am]
Billing code 3195–01–P

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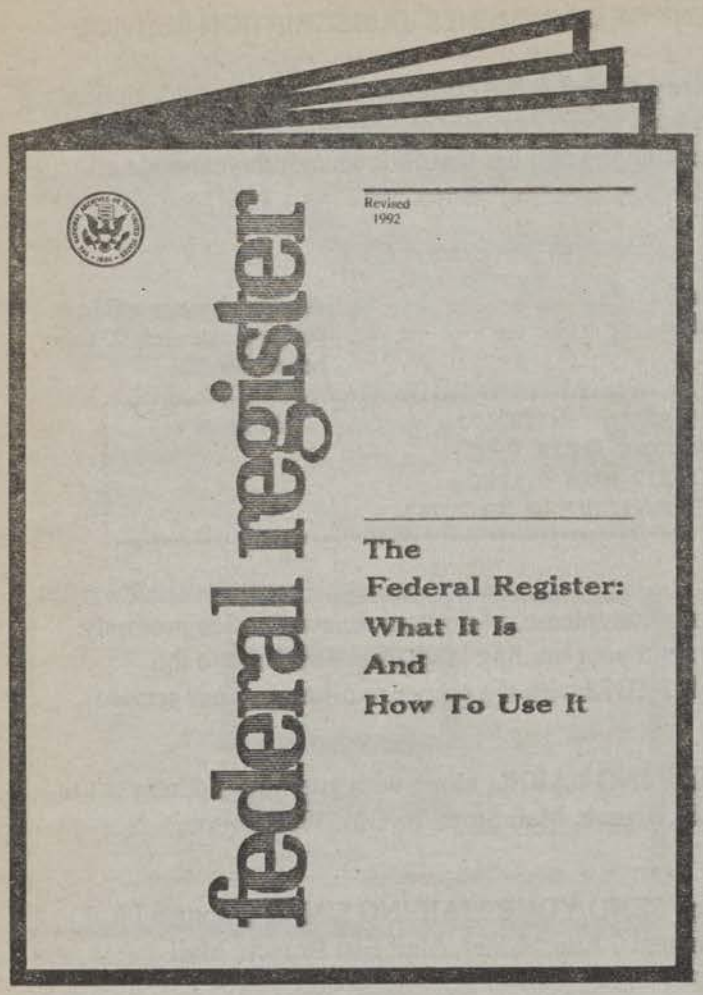

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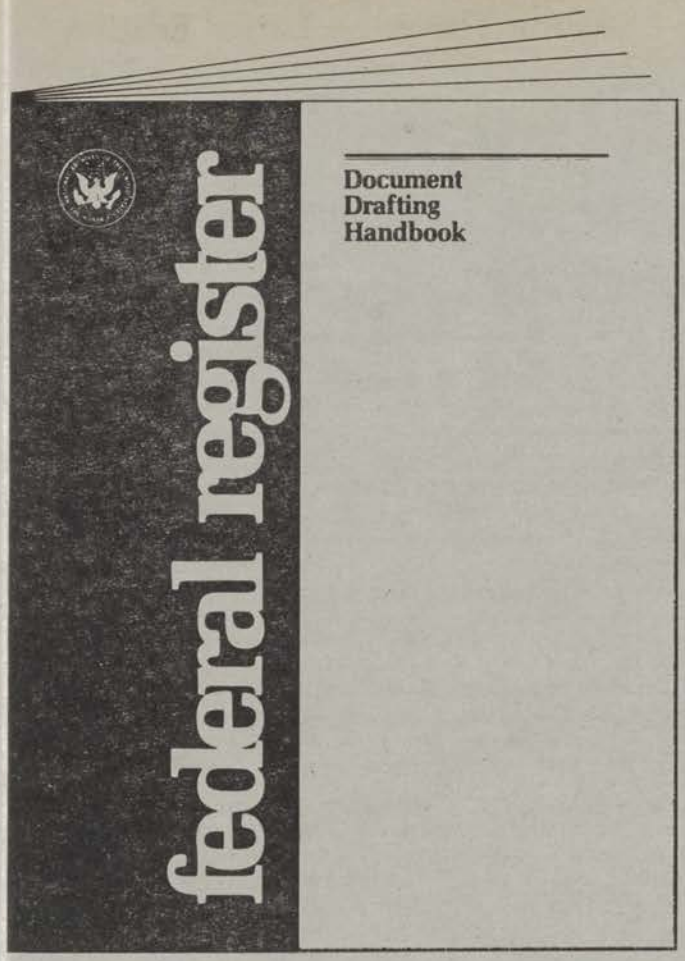

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