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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: October 25 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

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Contents

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 1994

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
Scientific Counselors Board, 52549
Superfund program:
Hazardous substances priority list (toxicological profiles), 52549–52550

Agricultural Marketing Service
RULES
Almonds grown in California, 52413–52414
Eggs and egg products and poultry and rabbit products; inspection and grading:
Fees and charges increase, 52636–52638
Marketing orders; expenses and assessment rates, 52411–52413
Papayas grown in Hawaii, 52409–52410
Peas, canned; grade standards, 52630–52634
Tomato sauce; grade standards, 52624–52627
PROPOSED RULES
Poultry and rabbit products; inspection and grading:
Voluntary poultry grade standards, 52469–52475
Soybean promotion, research, and consumer information:
Producer poll procedures, 52475–52479

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Federal Crop Insurance Corporation
See Food and Nutrition Service
See Forest Service
NOTICES
Meetings:
Agricultural Biotechnology Research Advisory Committee, 52508

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Mediterranean fruit fly, 52405–52407

Antitrust Division
NOTICES
National cooperative research notifications:
Portland Cement Association, 52556

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Reverse transcriptase; sensitive and specific assay for detection; refinement and commercialization, 52550–52551

Coast Guard
RULES
Drawbridge operations:
Oregon, 52423–52424
Ports and waterways safety:
Narragansett Bay, RI; safety zone, 52424–52425
PROPOSED RULES
Lifesaving equipment:
Inflatable liferafts, 52590–52621
Vessel documentation and measurement:
Undocumented barges over 100 gross tons; mandatory numbering system, 52646–52648
NOTICES
Meetings:
National Boating Safety Advisory Council, 52578–52579

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 52586

Defense Department
RULES
Acquisition regulations:
Streamlined research and development contracting procedures, 52442–52450

Drug Enforcement Administration
RULES
Chemical Diversion and Trafficking Act of 1988; implementation:
Ephedrine; threshold elimination
Correction, 52588
NOTICES
Applications, hearings, determinations, etc.:
Celgene Corp., 52555

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Adult and vocational education programs reauthorization; hearings, 52522–52523
National Institute on Disability and Rehabilitation Research—
Knowledge dissemination and utilization program, 52523–52524
Vocational rehabilitation service projects program for migratory agricultural and seasonal farmworkers with disabilities; correction, 52524

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
PROPOSED RULES
Acquisition regulations:
Legislation lobbying cost prohibition, 52505–52507
NOTICES
Civilian Radioactive Waste Management Office; waste acceptance issues; inquiry, 52524–52525
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Fernald Environmental Management Project, OH, 52525–52526
Grant and cooperative agreement awards:
American Indian Science & Engineering Society, 52526
Meetings:
Environmental Management Site Specific Advisory Board—
Nevada Test Site, 52527

Pantex Plant, TX, 52526–52527

Energy Efficiency and Renewable Energy Office
NOTICES
Meetings:
State Energy Advisory Board, 52527

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Kansas, 52425–52427
North Carolina, 52429–52431
Rhode Island, 52427–52429
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Minnesota, 52431–52436
West Virginia
Correction, 52588
Water pollution control:
Ocean dumping; biochemical testing requirements; clarification of suspended particulate phase, 52650–52652
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Kansas, 52495–52496
North Carolina, 52495
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Minnesota, 52496
Hazardous waste:
Municipal solid waste landfill facilities; financial assurance effective date extension for owners and operators, 52498–52500
Water pollution control:
Water quality standards—
New Mexico surface waters, 52496–52498
NOTICES
Clean Air Act:
Acid rain provisions—
State permits, 52543–52544
Montreal Protocol; production and import phaseout of ozone depleting substances including halons; essential use exemption nominations, 52544–52547
Meetings:
Border Environment Cooperation Commission, 52548
Permits Improvement Team, 52547–52548

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Air carrier certification and operations:
Protective gloves onboard aircraft operated in air carrier, air taxi, and commercial operations; requirement, 52640–52643
Airworthiness directives:
Airbus, 52414–52417
Standard instrument approach procedures, 52417–52423
PROPOSED RULES
Airworthiness directives:
Fokker, 52479–52482
McDonnell Douglas, 52482–52486
NOTICES
Committees; establishment, renewal, termination, etc.:
All-Weather Operations Working Group, 52579–52580
Exemption petitions; summary and disposition, 52580–52581

Federal Communications Commission
RULES
Radio stations; table of assignments:
Iowa, 52441
Mississippi, 52441–52442
South Carolina, 52442
NOTICES
Meetings; Sunshine Act, 52586

Federal Crop Insurance Corporation
RULES
Administrative regulations:
Social Security account numbers and employer identification numbers; collection and storage, 52407–52409

Federal Deposit Insurance Corporation
NOTICES
Financial institutions in receivership; insufficiency of assets to satisfy all claims; determinations, 52548

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Arizona et al., 52436–52438
Arkansas et al., 52438–52439
California et al., 52439–52441
PROPOSED RULES
Flood elevation determinations:
Iowa et al., 52501–52505
NOTICES
Disaster and emergency areas:
Marshall Islands, 52548–52549

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Southern Company Services, Inc., et al., 52527–52530
Tenaska III Texas Partners, 52530
Natural gas facilities; environmental assessments and impact statements preparation using third-party contractors; handbook availability, 52530
Natural Gas Policy Act:
Self-implementing transactions, 52530–52539
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 52539
Camelot Energy Services, 52542–52543
Centana Intrastate Pipeline Co., 52539
Columbia Gas Transmission Corp., 52539–52540
Energy Resources Marketing, Inc., 52543
Equitable Power Services Co., 52543
Llano, Inc., 52540
Mobil Vanderbilt-Beaumont Pipeline Co., 52540
Northern Natural Gas Co., 52540
Northwest Pipeline Corp., 52540–52541
Pacific Gas Transmission Co., 52541
Tennessee Gas Pipeline Co., 52541–52542
Transcontinental Gas Pipe Line Corp., 52542
Williams Natural Gas Co., 52542

Federal Maritime Commission
NOTICES
Agreements filed, etc., 52549

Food and Drug Administration
NOTICES
Meetings:
Advisory committees, panels, etc.
Participation procedures summary, 52551–52552

Food and Nutrition Service
RULES
Child nutrition programs:
National school lunch program—
Enriched macaroni products with fortified protein; alternate foods; correction, 52588

Forest Service
NOTICES
Forest management through international cooperation; strategic plan, 52508

General Services Administration
RULES
Acquisition regulations:
Multiple award schedule price reductions clause, 52450–52452

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Public Health Service

Health Resources and Services Administration
See Public Health Service

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Umatilla Indian Reservation Confederated Tribes, OR, 52654

Indian Arts and Crafts Board
PROPOSED RULES
Indian art and craftsmanship; product protection
Correction, 52588

Interior Department
See Indian Affairs Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Fishnetting of man-made fiber from—
Japan, 52512–52514
Light-scattering instruments and parts from—
Japan, 52511–52512
Sparklers from—
China, 52510–52511
Countervailing duties:
Roses and other cut flowers, and miniature carnations from—
Colombia, 52514–52517
Textile mill products from—
Thailand, 52508–52510

International Trade Commission
NOTICES
Meetings; Sunshine Act, 52586

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Agency information collection activities under OMB review, 52554–52555
Pollution control; consent judgments:
A.F. Murphy Die & Machine Co., et al., 52555–52556
Honolulu, HI, 52556

Labor Department
See Occupational Safety and Health Administration

Merit Systems Protection Board
NOTICES
Appeal forms availability; correction, 52558

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Dow Corning Corp., 52582–52583
Solectria Corp., 52581–52582

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic shark, 52453–52458
Bering Sea and Aleutian Islands groundfish, 52452
PROPOSED RULES
Fishery conservation and management:
Gulf of Mexico stone crab
Correction, 52507
NOTICES
Grants and cooperative agreements; availability, etc.:
Fishing industry research and development projects—
Saltonstall-Kennedy program, 52517–52522

National Park Service
NOTICES
Environmental statements; availability, etc.:
Padre Island National Seashore, TX, 52554
Meetings:
Cape Cod National Seashore Advisory Commission, 52554

National Science Foundation
NOTICES
Meetings:
Mathematical and Physical Sciences Advisory Committee, 52558

Nuclear Regulatory Commission
NOTICES
Agency information collection activities under OMB review, 52558–52559
Generic letters:
Digital upgrades, licensing guideline; use in determining acceptability of performing analog-to-digital replacements, 52559–52561
Meetings:
Nuclear Safety Research Review Committee, 52561
Meetings; Sunshine Act, 52586–52587
Seismic revisit of individual plant examination of external events for severe accident vulnerabilities; workshop and report availability, 52561–52562

Occupational Safety and Health Administration
NOTICES
Meetings:
Standards planning process, 52557–52558

Personnel Management Office
RULES
Prevailing rate systems, 52405
PROPOSED RULES
Employment:
Executive positions, 52459–52467
Pay under General Schedule:
Locality-based comparability payments, 52467–52469
NOTICES
Agency information collection activities under OMB review, 52562

Presidential Documents
PROCLAMATIONS
Imports and exports:
Wheat; establishment of tariff-rate quotas (Proc. 6740), 52399–52401
EXECUTIVE ORDERS
Haiti; termination of national emergency (EO 12932), 52403

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
NOTICES
Organization, functions, and authority delegations:
Executive Office, 52553–52554
Food and Drug Administration, 52552–52553

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 52583–52585

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 52568–52573
Government Securities Clearing Corp., 52562–52563
National Securities Clearing Corp., 52563–52564
Self-regulatory organizations; unlisted trading privileges:
Philadelphia Stock Exchange, Inc., 52568
Applications, hearings, determinations, etc.:
Pacific Select Fund et al., 52564–52567
Van Kampen Merritt Equity Opportunity Trust, 52573–52575
Woodward Funds et al., 52575–52578

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Illinois, 52487–52495

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

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
NOTICES
International cargo rate flexibility level:
Standard foreign fare level—
Index adjustment factors, 52578

Separate Parts In This Issue

Part II
Department of Transportation, Coast Guard, 52590–52621

Part III
Department of Agriculture, Agricultural Marketing Service, 52624–52627

Part IV
Department of Agriculture, Agricultural Marketing Service, 52630–52634

Part V
Department of Agriculture, Agricultural Marketing Service, 52636–52638

Part VI
Department of Transportation, Federal Aviation Administration, 52640–52643

Part VII
Department of Transportation, Coast Guard, 52646–52648

Part VIII
Environmental Protection Agency, 52650–52652

Part IX
Department of the Interior, Bureau of Indian Affairs, 52654

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
6740 52399
Executive Orders:
12775 (Revoked by EO 12932) 52403
12779 (Revoked by EO 12932) 52403
12853 (Revoked by EO 12932) 52403
12872 (Revoked by EO 12932) 52403
12914 (Revoked by EO 12932) 52403
12917 (Revoked by EO 12932) 52403
12920 (Revoked by EO 12932) 52403
12922 (Revoked by EO 12932) 52403
12932 52403

5 CFR
532 52405
Proposed Rules:
214 52459
317 52459
319 52459
359 52459
531 52467
534 52459

7 CFR
52 (2 documents) 52624, 52630
55 52636
56 52636
59 52636
70 52636
210 52588
301 52405
400 52407
928 52409
945 52411
967 52411
981 52413
987 52411
993 52411
Proposed Rules:
70 52469
1220 52475

14 CFR
39 52414
97 (3 documents) 52417, 52418, 52419
121 52640
125 52640
135 52640
Proposed Rules:
39 (5 documents) 52479, 52481, 52482, 52483, 52485

21 CFR
1310 52588
1313 52588

25 CFR
Proposed Rules:
309 52588

30 CFR
Proposed Rules:
913 52487

33 CFR
117 52423
165 52424
Proposed Rules:
Ch. I 52646

40 CFR
52 (5 documents) 52425, 52427, 52429, 52431, 52588
81 52431
227 52650
Proposed Rules:
52 (3 documents) 52495, 52496
81 52496
131 52496
258 52498

44 CFR
65 (2 documents) 52436, 52438
67 52439
Proposed Rules:
67 52501

46 CFR
Proposed Rules:
159 52590
160 52590

47 CFR
73 (3 documents) 52441, 52442

48 CFR
235 43442
538 43450
552 43450
Proposed Rules:
970 52505

50 CFR
675 52452
678 52453
Proposed Rules:
654 52507

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 1994

Presidential Documents

Title 3—

The President

Proclamation 6740 of October 13, 1994

To Establish Tariff-Rate Quotas on Certain Wheat

By the President of the United States of America

A Proclamation

1. In accordance with section 22 of the Agricultural Adjustment Act, as amended ("the Act") (7 U.S.C. 624), the Secretary of Agriculture has advised me that he has reason to believe that wheat, classified in heading 1001 of the Harmonized Tariff Schedule of the United States (HTS), is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support, payment, and production adjustment program for wheat conducted by the Department of Agriculture.

2. Based upon this advice, I directed the United States International Trade Commission ("the Commission") to initiate an investigation with respect to this matter under section 22 of the Act.

3. Based on the investigation and report of the Commission, I have determined that certain articles of wheat are being imported or are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support, payment, and production adjustment program for wheat conducted by the Department of Agriculture. Further, I have determined that the imposition of the tariff-rate quotas, as hereinafter proclaimed, is necessary in order that the entry, or withdrawal from warehouse for consumption, of such articles will not materially interfere with the price support, payment, and production adjustment program for wheat conducted by the Department of Agriculture. I have also determined that imports of wheat from Canada have increased significantly as a result of a substantial change in the wheat support programs of the United States and Canada.

4. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of relevant provisions of that Act, of other Acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 22 of the Agricultural Adjustment Act, as amended, and section 604 of the Trade Act of 1974, as amended, do proclaim that:

(1) In order to establish tariff-rate quotas on imports of certain wheat, subchapter IV of chapter 99 of the HTS is modified as set forth in the Annex to this proclamation.

(2) For durum wheat entered during a specified quota year, other than qualifying goods of Mexico or seed wheat, the aggregate quantity exceeding 300,000,000 kilograms but not exceeding 450,000,000 kilograms is subject to the in-quota rate of duty established in such Annex and the aggregate quantity exceeding 450,000,000 kilograms is subject to the over-quota rate of duty established in such Annex. For other wheat and meslin entered during a specified quota year, other than qualifying goods of Mexico or white winter wheat, the aggregate quantity exceeding 1,050,000,000 kilograms is subject to the over-quota rate of duty established in the Annex.

(3) The modifications made by this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after September 12, 1994, and before the close of September 11, 1995, unless expressly suspended, modified, or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, 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

Billing code 3190–901–P

ANNEX

TEMPORARY MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Note:

The HTS is modified as provided below. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in columns of the HTS to be designated "Heading/Subheading", "Article Description", and "Rates of Duty (Section 22 Fees)", respectively.

Effective with respect to articles that are entered, or withdrawn from warehouse for consumption, on or after September 12, 1994, and before the close of September 11, 1995, at which time such modifications shall be deleted from the HTS:

Subchapter IV of chapter 99 of the HTS is modified by inserting the following new subheadings and superior text in numerical sequence:

	"Durum wheat (provided for in subheading 1001.10.00), other than qualifying goods of Mexico or seed wheat, if entered during the period from September 12, 1994, through September 11, 1995, inclusive:	
9904.70.10	In an aggregate quantity not exceeding 300,000,000 kilograms	No change
9904.70.11	In an aggregate quantity exceeding 300,000,000 kilograms but not exceeding 450,000,000 kilograms	2.3¢/kg less the applicable duty provided in subheading 1001.10.00, but not in excess of 50%
9904.70.12	Other	5¢/kg less the applicable duty provided in subheading 1001.10.00, but not in excess of 50%
	Other wheat and meslin (the foregoing provided for in subheading 1001.90.20), other than qualifying goods of Mexico or white winter wheat, if entered during the period from September 12, 1994, through September 11, 1995, inclusive:	
9904.70.15	In an aggregate quantity not exceeding 1,050,000,000 kilograms	No change
9904.70.16	Other	5¢/kg less the applicable duty provided in subheading 1001.90.20, but not in excess of 50%"

[FR Doc. 94-25939
Filed 10-14-94; 3:40 pm]
Billing code 3190-01-C

Presidential Documents

Executive Order 12932 of October 14, 1994

Termination of Emergency With Respect to Haiti

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act ("NEA") (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, and taking into consideration United Nations Security Council Resolution 944 of September 29, 1994,

I, WILLIAM J. CLINTON, President of the United States of America, find that the restoration of a democratically elected government in Haiti has ended the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States previously posed by the policies and actions of the *de facto* regime in Haiti and the need to continue the national emergency declared in Executive Order No. 12775 of October 4, 1991, to deal with that threat.

I hereby revoke Executive Order Nos. 12775, 12779, 12853, 12872, 12914, 12917, 12920, and 12922 and terminate the national emergency declared in Executive Order No. 12775 with respect to Haiti.

Pursuant to section 202 of the NEA (50 U.S.C. 1622), termination of the national emergency with respect to Haiti shall not affect any action taken or proceeding pending not finally concluded or determined as of the effective date of this order, or any action or proceeding based on any act committed prior to the effective date of this order, or any rights or duties that matured or penalties that were incurred prior to the effective date of this order.

This order shall take effect at 12:01 a.m. eastern daylight time on October 16, 1994.

William J. Clinton

THE WHITE HOUSE,
October 14, 1994.

[FR Doc. 94–25940
Filed 10–14–94; 3:06 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 1994

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AG08

Prevailing Rate Systems; Change of Lead Agency Responsibility for Miami, FL, Wage Area for Pay-Setting Purposes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to transfer lead agency responsibility for the Miami, Florida, Federal Wage System (FWS) wage area from the Department of Defense (DOD) to the Department of Veterans Affairs (VA) for pay-setting purposes. FWS employment at Homestead Air Force Base (AFB), the current host installation for the Miami wage area, has declined since Hurricane Andrew in 1992 and is expected to decline further. The VA Medical Center is now the largest single employer of FWS employees in the wage area, has the resources to carry out local wage surveys in the area, and is willing to assume responsibility as lead agency.

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Angela Graham Humes, (202) 606–2848.

SUPPLEMENTARY INFORMATION: On June 14, 1994, OPM published an interim rule (59 FR 30503) to transfer lead agency responsibility for the Miami, Florida, FWS wage area from the Department of Defense to the Department of Veterans Affairs. The interim rule provided a 30-day period for public comment. OPM received no comments during the comment period. Therefore, the interim rule is being adopted as a final rule.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule amending 5 CFR part 532 published on June 14, 1994 (59 FR 30503), is adopted as final without any changes.

U.S. Office of Personnel Management.

James B. King,

Director.

[FR Doc. 94–25702 Filed 10–17–94; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 91–155–16]

Mediterranean Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Ventura County, CA, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: Interim rule effective October 12, 1994. Consideration will be given only to comments received on or before December 19, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 91–155–16. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

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

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78–10; referred to below as the regulations) and quarantined the Hancock Park area of Los Angeles County, CA, in an interim rule effective on November 5, 1991, and published in the **Federal Register** on November 13, 1991 (56 FR 57573–57579, Docket No. 91–155). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Medfly to noninfested areas of the United States. We have published a series of interim rules amending these regulations by adding to or removing from the list of quarantined areas certain portions of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Clara Counties, CA. Amendments affecting California were made effective on September 10, and November 12, 1992; and on January 19, July 16, August 3, September 15, October 8, November 22, and December 16, 1993; and on January 10, 1994 (57 FR 42485–42486, Docket No. 91–155–2; 57 FR 54166–54169, Docket No. 91–155–3; 58 FR 6343–6346, Docket No. 91–155–4; 58 FR 39123–39124, Docket No. 91–155–5; 58 FR 42489–42491, Docket No. 91–155–6; 58 FR 49186–49190, Docket No. 91–155–7; 58 FR

53105–53109, Docket No. 91–155–8; 58 FR 63027–63031, Docket No. 91–155–9; 58 FR 67627–67630, Docket No. 91–155–10; 59 FR 2281–2283, Docket No. 91–155–11; 59 FR 7895–7896, Docket No. 91–155–12; 59 FR 11177–11180, Docket No. 91–155–13; 59 FR 35611–35612, Docket No. 91–155–14; and 59 FR 40207–40209, Docket No. 91–155–15).

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an additional infestation of Medfly has been discovered in the Camarillo area of Ventura County, CA.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

In accordance with these criteria and the recent Medfly finding described above, we are amending § 301.78–3 by adding an area in Ventura County of approximately 86 square miles. The new quarantined area is as follows:

Ventura County

That portion of Ventura County bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 101 and Los Posas Road; then north along Los Posas Road to its intersection with Crestview Avenue; then northwest along Crestview Avenue to its intersection with Valley Vista Drive; then north along Valley Vista Drive to its intersection with Valley Fairway Drive; then north along Valley Fairway Drive to its intersection with Center School Road; then northeast and north along Center School Road to its intersection with State Highway 118; then west along State Highway 118 to its intersection with Milligan Barranca; then north along Milligan Barranca to its intersection with Center Road; then north along Center Road to its intersection with La Loma Avenue; then east along La Loma Avenue to its intersection with Fox Canyon Road; then northeast along Fox Canyon Road to its intersection with Coyote Canyon Road; then southeast along Coyote Canyon Road to its intersection with Bradley Road; then northeast along Bradley Road to its intersection with Balcom Canyon Road; then east and south along Balcom Canyon Road to its intersection with Stockton Road; then northeast along Stockton Road to its intersection with Broadway; then east along Broadway to its intersection with Grimes Canyon Road; then southwest along Grimes Canyon Road to its intersection with State Highway 118; then east along State Highway 118 to its intersection with Tierra Rejada Road; then southeast along Tierra Rejada Road to its intersection with Moorpark Road; then east, south, and west along Moorpark Road to its intersection with North Moorpark Road; then south along North Moorpark Road to its intersection with Olsen Road; then southwest along Olsen Road to its intersection with Lynn Road; then south along Lynn Road to its intersection with Interstate Highway 101; then west along Interstate Highway 101 to its intersection with an imaginary line drawn due north from the north end of Edison Road; then due south along the imaginary line to the north end of Edison Road; then southwest along Edison Road to its intersection with Long Grade Canyon; then northwest along Long Grade Canyon to its intersection with Camarillo Drive; then north along Camarillo Drive to its intersection with Lewis Road; then northeast along Lewis Road to its intersection with Cawelti Road; then west along Cawelti Road to its intersection with Las Posas Road; then north along Las Posas Road to the point of beginning.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mediterranean fruit fly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

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

This interim rule affects the interstate movement of regulated articles from the Camarillo area of Ventura County, CA. There are approximately 74 small entities that could be affected, including 12 fruit markets, 1 farmers' market, 25 nurseries, 35 fruit sellers, and 1 packer. In addition there are growers raising approximately 35,000 acres of avocados, lemons, oranges, tomatoes, and peppers.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, many of these small entities sell regulated articles primarily for local intrastate, not interstate, movement, and the sale of these articles would not be affected by this interim regulation.

In the new quarantined area in Ventura County, the effect on those few small entities that do move regulated articles interstate from parts of the quarantined areas will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost. Also, many of these entities sell other items in addition to the regulated articles so that the effect, if any, of this regulation on these entities should be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for our

conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

The information collection and recordkeeping requirements contained in subpart 301.78 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 0579–0088.

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

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

2. In § 301.78–3, paragraph (c), the designation of the quarantined areas is amended by adding an entry for Ventura County, in alphabetical order, as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

CALIFORNIA

* * * * *

Ventura County. That portion of Ventura County beginning at the intersection of Interstate Highway 101 and Los Posas Road; then north along Los Posas Road to its intersection with Crestview Avenue; then northwest along Crestview Avenue to its intersection with Valley Vista Drive; then north along Valley Vista Drive to its intersection with Valley Fairway Drive; then north along Valley Fairway Drive to its intersection with Center School Road; then northeast and north along Center School Road to its intersection with State Highway 118; then west along State Highway 118 to its intersection with Milligan Barranca; then north along Milligan Barranca to its intersection with Center Road; then north along Center Road to its intersection with La Loma Avenue; then east along La Loma Avenue to its intersection with Fox Canyon Road; then northeast along Fox Canyon Road to its intersection with Coyote Canyon Road; then southeast along Coyote Canyon Road to its intersection with Bradley Road; then northeast along Bradley Road to its intersection with Balcom Canyon Road; then east and south along Balcom Canyon Road to its intersection with Stockton Road; then northeast along Stockton Road to its intersection with Broadway; then east along Broadway to its intersection with Grimes Canyon Road; then southwest along Grimes Canyon Road to its intersection with State Highway 118; then east along State Highway 118 to its intersection with Tierra Rejada Road; then southeast along Tierra Rejada Road to its intersection with Moorpark Road; then east, south, and west along Moorpark Road to its intersection with North Moorpark Road; then south along North Moorpark Road to its intersection with Olsen Road; then southwest along Olsen Road to its intersection with Lynn Road; then south along Lynn Road to its intersection with Interstate Highway 101; then west along Interstate Highway 101 to its intersection with an imaginary line drawn due north from the north end of Edison Road; then due south along the imaginary line to the north end of Edison Road; then southwest along Edison Road to its intersection with Long Grade Canyon; then northwest along Long Grade Canyon to its intersection with Camarillo Drive; then north along Camarillo Drive to its intersection with Lewis Road; then northeast along Lewis Road to its intersection with Cawelti Road; then west along Cawelti Road to its intersection with Las Posas Road; then north along Las Posas Road to the point of beginning.

Done in Washington, DC, this 12th day of October 1994.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–25759 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Collection and Storage of Social Security Account Numbers and Employer Identification Numbers

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Direct final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the substantial beneficial interest requirements set for any individual who has an interest in the policyholder. Current provisions require an individual who has a five percent or more interest in the policyholder to submit a social security or employer identification number. FCIC amends this provision by redefining and liberalizing substantial beneficial interest as ten percent or more interest in the policyholder. In addition, FCIC reduces, from five years to three years, the record retention requirements imposed by this regulation.

DATES: This rule will be effective on November 17, 1994 unless FCIC receives written adverse comments or written notice of intent to submit adverse comments on or before November 7, 1994. If FCIC receives written adverse comments or written notice of intent to submit adverse comments, FCIC will publish a notice in the **Federal Register** withdrawing this rule before the effective date.

ADDRESSES: Please send any adverse comments or notice of intent to submit adverse comments to Mari L. Dunleavy, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, USDA, Washington, DC 20250. Hand or messenger delivery may be made to Suite 500, 2101 L St. NW, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT:

Mari L. Dunleavy, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, USDA, Washington, DC 20250. Telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION:

Effective Date

FCIC is publishing this rule without a prior proposal because FCIC views this action as noncontroversial and anticipates no adverse public comment. This rule will be effective, as published in this document, 30 days after the date of publication in the **Federal Register** unless FCIC receives written adverse comments or written notice of intent to submit adverse comments within 20 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If FCIC receives written adverse comments or written notice of intent to submit adverse comments, FCIC will publish a notice in the **Federal Register** withdrawing this rule before the effective date. FCIC will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if FCIC receives no written adverse comments nor written notice of intent to submit adverse comments within 20 days of publication of this direct final rule, this direct final rule will become effective 30 days following its publication. FCIC will publish a notice to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Orders, Regulatory Flexibility Act, and Paperwork Reduction Act

This action has been reviewed under USDA procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is March 1, 1999.

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

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule can be found in 7 CFR 400 subpart H.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism assessment. The provisions contained in this rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought.

This action would not have a significant economic impact on a substantial number of small businesses. This amendment liberalizes paperwork requirements for the insureds and the companies delivering Federal crop insurance. The current FCIC approved Privacy Act statement on Company forms that includes reference to Substantial Beneficial interest of five percent or more will not need to be revised by companies as a result of this rule until such time as current stocks are depleted and forms are reprinted. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment or an Environmental Impact Statement is needed.

Background

FCIC is changing its requirement that individuals or entities who hold or acquire a five percent or greater substantial beneficial interest in the policyholder must submit social security or employer identification numbers to individuals or entities who hold or acquire a ten percent or greater interest in the policyholder. FCIC is changing its requirement from five to ten percent because the number of crop insurance policyholders with share interests ranging from five to ten percent are relatively insignificant. In addition, by raising the requirement for when the amount of substantial beneficial interest is applicable, FCIC eliminates the burden of additional paperwork by eliminating collection of social security or employer identification data in order to secure agricultural program benefits on beneficial interest relationships falling in the five to ten percent category.

FCIC is also changing its record keeping requirements from five to three years. By eliminating two years, FCIC will reduce the paperwork burden and storage of records beyond three years, which is consistent with other policy and program requirements. FCIC does not believe that a two-year reduction of insureds' record storage will jeopardize the integrity of the crop insurance program.

List of Subjects in 7 CFR Part 400

Crop insurance, Social Security numbers, Reporting and recordkeeping requirements.

Accordingly, the Federal Crop Insurance Corporation amends 7 CFR part 400, subpart Q as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

1. The authority citation for part 400 continues to read as follows:

Authority: 7 U.S.C. 1506, 1508.

2. Section 400.402 is amended by revising paragraph (v) to read as follows:

§ 400.402 Definitions.

* * * * *

(v) *Substantial beneficial interest*—an interest of ten percent (10%) or more in an application or policyholder.

* * * * *

3. Section 400.411 is revised to read as follows:

§ 400.411 Record retention.

The reinsured insurance company, either direct or reinsured, will retain all records of policyholders for a period of not less than three (3) years from the

date of a final action on a policy for the crop year unless maintenance of specific records is requested by the Corporation. Final actions on insurance policies include conclusion of such insurance events such as renewal or termination of policy, completion of loss adjustment, or satisfaction of claim. Companies are reminded that the Statute of Limitation for FCIC contract claims requires that litigation be instituted within six years of a breach of contract. Destruction of records will not provide a defense to any action by the Corporation against any Company.

Done in Washington, DC, on October 3, 1994.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 94–25713 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–08–M

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV94–928–3–FR]

Papayas Grown in Hawaii; Suspension of Grade Requirements

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 which suspended all grade requirements in effect under the marketing order for Hawaiian papayas. This final rule also eliminates inspection requirements for papayas and is expected to help the papaya industry reduce expenses.

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Charles L. Rush, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: 202–720–5331, or FAX: 202–720–5698; or Martin J. Engeler, Assistant Officer In Charge, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: 209–487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii, 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 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. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(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. 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 the 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 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 approximately 120 papaya handlers subject to regulation under the marketing order covering fresh papayas grown in Hawaii, and approximately 400 producers of papayas in Hawaii. 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. A majority of these handlers and producers may be classified as small entities.

This rule finalizes a suspension for an indefinite period the minimum grade and the inspection requirements previously in effect under the order. This suspension was recommended by the Papaya Administrative Committee (committee) on April 22, 1994, by a vote of 8 in favor, 2 opposed, and 2 abstentions.

An interim final rule concerning this matter was issued on July 21, 1994, and published in the **Federal Register** on July 27, 1994, (59 FR 38102). That rule provided a 30-day comment period which ended August 26, 1994. No comments were received.

The committee meets prior to and during each season to review the rules and regulations effective on a continuous basis for papayas regulated under the order. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Section 928.52 of the order authorizes the establishment of grade, size, quality, maturity, pack and container regulations for fresh shipments of papayas. Section 928.53 allows for the modification, suspension or termination of such regulations when warranted. Section 928.55 provides that whenever papayas are regulated pursuant to § 928.52 or § 928.53, such papayas must be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation. The cost of inspection and certification is borne by handlers.

Prior to the implementation of the interim final rule, section 928.313 of the rules and regulations in effect under the order established minimum grade requirements for fresh shipments of Hawaiian papayas. This rule finalizes the provisions of the interim final rule which suspended § 928.313, which required that such papayas grade at least Hawaii No. 1, except that not more than 5 percent of the fruit may be immature, and that the weight requirements specified in the Hawaiian grade standards do not apply.

The minimum grade requirement had been in effect since 1984. The objective of this requirement was to provide that only acceptable quality fruit enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to papaya producers.

While the industry continues to believe that quality is an important

factor in maintaining sales, the committee recommended this suspension because it believes the cost of inspection and certification (mandated when the grade regulations are in effect) exceeds the benefits derived. The cost of papaya inspections on a per pound basis averages about $.006, which is nearly as much as the assessment rate established under the order to cover the order's administrative and promotion costs.

Committee members supporting the suspension stated that such action would be in the best interests of producers, because eliminating the cost of inspection will increase producer returns. Those members contend that the marketplace will dictate fruit quality, and competition among shippers will ensure shipments of good quality fruit

In addition, the industry is pursuing alternative means of improving and ensuring quality, such as providing financial incentives to producers to deliver good quality fruit to handlers. Current industry practice is for producers to deliver their fruit to handlers for grading, packing and marketing. Producers are paid by handlers based, in part, on the quality of fruit they deliver. Producer prices are reduced to reflect the amount of fruit that is discarded during handling because it is of unacceptable quality. All producers delivering fruit to a particular handler are typically paid the same amount for their fruit, based on the average quality delivered by all producers. This practice causes producers delivering high quality fruit to be penalized by producers delivering poorer quality fruit. A newly formed producers' bargaining cooperative is attempting to change this practice by having low quality fruit attributed to individual producers. That is, an individual producer would be paid based upon the quality of fruit that individual delivered to the handler. Thus, producers would have a financial incentive to harvest and deliver high quality product. This should help improve and maintain the quality of papayas entering the fresh market.

Committee members opposed to the suspension stated that it would allow poor quality fruit on the market and have a negative impact on the market. Additionally, those members believe that such a suspension will be perceived negatively by the State of Hawaii Department of Agriculture. They are also concerned about the length of time necessary to reinstate the grade requirements, if it is determined that such action is needed in the future to ensure that only fruit of acceptable quality is shipped to fresh markets.

The majority of committee members acknowledge the possibility that fruit quality could decline as a result of this action, but do not believe that this is likely. They believe that the reduction in handling costs due to elimination of mandatory inspection will outweigh any declines in returns attributable to reduced quality. Further, the committee will monitor the impact this action has on the market, and will recommend reinstatement of quality standards if warranted.

This rule finalizes the suspension of grade and inspection requirements for fresh papayas. Such suspension enables handlers to ship papayas to the fresh market at a reduced cost, since handlers are no longer required to have their fruit inspected and pay the resulting inspection costs. Suspending grade requirements for fresh papayas is expected to increase producer returns by reducing costs and maintaining the quality of fruit offered for sale. The industry is committed to instituting alternative means of quality assurance by providing incentives to producers to harvest and deliver only acceptable quality fruit. This activity should ensure that consumers continue to receive good quality fresh papayas. This rule is in the best interest of producers, handlers and consumers, and is expected to increase returns to papaya producers.

The Department's view is that this rule will have a beneficial impact on producers and handlers, since it will reduce costs, and, in light of changes in the structure of contracts between papaya handlers and the growers who supply them it is not expected to adversely impact the quality of fruit entering fresh markets.

Consistent with the suspension of § 928.313, this rule also finalizes the suspension of §§ 928.150 and 928.152 of the rules and regulations under the order. Section 928.150 provided a means for handlers to receive waivers from the mandatory inspection requirement under certain circumstances, and § 928.152 authorized exemptions from the grade requirement relating to fruit maturity. Since this action suspends mandatory inspection and grade requirements, these rules authorizing exemptions from such requirements are no longer needed.

A conforming change is also made in § 928.160, which required handlers to file monthly utilization reports with the committee. Among the information required to be submitted was the inspection certificate numbers applicable to each fresh shipment of papayas. Since inspection is no longer mandatory, the requirement that handlers submit inspection certificate numbers is no longer needed. Thus, § 928.160 is revised to suspend such requirement.

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

The information collection requirements contained in the referenced sections have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0581–0102.

This rule should reduce the reporting burden on approximately 5 papaya handlers who have been completing PAC Form 7, Application to be an Approved Handler of Immature Papayas, and PAC Form 7(c), Immature Papaya Order Form. Form 7 is estimated to take 15 minutes to complete, and Form 7(c) about 10 minutes per form. No reduction in reporting burden is expected as a result of the revision in § 928.160 pertaining to monthly utilization reports. While handlers are no longer required to provide inspection certificate numbers, the remaining information on the reports will continue to be collected. It is estimated that each report requires 1 hour to complete.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the suspension of these sections, as set forth below, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 928

Papayas, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

Accordingly, the interim final rule amending 7 CFR part 928 which was published at 59 FR 38102 on July 27, 1994, is adopted as a final rule without change.

Dated: October 11, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division

[FR Doc. 94–25669 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Parts 945, 967, 987, and 993

[Docket Nos. FV94-945-1FIR, FV94-967-1FIR, FV94-987-1FIR, FV94-993-1FIR]

Expenses and Assessment Rates for Specified Marketing Orders

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 four interim final rules that authorized expenditures and established assessment rates under Marketing Orders 945, 967, 987, and 993 for the 1994–55 fiscal period. Authorization of these budgets enables the Idaho-Eastern Oregon Potato Committee, the Florida Celery Committee, the California Date Administrative Committee, and the Prune Marketing Committee (Committees) to incur expenses that are reasonable and necessary to administer the programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATE: Sections 945.247, 967.229, and 993.345 are effective August 1, 1994 through July 31, 1995, and section 987.337 is effective October 1, 1994, through September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918; Dennis L. West (M.O. 945), Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724; William G. Pimental (M.O. 967), Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276, telephone 813–299–4770; or Maureen Pello (M.O. 987) or Richard P. Van Diest (M.O. 993), California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone 209–487–5901.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in designated counties in Idaho, and Malheur County, Oregon; Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR part 967), regulating the handling of celery grown in Florida; Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of dates produced or packed in Riverside County, California; and Marketing Agreement and Order No. 993, both as amended, regulating the handling of dried prunes produced in California. The marketing agreements and orders 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, Idaho-Eastern Oregon potatoes, Florida celery, California dates, and California dried prunes are subject to assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable potatoes, celery, and prunes handled during the 1994–95 fiscal period, which began August 1, 1994, and ends July 31, 1995, and all assessable dates during the 1994–5 crop year which begins October 1, 1994, and ends September 30, 1995. 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 law and requesting 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 the 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 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 the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have small entity orientation and compatibility.

There are approximately 2,100 producers of Idaho-Eastern Oregon potatoes under Marketing Order 945, and approximately 60 handlers. There are approximately 7 producers of Florida celery under Marketing Order 967, and approximately 7 handlers. There are approximately 135 producers of California dates under Marketing Order 987, and approximately 25 handlers. Also, there are approximately 1,360 producers of California prunes under Marketing Order 993, and approximately 20 handlers. 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 the producers and handlers covered under these orders may be classified as small entities.

The budgets of expenses for the 1994–95 fiscal period were prepared by the Committees, the agencies responsible for local administration of their respective orders, and submitted to the Department for approval. The members of the Committees are producers and handlers of Idaho-Eastern Oregon potatoes, Florida celery, California dates, and California prunes. They are familiar with the Committees' needs and with the costs for goods and services in their local areas and are thus in a position to formulate appropriate budgets. The budgets were formulated and discussed by the Committees. Thus, directly affected persons have had an opportunity to participate and provide input.

The recommended assessment rates were derived by dividing anticipated Committee expenses by expected respective shipments of Idaho-Eastern Oregon potatoes, Florida celery, California dates, and California prunes. Because these rates will be applied to actual shipments, the assessment rates must be established at levels that will provide sufficient income to pay the Committees' expenses.

The Idaho-Eastern Oregon Potato Committee met June 7, 1994, and unanimously recommended a 1994–95 budget of $99,879, $937 more than the previous year. Increases of $2,737 for salaries, $300 for telephone, $200 for

postage, $500 for meetings and miscellaneous, and $200 for Federal payroll taxes will be partially offset by a decrease of $3,000 for reserve/auto purchase.

The Committee also unanimously recommended an assessment rate of $0.0026 per hundredweight, the same as each year for the past decade. This rate, when applied to anticipated shipments of 32,000,000 hundredweight, will yield $83,200 in assessment income. This, along with $16,679 from the Committee's authorized reserve at the beginning of the 1994–95 fiscal period, estimated at about $60,000, will be within the maximum permitted by the order of one fiscal period's expenses.

The Florida Celery Committee met June 15, 1994, and unanimously recommended a 1994–95 budget of $42,000, $3,000 less than the previous year. The budget item for 1994–95 which has increased compared to 1993–94 is $200 for the contingency reserve for which no funding was recommended last year. Budget items which have decreased compared to the amount budgeted for 1993–94 (in parentheses) are: Travel for Committee personnel, $1,000 ($2,000), telephone and telegraph, $500 ($600), postage, $200 ($300), and promotion, merchandising, and public relations, $13,000 ($15,000). All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of $0.01 per crate, the same as last season. This rate, when applied to anticipated shipments of 4,200,000 crates, will yield $42,000 in assessment income. Funds in the Committee's authorized reserve as of June 15, 1994, estimated at $15,000, were within the maximum permitted by the order of one marketing year's expenses.

The California Date Administrative Committee met on March 17, 1994, and by a vote of 6 to 2 with one abstention recommended a 1994–95 budget and assessment rate. The Committee again met on July 7, 1994, and unanimously recommended the line item operating expenses and by a vote of 6 to 2 recommended the line item promotion expenses in the budget. The 1994–95 budget of $571,000 is $101,440 less than the previous year. Included in the budgeted expenditures is an operating budget of $135,135, $13,335 more than last year, with a 26 percent surplus account allocation, for a net operating budget of $100,000, or $2,560 more than last year. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Executive Director's salary, $57,500 ($55,000), Administrative Assistant's salary, $18,500 ($15,000), health and related benefits, $8,500 ($7,500), utilities, $1,500 ($1,200), telephone, $5,000 ($3,000), office supplies, $3,600 ($1,500), furniture and equipment, $7,400 ($1,000), printing, $1,600 ($1,000), and insurance, $2,500 ($2,300). Items which have decreased compared to the amount budgeted for 1993–94 (in parentheses) are: payroll taxes, $5,814 ($6,000), postage and meter rental, $1,700 ($2,000), repair and maintenance, $500 ($600), travel and mileage, $1,500 ($2,000), contingency, $221 ($4,000), and market promotion, $450,000 ($575,000). The Committee also eliminated funding for a clerk, unemployment reserve, and USDA compliance audits for which $6,000, $1,000, and $1,900 were recommended last year, respectively. All other items are budgeted at last year's amounts.

The assessment rate of $1.50 per hundredweight is $0.25 more than last season. This rate, when applied to anticipated date shipments of 38,000,000 pounds, will yield $570,000 in assessable income. This, along with $1,000 in interest income, will result in $21,000 in excess income which the Committee recommended be allocated to its reserve. These reserve funds, which the Committee estimates would be $121,000 as of September 30, 1995, would be within the maximum amount permitted by the order of not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years, except that an estimated reserve need not be reduced to conform to any recomputed average. Funds held by the Committee at the end of the crop year, including the reserve, which are in excess of the crop year's expenses may be used to defray expenses for four months and thereafter the Committee shall refund or credit the excess funds to the handlers.

The Prune Marketing Committee met June 28, 1994, and unanimously recommended a 1994–95 budget of $270,200, $21,395 more than the previous year. Budget items for 1994–95 which have increased compared to those budgeted for 1993–94 (in parentheses) are: Executive salaries, $83,850 ($81,500), clerical salaries, $18,650 ($17,600), employee benefits, $15,800 ($14,500), audit fees, $3,650 ($3,500), office rent, $21,500 ($19,000), postage and messenger, $5,000 ($4,500), telephone, $2,500 ($2,000), fieldman travel, $4,000 ($3,500), purchase of equipment, $4,500 ($3,000), acreage survey, $10,000 ($5,000), and reserve for contingencies, $19,250 ($6,705). Items which have decreased compared to the amount budgeted for 1993–94 (in parentheses) are: Temporary help, $5,000 ($8,000), and data processing, $3,500 ($7,000). All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of $1.60 per salable ton, $0.30 less than the previous year. This rate, when applied to anticipated shipments of 168,875 salable tons, will yield $270,200 in assessment income, which will be adequate to cover budgeted expenses. Any funds not expended by the Committee during a crop year may be used, pursuant to § 993.81(c), for a period of five months subsequent to that crop year. At the end of such period, the excess funds are returned or credited to handlers.

Interim final rules were published in the **Federal Register** on August 12, 1994, for 7 CFR part 945 (59 FR 41381), 7 CFR part 987 (59 FR 41383), and 7 CFR part 993 (59 FR 41385), and on August 15, 1994, for 7 CFR part 967 (59 FR 41637). Those rules added § 945.247, § 987.337, § 993.345, and § 967.229 which authorized expenses, and established assessment rates for the Committees. Those rules provided that interested persons could file comments through September 12, 1994, for 7 CFR part 945, 7 CFR part 987, and 7 CFR part 993 and through September 14, 1994, for 7 CFR part 967. No comments were filed.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing orders. 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 orders covered in this rulemaking are reasonable and likely to be incurred and that such expenses and the specified assessment rates 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 Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1994–95 fiscal periods for the programs began on August 1, 1994, for Idaho-Eastern Oregon potatoes, Florida celery, and California prunes, and begin on October 1, 1994, for California dates. The marketing orders require that the rates

of assessment for the fiscal periods apply to all assessable potatoes, celery, dates, and prunes handled during the fiscal periods. In addition, handlers are aware of these actions which were recommended by the Committees and published in the **Federal Register** as interim final rules.

List of Subjects

7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

7 CFR Part 967

Celery, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 945, 967, 987, and 993 are amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR part 945 which was published at 59 FR 41381 on August 12, 1994, is adopted as a final rule without change.

PART 967—CELERY GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 967 which was published at 59 FR 41637 on August 15, 1994, is adopted as a final rule without change.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 987 which was published at 59 FR 41383 on August 12, 1994, is adopted as a final rule without change.

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 993 which was published at 59 FR 41385 on August 12, 1994, is adopted as a final rule without change.

Dated: October 11, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–25666 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 981

[Docket No. FV94–981–2FIR]

Almonds Grown in California; Revision of the Definition of Inedible Kernel

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 which revised the definition of inedible kernel established under the administrative rules and regulations of the Federal marketing order for California almonds. This revised definition of inedible kernel will better reflect handler processing capabilities and will be more equitable to growers and handlers. This rule is based on a unanimous recommendation of the Almond Board of California (Board), which is responsible for local administration of the order.

DATES: Effective on November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2523–S., P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1509, or fax (202) 720–5698, or Martin Engeler, Assistant Officer-in-Charge, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, California 93721; (209) 487–5901, or fax (209) 487–5906.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 981 [7 CFR Part 981], both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–74], hereinafter referred to as the Act.

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

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule is not intended to have retroactive effect. 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. A handler is afforded the opportunity for a hearing on the petition. After a 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 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 final 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 115 handlers of almonds that are subject to regulation under the marketing order and approximately 7,000 producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5,000,000 and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of the almond producers and handlers may be classified as small entities.

This rule finalizes the revision of the definition of inedible kernel in § 981.408—Subpart—Administrative Rules and Regulations by excluding almond kernels, pieces, or particles of almond kernels with web and frass from being considered inedible almonds.

The interim final rule was issued on July 28, 1994, and published in the **Federal Register** [59 FR 39417, August 3, 1994], with an effective date of August 3, 1994. That rule amended

§ 981.408 of the rules and regulations in effect under the order. That rule provided a 30-day comment period which ended September 2, 1994. No comments were received.

The processing of almonds involves various steps taken by growers and handlers prior to shipment to market. In most situations, growers initially take their almonds to a huller/sheller operation where the hulls and shells are mechanically removed. The almonds are then delivered to a handler, who has the almonds inspected by the Federal-State Inspection Service. The inspector determines the percentage of inedible almond kernels in a sample, as defined in § 981.408. Based upon the inspection, growers are paid by the handlers for the marketable almonds in the lot.

The quality control provisions of the marketing order are designed to provide procedures to remove inedible almonds from human consumption channels. Under this program, handlers incur a disposition obligation of inedible almonds, based on the inspection results. Section 981.442 specifies that the weight of inedible kernels in excess of 1 percent of the inedible kernel weight in the lot determined by USDA constitutes the inedible disposition obligation. In order to meet this disposition obligation, handlers normally deliver packer pickouts, kernels rejected in blanching, pieces of kernel, meal accumulated in manufacturing, or other material to crushers, feed manufacturers, feeders or dealers in nut wastes on record with the Board as accepted users.

In order to ensure that the inedible kernels are diverted to non-human consumption channels, the Board maintains a list of approved accepted users, which includes feedlots and oil mills. Handlers notify the Board at least 72 hours prior to making delivery to an accepted user so the Board, at its option, can witness the disposition.

Section 981.8 of the marketing order defines inedible kernel as meaning "a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds or which has embedded dirt not easily removed by washing." This section authorizes modification of the definition by the Board with the approval of the Secretary. Prior to the effective date of the interim final rule, the definition under § 981.408 of the regulations defined an inedible kernel as "a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds or which has embedded dirt or other foreign material not easily removed by washing." Kernels or kernel pieces with any defect scored as serious damage were considered inedible kernels.

Section 51.2130 of the U.S. Standards for Grades of Shelled Almonds defines serious damage as "any defect which makes a kernel or piece of kernel unsuitable for human consumption, and includes decay, rancidity, insect injury and damage by mold." Section 51.2123 of the Standards defines "insect injury" to mean that "the insect, web, or frass is present or there is definite evidence of insect feeding."

The way the definition was previously applied, web or frass was considered serious damage by insect injury and when present and noted on the incoming inspection, caused the almonds so affected to be classified as inedible. As stated previously, handlers pay their growers based on the percentage of marketable almonds in the lot. Handlers do not pay growers for almonds classified as inedible. Web and frass can be removed from the kernels or kernel pieces during normal processing, thus making them suitable for human consumption. Because handlers pay growers based on the marketable almonds in each lot prior to processing, growers were not compensated for any additional marketable almonds made available due to web or frass removal after processing.

Handler's disposition obligations are based on the inedible kernel content found in the lot prior to processing. When the web and frass are removed during processing, those kernels become marketable, sometimes making it difficult to generate enough inedible almonds to meet the disposition obligation. In such cases, handlers have sometimes purchased a mixture of inedible almonds and foreign material such as hulls, shells, etc., mixed with almond meats from a hulling and/or shelling operation to satisfy their disposition obligation. It has been determined that the revision of the definition of inedible kernel will make it easier for handlers to meet their inedible obligations because the disposition obligations will more accurately reflect the inedible percentage determined by the incoming inspection. This rule will better address the intent of the quality control program.

For these reasons, the Board and its Quality Control Committee developed plans to further revise the definition. As a result, the Board unanimously recommended on May 16, 1994, to revise the definition of inedible kernel to eliminate kernels with attached frass and webbing from being classified as insect injury and therefore, inedible. This rule will not affect the U.S. Standards for Grades of Shelled Almonds.

This revision is expected to improve the quality control program by making the definition of inedible kernel better reflect handler processing capabilities and providing more equity for handlers and growers. It may also result in growers being paid for marketable almonds which are currently being scored as inedible on incoming inspections and may result in higher returns to growers.

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

After consideration of all relevant material presented, including the Board's recommendation, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (59 FR 39419, August 3, 1994) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR 981

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

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

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981, which was published at 59 FR 39419 on August 3, 1994, is adopted as a final rule without change.

Dated: October 11, 1994.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–25668 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–134–AD; Amendment 39–9049; AD 94–21–07]

Airworthiness Directives; Airbus Model A310 and A300–600 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 Airbus Model A310 and A300–600 series airplanes. This action requires a revision to the FAA-approved Airplane Flight Manual that warns the flight crew that overriding the autopilot while it is in the COMMAND mode could result in a severe out-of-trim condition, and that overriding the autopilot while it is in the pitch axis will not cancel the autotrim while it is in the "land" or "go-around" configuration. This amendment also requires that certain flight control computers be modified so that the autopilot will disengage whenever the airplane is in the "go-around" mode. This amendment is prompted by an accident in which the flight crew may have attempted to override the autopilot while it was engaged in the COMMAND mode, which may have resulted in an out-of-trim condition between the trimmable horizontal stabilizer and the elevator. The actions specified in this AD are intended to prevent severely reduced controllability of the airplane.

DATES: Effective November 2, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 2, 1994.

Comments for inclusion in the Rules Docket must be received on or before December 19, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–134–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A310 and A300–600 series airplanes. The French DGAC advises that a Model A300–600 series airplane was recently involved in an accident during which the flight crew may have attempted a go-around while the airplane was in an out-of-trim condition. Investigation into the cause of this out-of-trim condition revealed that the flight crew may have attempted to override the autopilot while it was engaged in the COMMAND mode. If the airplane is in pitch axis, and the autopilot is overridden for prolonged periods by the flight crew via manual input from the control column, and if the autopilot is subsequently disengaged, the resultant out-of-trim condition between the trimmable horizontal stabilizer and the elevator could severely reduce controllability of the airplane.

Further investigation indicates that the current design of Model A300–600 series airplanes does not provide for disengagement of the autopilot, which would allow for manual input from the control column without adversely affecting controllability of the airplane. The design of Model A310 series airplanes is identical in this respect to Model A300–600 series airplanes.

Airbus has issued Service Bulletins A310–22–2036, dated December 14, 1993 (for Model A310 series airplanes) and A300–22–6021, Revision 1, dated December 24, 1993 (for Model A300–600 series airplanes), which describe procedures for modification of flight control computers (FCC) having part numbers (P/N) B470ABM1 (for Model A310 series airplanes) and B470AAM1 (for Model A300–600 series airplanes). Upon accomplishment of these software modifications, the autopilot will disengage whenever the airplane is in the "go-around" mode above 400 feet radio altitude and whenever the pilot attempts to override the autopilot by exerting a certain amount of manual force on the control column.

The French DGAC classified these service bulletins as mandatory and issued French Airworthiness Directive 94–185–165(B), dated August 17, 1994, in order to assure the continued airworthiness of these airplanes in France. The French AD requires modification of FCC's having P/N's B216ABM6, B350AAM1, B350AAM2, B350AAM3, and B470ABM1 (for Model A310 series airplanes), and P/N B297AAM3, B297AAM4, B297AAM5, and B470AAM1 (for Model A300–600 series airplanes), within 24 months after the effective date of the French AD.

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

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 an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which may severely reduce controllability of the airplane. This AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) that warns the flight crew that overriding the autopilot while it is in the COMMAND mode could result in a severe out-of-trim condition, and that overriding the autopilot while it is in the pitch axis will not cancel the autotrim while it is in the "land" or "go-around" configuration.

This AD also requires modification of FCC's having P/N's B470ABM1 (for Model A310 series airplanes) and B470AAM1 (for Model A300–600 series airplanes) within 60 days after the effective date of the AD. In developing this compliance time, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modification within a maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. Since the manufacturer has advised that an ample number of required parts will be available for modification of these two part numbers, the FAA finds 60 days to be an appropriate compliance time for accomplishment of this modification. This modification is required to be accomplished in accordance with the accomplishment instructions contained in either of the applicable service bulletins described previously.

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

The compliance time for accomplishment of the modification of FCC's having P/N's B216ABM6,

B350AAM1, B350AAM2, and B350AAM3 (for Model A310 series airplanes), and P/N's B297AAM3, B297AAM4, and B297AAM5 (for Model A300–600 series airplanes), is sufficiently long so that notice and public comment would not be impracticable. Therefore, the FAA is proposing to require modification of these FCC's in a separate rulemaking action (reference Airworthiness Directive Rules Docket Number 94–NM–145–AD). Since the manufacturer has not yet developed a modification for these FCC's, these modifications are proposed to be accomplished in accordance with a method approved by the FAA.

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–134–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:

94–21–07 Airbus Industrie: Amendment 39–9049. Docket 94–NM–34–AD.

Applicability: All Model A310 and A300–600 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an out-of-trim condition between the trimmable horizontal stabilizer and the elevator, which may severely reduce controllability of the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD in the AFM.

Overriding the autopilot (AP) in the pitch axis does not cancel the AP autotrim in LAND and GO–AROUND modes. When the AP is in the COMMAND mode (CMD), if the pilot counteracts the AP, the AP will trim against the pilot input. This could lead to a severe out-of-trim situation in a critical phase of flight.

(b) For airplanes having flight control computer (FCC), part number (P/N) B470ABM1 (for Model A310 series airplanes) or B470AAM1 (for Model A300–600 series airplanes): Within 60 days after the effective date of this AD, modify the FCC's in accordance with Airbus Service Bulletin A310–22–2036, dated December 14, 1993 (for Model A310 series airplanes), or Airbus Service Bulletin A300–22–6021, Revision 1, dated December 24, 1993 (for Model A300–600 series airplanes), as applicable.

(c) As of the effective date of this AD, no person shall install an FCC having P/N B470ABM1 or B470AAM1 on any airplane.

(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. 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 2: 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 modifications shall be done in accordance with Airbus Service Bulletin A310–22–2036, dated December 14, 1993 (for Model A310 series airplanes), or Airbus Service Bulletin A300–22–6021, Revision 1, dated December 24, 1993 (for Model A300–600 series airplanes), as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on November 2, 1994.

Issued in Renton, Washington, on October 7, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25581 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 97

[Docket No. 27935; Amdt. No. 1627]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 7, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs identified as follows:

** * * Effective December 8, 1994*

Chico, CA, Chico Muni, VOR RWY 13L, Amdt 9
Chico, CA, Chico Muni, VOR/DME RWY 13L, Amdt 7
Chico, CA, Chico Muni, VOR/RWY 31R, Amdt 8 CANCELLED
Chico, CA, Chico Muni, VOR/DME RWY 31R, Orig
Chico, CA, Chico Muni, NDB RWY 13L, Amdt 5
Chico, CA, Chico Muni, ILS RWY 13L, Amdt 8
Danbury, CT, Danbury Muni, VOR or GPS–A, Amdt 8
Danbury, CT, Danbury Muni, LOC RWY 8, Amdt 2
Danbury, CT, Danbury Muni, VOR/DME RNAV RWY 8, Amdt 4
Danbury, CT, Danbury Muni, VOR/DME RNAV or GPS RWY 26, Amdt 5
Boone, IA, Boone Muni, NDB OR GPS RWY 14, Amdt 9
Boone, IA, Boone Muni, NDB OR GPS RWY 32, Amdt 5
Boone, IA, Boone Muni, COPTER NDB 225, Amdt 3
Salina, KS, Salina Muni, NDB or GPS RWY, 35, Amdt 16
Gaithersburg, MD, Montgomery County Arpk, VOR OR GPS RWY 14, Amdt 2
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, NDB RWY 31, Amdt 1
Fergus Falls, MN, Fergus Falls Muni-Einar Mickelson Fld, ILS RWY 31, Amdt 1
York, NE, York Municipal, NDB RWY 17, Amdt 3
York, NE, York Municipal, NDB OR GPS RWY 35, Amdt 3
Albion, NY, Pine Hill, VOR/DME–A, Amdt 3
East Hampton, NY, East Hampton, VOR/DME RNAV OR GPS RWY 10, Amdt 5
East Hampton, NY, East Hampton, VOR/DME RNAV OR GPS RWY 28, Amdt 2
Albany, OR, Albany Muni, VOR/DME–A, Amdt 4
Corvallis, OR, Corvallis Muni, VOR or GPS–A, Amdt 9
Corvallis, OR, Corvallis Muni, VOR/DME RWY 17, Amdt 7
Corvallis, OR, Corvallis Muni, VOR/DME or GPS RWY 35, Amdt 10
Corvallis, OR, Corvallis Muni, NDB or GPS RWY 17, Amdt 1
Corvallis, OR, Corvallis Muni, ILS RWY 17, Amdt 3
Eugene, OR, Mahlon Sweet Field, NDB RWY 16, Amdt 29
Eugene, OR, Mahlon Sweet Field, ILS RWY 16, Amdt 33
Newport, OR, Newport Muni, VOR/DME RWY 34, Orig
North Kingstown, RI, Quonset State, VOR or GPS–A, Amdt 4
North Kingstown, RI, Quonset State, ILS RWY 16, Amdt 7

** * * Effective November 10, 1994*

Washington, DC, Washington National, RADAR–1, Amdt 24, CANCELLED
New Iberia, LA, Acadiana Regional, VOR/DME OR TACAN RWY 16, Orig, CANCELLED
New Iberia, LA, Acadiana Regional, VOR OR TACAN RWY 16, Orig.
New Iberia, LA, Acadiana Regional, VOR/DME RWY 34, Amdt 1
New Iberia, LA, Acadiana Regional, LOC RWY 34, Amdt 8
New Iberia, LA, Acadiana Regional, NDB RWY 34, Amdt 8
St Louis, MO, Spirit of St Louis, VOR RWY 8R, Amdt 7
St Louis, MO, Spirit of St Louis, LOC RWY 26L, Amdt 4
St Louis, MO, Spirit of St Louis, NDB RWY 26L, Amdt 1
Memphis, TN, Memphis Intl, ILS RWY 36R, Amdt 10
Chase City, VA, Chase City Muni, NDB RWY 36, Amdt 3

** * * Effective Upon Publication*

Memphis, TN, Memphis Intl, RADAR–1, Amdt 37

[FR Doc. 94–25774 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27936; Amdt. No. 1628]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The

Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 7, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs, and § 97.35 COPTER SIAPs, identified as follows:

* * * EFFECTIVE UPON PUBLICATION

FDC date	State	City	Airport	FDC No.	SIAP
09/14/94	LA	Alexandria	Alexandria Intl	4/5288	VOR OR GPS RWY 14 ORIG...
09/23/94	MI	West Branch	West Branch Community	4/5499	VOR RWY 27 ORIG...
09/23/94	MI	West Branch	West Branch Community	4/5500	NDB RWY 27 AMDT 6...
09/27/94	LA	Monroe	Monroe Regional	4/5598	NDB RWY 4 AMDT 14...
09/28/94	NY	Plattsburgh	Clinton Co	4/5615	IL RWY 1, AMDT 2...
10/05/94	MN	Hibbing	Chislhomhibbing	4/5759	VOR OR GPS RWY 13 AMDT 11...
10/05/94	MN	Hibbing	Chislhomhibbing	4/5760	VOR OR GPS RWY 31 AMDT 15...

[FR Doc. 94–25775 Filed 10–17–94; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27937; Amdt. No. 1629]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAPs contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable Standard Instrument Approach Procedures (SIAPs) will be altered to include "or GPS" in the title without otherwise reviewing or modifying the procedure. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 7, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.27, 97.33 and 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.27 NDB, NDB/DME; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective December 8, 1994*

Ambler, AK, Ambler, NDB or GPS RWY 36, Amdt. 1

Big Lake, AK, Big Lake, VOR or GPS RWY 6, Amdt. 5A

Hooper Bay, AK, Hooper Bay, VOR or GPS RWY 31, Amdt. 1A

Minchumina, AK, Minchumina, NDB or GPS RWY 2, Amdt. 2

Sitka, AK, Sitka, VOR or GPS–C, Orig.

Sitka, AK, Sitka, NDB/DME or GPS–B, Orig.

Talkeetna, AK, Talkeetna, VOR/DME or GPS RWY 36, Amdt 1

Talkeetna, AK, Talkeetna, VOR or GPS–A, Amdt 9A

Butler, AL, Butler-Choctaw County, NDB or GPS RWY 11, Amdt 2A

Clanton, AL, Gragg-Wade Field, NDB or GPS RWY 26, Orig

Cullman, AL, Folsom Field, NDB or GPS RWY 20, Amdt 2A

Demopolis, AL, Demopolis Muni, NDB or GPS RWY 4, Orig

Benton, AR, Saline County, VOR or GPS–A, Amdt 6

Crossett, AR, Z M Jack Stell Field, VOR/DME or GPS–A, Orig-B

Forest City, AR, Forrest City Muni, NDB or GPS RWY 35, Amdt 3

Tracy, CA, Tracy Muni, VOR or GPS–A, Amdt 4A

Truckee, CA, Truckee-Tahoe, VOR/DME RNAV or GPS–A, Amdt 5A

Ukiah, CA, Ukiah Muni, VOR or GPS–A, Amdt 3

Ukiah, CA, Ukiah Muni, RNAV or GPS–B, Amdt 4

Vacaville, CA, Nut Tree, VOR or GPS–A, Amdt 4

Vacaville, CA, Nut Tree, RNAV or GPS RWY 20, Amdt 1

Van Nuys, CA, Van Nuys, VOR/DME or GPS–B, Amdt 2

Van Nuys, CA, Van Nuys, VOR or GPS–A, Amdt 3
Meeker, CO, Meeker, VOR or GPS–A, Orig
Meeker, CO, Meeker, RNAV or GPS RWY 3, Orig
Crystal River, FL, Crystal River, VOR/DME or GPS–A, Orig
Key West, FL, Key West Intl, VOR or GPS–B, Amdt 9
Key West, FL, Key West Intl, NDB or GPS–A, Amdt 13
New Smyrna Beach, FL, Massey Ranch Airpack, NDB or GPS RWY 18, Orig-A
New Smyrna Beach, FL, New Smyrna Beach Muni, NDB or GPS RWY 29, Amdt 1
Ocala, FL, Ocala Regional/Jim Taylor Field, NDB or GPS RWY 36, Amdt 3
Augusta, GA, Daniel Field, VOR/DME or GPS–B, Orig
Augusta, GA, Daniel Field, NDB/DME or GPS–C, Amdt 2
Augusta, GA, Daniel Field, NDB or GPS RWY 11, Amdt 2A
Donalsonville, GA, Donalsonville Muni, VOR/DME or GPS–A, Amdt 2A
Griffin, GA, Griffin-Spalding County, VOR/DME or GPS RWY 14, Amdt 4B
Hinesville, GA, Liberty County, NDB or GPS–A, Amdt 2
Homerville, GA, Homerville, VOR/DME or GPS–A, Amdt 3A
Homerville, GA, Homerville, NDB or GPS RWY 14, Amdt 1A
Jekyll Island, GA, Jekyll Island, VOR or GPS–A, Amdt 9
Ames, IA, Ames Muni, NDB or GPS RWY 1, Orig
Ames, IA, Ames Muni, NDB or GPS RWY 13, Amdt 3A
Eagle Grove, IA, Eagle Grove Muni, VOR/DME or GPS–A, Orig
Eagle Grove, IA, Eagle Grove Muni, NDB or GPS RWY 13, Orig
Eagle Grove, IA, Eagle Grove Muni, NDB or GPS RWY 31, Amdt 1
Monticello, IA, Monticello Muni, VOR/DME RNAV or GPS RWY 31, Amdt 1A
Monticello, IA, Monticello Muni, NDB or GPS–A, Amdt 3A
Mount Pleasant, IA, Mount Pleasant Muni, NDB or GPS RWY 33, Amdt 5
Oelwein, IA, Oelwein Muni, VOR or GPS–A, Amdt 3
Oelwein, IA, Oelwein Muni, RNAV or GPS RWY 13, Amdt 2
Pocahontas, IA, Pocahontas Muni, NDB or GPS RWY 11, Amdt 3
Rock Rapids, IA, Rock Rapids Muni, NDB or GPS RWY 16, Amdt 1
Sac City, IA, Sac City Muni, NDB or GPS RWY 36, Amdt 2
Shenandoah, IA, Shenandoah Muni, VOR/DME or GPS RWY 12, Amdt 2
Shenandoah, IA, Shenandoah Muni, NDB or GPS RWY 30, Amdt 10
Alton/St. Louis, IL, St. Louis Regional, VOR or GPS–A, Amdt 8
Alton/St. Louis, IL, St. Louis Regional, NDB or GPS RWY 17, Amdt 10
Alton/St. Louis, IL, St. Louis Regional, NDB or GPS RWY 29, Amdt 10
Dwight, IL, Dwight, NDB or GPS 1 RWY 27, Amdt 3
Gibson City, IL, Gibson City Muni, VOR or GPS–A, Amdt 3
Grayslake, IL, Campbell, VOR or GPS–A, Amdt 4
Greenville, IL, Greenville, VOR/DME or GPS–A, Amdt 2
Greenville, IL, Greenville, NDB or GPS RWY 18, Amdt 4
Shelbyville, IL, Shelby County, NDB or GPS–A, Amdt 1
Sparta, IL, Sparta Community-Hunter Field, NDB or GPS RWY 18, Orig-A
Gary, IN, Gary Regional, NDB or GPS RWY 30, Amdt 6A
Greencastle, IN, Putnam County, VOR/DME or GPS–A, Amdt 5
Greencastle, IN, Putnam County, NDB or GPS RWY 18, Orig
Greenburg, IN, Greenburg-Decatur County, VOR or GPS–A, Amdt 1
Indianapolis, IN, Eagle Creek Airpark, VOR or GPS–A, Amdt 6
Indianapolis, IN, Eagle Creek Airpark, NDB or GPS RWY 21, Amdt 3
South Bend, IN, Michiana Regional Transportation Center, VOR or GPS RWY 18, Amdt 7A
South Bend, IN, Michiana Regional Transportation Center, NDB or GPS RWY 27, Amdt 28A
Sullivan, IN, Sullivan County, VOR/DME or GPS–A, Amdt 1
Sullivan, IN, Sullivan County, NDB or GPS RWY 36, Amdt 6
Terre Haute, IN, Sky King, VOR or GPS–A, Amdt 5
Vincennes, IN, O'Neal, NDB or GPS–A, Amdt 4
Winchester, IN, Randolph County, VOR or GPS–A, Amdt 8
Winchester, IN, Randolph County, NDB or GPS RWY 25, Amdt 4
Pittsburg, KS, Atkinson Muni, VOR/DME or GPS RWY 3, Amdt 2
Pittsburg, KS, Atkinson Muni, NDB or GPS RWY 16, Amdt 3
Pratt, KS, Pratt Industrial, NDB or GPS RWY 17, Amdt 3
Russell, KS, Russell Muni, VOR/DME or GPS–A, Amdt 3
Smith Center, KS, Smith Center Muni, VOR/DME or GPS–A, Amdt 1
Topeka, KS, Forbes Field, VOR/DME or TACAN or GPS RWY 21, Amdt 6
Topeka, KS, Forbes Field, NDB or GPS RWY 13, Amdt 5
Topeka, KS, Forbes Field, NDB or GPS RWY 31, Amdt 7
Washington, KS, Washington County Memorial, NDB or GPS–A, Orig
Owensboro, KY, Owensboro-Daviess County, VOR or GPS RWY 18, Amdt 7A
Owensboro, KY, Owensboro-Daviess County, NDB or GPS RWY 36, Amdt 7A
Gonzales, LA, Louisiana Regional, VOR/DME or GPS–A, Orig
Homer, LA, Homer Municipal, NDB or GPS RWY 12, Amdt 1
Monroe, LA, Monroe Regional, VOR or GPS RWY 22, Amdt 3
Monroe, LA, Monroe Regional, NDB or RWY 4, Amdt 14
Rayville, LA, John H Hooks Jr Memorial, VOR/DME or GPS–A, Amdt 2
Rayville, LA, John H Hooks Jr Memorial, NDB or GPS RWY 36, Amdt 1
Marshfield, MA, Marshfield, NDB or RWY 6, Amdt 3
Marshfield, MA, Marshfield, NDB or GPS RWY 24, Orig
Westminster, MD, Carroll County Regional/Jack B. Poage Field, VOR or GPS RWY 34, Amdt 3
Westminster, MD, Carroll County Regional/Jack B. Poage Field, VOR or GPS–A, Orig
Eliot, ME, Littlebrook Air Park, VOR or GPS–A, Orig
Eliot, ME, Littlebrook Air Park, NDB or GPS–A, Amdt 1
Flint, MI, Bishop International, VOR or GPS RWY 18, Amdt 18
Flint, MI, Bishop International, VOR or GPS RWY 27, Amdt 20
Flint, MI, Bishop International, VOR or GPS RWY 36, Amdt 14
Flint, MI, Bishop International, NDB or GPS RWY 9, Amdt 24
Grand Rapids, MI, Kent County Intl, VOR or GPS RWY 18, Amdt 6
Grand Rapids, MI, Kent County Intl, VOR or GPS RWY 36, Amdt 11
Grand Rapids, MI, Kent County Intl, NDB or GPS RWY 26L, Amdt 19
Grayling, MI, Grayling AAF, NDB or GPS RWY 14, Amdt 6
Harbor Springs, MI, Harbor Springs, VOR or GPS–A, Amdt 1
Hillsdale, MI, Hillsdale Muni, VOR or GPS–A, Amdt 6
Holland, MI, Park Township, NDB or GPS RWY 23, Amdt 2A
Holland, MI, Tulip City, VOR/DME RNAV RWY 8, Amdt 2
Holland, MI, Tulip City, VOR/DME RNAV RWY 26, Amdt 5
Holland, MI, Tulip City, VOR or GPS–A, Amdt 10
Duluth, MN, Sky Harbor, NDB or GPS–B, Amdt 1
Minneapolis, MN, Crystal, VOR or GPS–A, Amdt. 9
Morris, MN, Morris Muni, VOR or GPS RWY 14, Orig-A
Morris, MN, Morris Muni, VOR or GPS RWY 32, Amdt 4A
St Cloud, MN, St Cloud Muni, NDB or GPS RWY 31, Orig
Thief River Falls, MN, Thief River Falls Regional, VOR or GPS RWY 13, Amdt 8A
Thief River Falls, MN, Thief River Falls Regional, NDB or GPS RWY 31, Amdt 1A
Harrisonville, MO, Lawrence Smith Memorial, VOR/DME or GPS RWY 35, Orig
Kirksville, MO, Kirksville Regional, VOR/DME or GPS–B, Amdt 5
Kirksville, MO, Kirksville Regional, VOR or GPS–A, Amdt 13
Maryville, MO, Maryville Meml. VOR/DME RWY 36, Amdt 4
Maryville, MO, Maryville Meml, NDB or GPS RWY 14, Amdt 3
Rolla/Vichy, MO, Rolla National, VOR/DME or GPS RWY 4, Amdt 2A
Rolla/Vichy, MO, Rolla National, RNAV or GPS RWY 22, Amdt 2A
Columbus, MS, Columbus-Lowndes County, VOR or GPS–A, Amdt 2
Columbus-West Point-Starkvill, MS, Golden Trinagle Regional, VOR/DME or GPS–E, Amdt 5
Columbus-West Point-Starkvill, MS, Golden Triangle Regional, VOR or GPS–D, Amdt 5
Oxford, MS, University-Oxford, VOR/DME or GPS–A, Amdt 4
Starkville, MS, George M. Bryan, VOR/DME or GPS–A, Amdt 5

Starkville, MS, George M. Bryan, NDB or GPS–C, Amdt 2
Starkville, MS, Oktibbeha, VOR or GPS–B, Amdt 6
Laurel, MT, Laurel Muni, VOR or GPS RWY 22, Amdt 1
Missoula, MT, Missoula International, VOR/DME or GPS–A, Amdt 11
Missoula, MT, Missoula International, VOR/DME or GPS–B, Amdt 5
Ahoskie, NC, Tri-County, VOR/DME or GPS–A, Amdt 4A
Ahoskie, NC, Tri-County, NDB or GPS RWY 1, Amdt 1B
Asheboro, NC, Asheboro Muni, VOR or GPS–A, Amdt 2A
Asheboro, NC, Asheboro Muni, NDB or GPS RWY 21, Amdt 2A
Hatteras, NC, Billy Mitchell, NDB or GPS RWY 6, Amdt 6
Hickory, NC, Hickory Regional, VOR/DME or GPS RWY 6, Orig
Hickory, NC, Hickory Regional, NDB or GPS RWY 24, Amdt 4
Jacksonville, NC, Albert J. Ellis, NDB or GPS RWY 5, Amdt 7
MT Olive, NC, MT Olive Muni, VOR or GPS–A, Amdt 1
Whiteville, NC, Columbus County Muni, NDB or GPS RWY 5, Amdt 4
Rugby, ND, Rugby Muni, NDB or GPS RWY 12, Amdt 3
Rugby, ND, Rugby Muni, NDB or GPS RWY 30, Amdt 4
Albion, NE, Albion Muni, NDB or GPS RWY 32, Orig
Ord, NE, Evelyn Sharp Field, NDB or GPS RWY 13, Amdt 2A
Oshkosh, NE, Garden County, NDB or GPS RWY 12, Orig
Plattsmouth, NE, Plattsmouth Muni, NDB or GPS RWY 34, Amdt 3
Superior, NE, Superior Muni, VOR/DME or GPS–A, Orig
Tekamah, NE, Tekamah Muni, VOR or GPS RWY 32, Amdt 4
Thedford, NE, Thomas County, VOR or GPS RWY 8, Amdt 4
Berlin, NH, Berlin Muni, VOR or GPS–B, Amdt 1
Jaffrey, NH, Jaffrey Muni-Silver Ranch, VOR or GPS–A, Amdt 6
Princeton (Rocky Hill), NJ, Princeton, VOR/DME RNAV or GPS RWY 10, Amdt 3
Princeton (Rocky Hill), NJ, Princeton, VOR or GPS–A, Amdt 6A
Somerville, NJ, Somerset, VOR or GPS RWY 8, Amdt 11
Somerville, NJ, Somerset, RNAV or GPS RWY 12, Amdt 2
Toms River, NJ, Robert J. Miller Air Park, VOR or GPS RWY 6 Amdt 6A
Toms River, NJ, Robert J. Miller Air Park, VOR or GPS RWY 24, Amdt 3A
Silver City, NM, Grant County, VOR/DME or GPS–B, Amdt 3
Silver City, NM, Grant County, VOR or GPS–A, Amdt 7
Silver City, NM, Grant County, NDB or GPS RWY 26, Amdt 3
Winnemucca, NV, Winnemucca Muni, VOR/DME or GPS RWY 14, Orig
Winnemucca, NV, Winnemucca Muni, NDB or GPS–A, Amdt 1A
Buffalo, NY, Buffalo Airfield, VOR or GPS RWY 24, Amdt 6B
Buffalo, NY, Greater Buffalo Intl, VOR or GPS–A, Amdt 17A
Buffalo, NY, Greater Buffalo Intl, NDB or GPS RWY 5, Amdt 10A
Cortland, NY, Cortland County-Chase Field, VOR or GPS–A, Orig–B
Dansville, NY, Dansville Muni, VOR/DME or GPS RWY 18, Amdt 2A
Durhamville, NY, Kamp, VOR or GPS RWY 28, Amdt 1A
Middletown, NY, Randall, NDB or GPS RWY 26, Orig
Middletown, NY, Randall, NDB or GPS–A, Orig
Monticello, NY, Sullivan County Intl, VOR/DME or GPS RWY 33, Amdt 3
Olean, NY, Cattaraugus County-Olean, RNAV or GPS RWY 22, Amdt 4
Lancaster, OH, Fairfield County, VOR/DME RNAV or GPS RWY 10, Amdt 9
Lancaster, OH, Fairfield County, VOR or GPS–A, Amdt 9
Lancaster, OH, Fairfield County, NDB or GPS RWY 28, Amdt 7
Lebanon, OH, Lebanon-Warren County, NDB or GPS–A, Amdt 4
London, OH, Madison County, NDB or GPS RWY 8, Amdt 7
Medina, OH, Medina Municipal, VOR or GPS RWY 27, Orig
Woodsfield, OH, Monroe County, VOR/DME or GPS RWY 25, Amdt 6
Youngstown, OH, Lansdowne, NDB or GPS–B, Amdt 7
Youngstown, OH, Youngstown Executive, VOR/DME or GPS–A, Amdt 9
Youngstown, OH, Youngstown Executive, VOR or GPS RWY 11, Amdt 5
Youngstown, OH, Youngstown-Warren Regional, VOR or GPS RWY 19, Amdt 18
Youngstown, OH, Youngstown-Warren Regional, NDB or GPS RWY 32, Amdt 18
Bend, OR, Bend Muni, VOR/DME or GPS RWY 16, Amdt 7
Portland, OR, Portland-Troutdale, NDB or GPS–A, Amdt 8
Collegeville, PA, Perkiomen Valley, VOR or GPS RWY 9, Amdt 3
Honesdale, PA, Cherry Ridge, VOR or GPS–A, Amdt 4
Indiana, PA, Indiana County/Jimmy Steward Field, NDB or GPS–A, Amdt 4
Mount Joy/Marietta, PA, Donegal Springs Airpark, VOR/DME or GPS RWY 27, Orig
Mount Pocono, PA, Pocono Mountains Muni, VOR or GPS RWY 13, Amdt 5
Pottstown, PA, Pottstown Muni, VOR or GPS–B, Amdt 4A
Punxsutawney, PA, Punxsutawney Muni, VOR/DME or GPS–A, Orig
Selinsgrove, PA, Penn Valley, VOR or GPS–A, Amdt 5
Seven Springs Borough, PA, Seven Springs, VOR or GPS–A, Amdt 2A
Somerset, PA, Somerset County, NDB or GPS RWY 24, Amdt 4
Clemson, SC, Clemson-Oconee County, NDB or GPS–A, Amdt 5
Columbia, SC, Columbia Metropolitan, VOR or GPS–A, Amdt 15
Columbia, SC, Columbia Metropolitan, NDB or GPS RWY 11, Amdt 22
Columbia, SC, Columbia Metropolitan, RNAV or GPS RWY 5, Orig–A
Lake City, SC, Lake City Muni CJ Evans Field, NDB or GPS–A, Amdt 1
Mount Pleasant, SC, East Cooper, VOR/DME or GPS–A, Orig
Mount Pleasant, SC, East Cooper, RNAV or GPS RWY 17, Orig
Mobridge, SD, Mobridge Muni, NDB or GPS RWY 12, Amdt 1
Spearfish, SD, Black Hills-Clyde Ice Field, NDB or GPS–A, Orig
Dickson, TN, Dickson Muni, VOR/DME or GPS RWY 17, Amdt 3
Jacksboro, TN, Campbell County, VOR/DME RNAV or GPS–A, Amdt 4
Jacksboro, TN, Campbell County, NDB or GPS RWY 23, Amdt 5
Trenton, TN, Gibson County, VOR/DME or GPS–A, Amdt 5
Trenton, TN, Gibson County, NDB or GPS RWY 19, Amdt 3
Waverly, TN, Humphreys County, VOR/DME or GPS–A, Amdt 2B
Waverly, TN, Humphreys County, NDB or GPS RWY 22, Amdt 3
Alice, TX, Alice Intl, VOR or GPS–A, Amdt 13
Anahuac, TX, Chambers County, NDB or GPS RWY 30, Amdt 2
Andrews, TX, Andrews County, NDB or GPS RWY 15, Amdt 2
Angleton/Lake Jackson, TX, Angleton/Brazoria County, NDB or GPS RWY 17, Amdt 2
Borger, TX, Hutchinson County, VOR/DME or GPS RWY 35, Amdt 2
Borger, TX, Hutchinson County, VOR or GPS RWY 17, Amdt 7
Bowie, TX, Bowie Muni, NDB or GPS RWY 17, Amdt 2
Bowie, TX, Bowie Muni, NDB or GPS RWY 35, Amdt 2
Caldwell, TX, Caldwell Muni, VOR/DME or GPS–A, Amdt 2
Canadian, TX, Hemphill County NDB or GPS RWY 4, Amdt 3
Canadian, TX, Hemphill County NDB or GPS RWY 22, Amdt 3
Castroville, TX, Castroville Muni, NDB or GPS RWY 33, Amdt 1
Jasper, TX, Jasper County-Bell Field, NDB or GPS RWY 18, Amdt 7
Houston, TX, West Houston, VOR or GPS–B, Amdt 1
Houston, TX, West Houston, RNAV or GPS RWY 15, Amdt 2
Houston, TX, West Houston, RNAV or GPS RWY 33, Amdt 2
Kenedy, TX, Karnes County, VOR/DME or GPS–A, Amdt 6
Killeen, TX, Killeen Muni, VOR or GPS–A, Amdt 3
Killeen, TX, Killeen Muni, NDB or GPS RWY 1, Amdt 5
Kingsville, TX, Kleberg County, NDB or GPS RWY 13, Amdt 4
Odessa, TX, Odessa-Schlemeyer Field, VOR or GPS–A, Amdt 5
Odessa, TX, Odessa-Schlemeyer Field, NDB or GPS RWY 20, Amdt 3
Orange, TX, Orange County, VOR/DME or GPS RWY 22, Amdt 1A
Orange, TX, Orange County, NDB or GPS–A, Amdt 1
Paducah, TX, Dan E. Richards Muni, VOR/DME or GPS RWY 35, Amdt 1
Roosevelt, UT, Roosevelt Muni, VOR or GPS–A, Amdt 2
Roosevelt, UT, Roosevelt Muni, RNAV or GPS RWY 25, Amdt 1

Abingdon, VA, Virginia Highlands VOR/DME or GPS–B, Amdt 5
Blacksburg, VA, Virginia Tech, NDB or GPS–A, Amdt 1
Blackstone, VA, Blackstone AAF-Allen C. Perkinson Muni, NDB or GPS–A, Amdt 1
Richmond, VA, Chesterfield County, VOR/DME or GPS RWY 15, Orig
Richmond, VA, Chesterfield County, NDB or GPS RWY 33, Amdt 7A
Staunton-Waynesboro-Harrisonburg, VA, Staunton/Shenandoah Valley Regional, NDB or GPS RWY 5, Amdt 9
Arlington, WA, Arlington Muni, NDB or GPS RWY 34, Amdt 3
Deer Park, WA, Deer Park, NDB or GPS–A, Orig
Ellensburg, WA, Bowers Field, VOR or GPS–A, Amdt 1
Ellensburg, WA, Bowers Field, VOR or GPS–B, Orig
Eau Claire, WI, Chippewa Valley Regional, VOR or GPS–A, Amdt 21
Eau Claire, WI, Chippewa Valley Regional, NDB or GPS RWY 22, Amdt 6
Milwaukee, WI, Lawrence J. Timmerman, VOR or GPS RWY 4L, Amdt 7
Milwaukee, WI, Lawrence J. Timmerman, VOR or GPS RWY 15L, Amdt 12
Sheboygan, WI, Sheboygan County Memorial, VOR or GPS RWY 3 Amdt 6
Sheboygan, WI, Sheboygan County Memorial, NDB or GPS RWY 21, Orig
Watertown, WI, Watertown Muni, NDB or GPS RWY 23, Amdt 1
Watertown, WI, Watertown Muni, VOR/DME RNAV or GPS RWY 5, Amdt 3
Waukesha, WI, Waukesha County, VOR or GPS–A, Amdt 15
Waukesha, WI, Waukesha County, NDB or GPS RWY 28, Amdt 3
Waupaca, WI, Waupaca Muni, NDB or GPS RWY 30, Amdt 4
Casper, WY, Natrona County Intl. VOR/DME or TACAN or GPS RWY 21, Amdt 7
Casper, WY, Natrona County Intl, VOR/DME or GPS RWY 3, Amdt 3
Casper, WY, Natrona County Intl, NDB or GPS RWY 8, Amdt 13
Rawlins, WY, Rawlins Muni, VOR or GPS RWY 22, Amdt 1
Rawlins, WY, Rawlins Muni, NDB or GPS–A, Amdt 9

The following are corrected procedure titles adding "or GPS" published in Transmittal Letter 94–21.

Ash Flat, AR, Cherokee Village, NDB or GPS RWY 4, Orig
Devine, TX, Devine Muni, NDB or GPS RWY 35, Amdt 2

[FR Doc. 94–25776 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 117

[CGD13–94–033]

RIN 2115–AE47

Drawbridge Operation Regulations; Coquille River, OR

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment removes the operating regulations for the drawbridge across the Coquille River, mile 24.0, at Coquille, Oregon. This bridge formerly served a secondary highway but has been removed in its entirety. Notice and public procedure have been omitted from this action because the bridge no longer exists.

EFFECTIVE DATE: October 18, 1994.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation & Waterways Management Branch, 915 Second Avenue, Seattle, Washington, 98174, between 8 a.m. and 3 p.m., Monday through Friday, except Federal Holidays. The telephone number is: (206) 220–7270.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, (206) 220–7270.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation change and good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. The drawbridge to which these regulations applies no longer exists and removal of these regulations from the Code of Federal Regulations is the only action being considered by the Coast Guard. Therefore, notice and public procedure thereof are impracticable, unnecessary, and contrary to the public interest.

Drafting Information

The drafters of this notice are Austin Pratt, project officer, and Lieutenant L. J. Argenti, project attorney.

Regulatory Evaluation

This action is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this action will have a significant effect on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this action will not have a significant impact on a significant number of small entities.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has reviewed the environmental impact of this action and concluded under section 2.B.2. of the NEPA Implementing Procedures, COMDTINST M16475.B that the action is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the human environment. The drawbridge that this amendment applies to no longer exists. A Categorical Exclusion Determination is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard amends part 117 of title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.875 is revised to read as follows:

§ 117.875 Coquille River.

The draws of the US 101 highway bridge, mile 3.5 at Bandon, Oregon, shall open on signal if at least two hours notice is given to the drawtender at the Coos Bay South Slough bridge.

Dated: September 30, 1994.

John A. Pierson,

Captain, Coast Guard, Commander, 13th Coast Guard District, Acting.

[FR Doc. 94–25724 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–92–004]

RIN 2115–A97

Safety Zone; Rhode Island Sound, Narragansett Bay, Providence River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard amends the regulation concerning the safety zone around Liquefied Petroleum Gas (LPG) vessels moored at the LPG facility in the Port of Providence. This amendment reduces the distance a vessel must moor from a LPG vessel at the LPG facility in the Port of Providence from 400 feet to 200 feet. This action is necessary to eliminate unnecessary economic hardship on the commercial shipping industry. Reduction of the required empty pier space from 400 feet to 200 feet fore and aft of LPG vessels will continue to provide the necessary level of safety and will also provide the space necessary to respond effectively to a LPG emergency.

EFFECTIVE DATE: This regulation is effective November 17, 1994.

FOR FURTHER INFORMATION CONTACT: MST1 Jeffrey Perdue of Marine Safety Office Providence at (401) 435–2300.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are MST1 Jeffrey Perdue, Coast Guard Captain of the Port Providence, Project Manager and Lieutenant Commander J. Stieb, First Coast Guard District Legal Office, Project Counsel.

Regulatory History

On March 8, 1994, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled SAFETY ZONE: Rhode Island Sound, Narragansett Bay, Providence River in the **Federal Register**, 59 FR 10775. The Coast Guard received no comments on the proposal. A public hearing was not requested and one was not held. The Coast Guard is publishing the rule as proposed.

Background and Purpose

The regulations contained in 33 CFR 165.121 outline safety zones required for LPG vessels visiting the Port of Providence under a variety of conditions. The regulations establish safety zones around LPG vessels at anchor, transiting Narragansett Bay, while moored at the LPG facility, Port of Providence, and around the shoreside manifold during LPG transfer operations. This amendment only concerns the safety zone required around LPG vessels moored at the LPG facility, Port of Providence.

33 CFR 165.121(a)(3) establishes a 50 foot safety zone around a moored LPG vessel and also requires that no vessel may moor within 400 feet of a LPG vessel moored at the facility. Industry personnel have continually expressed dissatisfaction with the 400 foot requirement, contending that it places an unnecessary economic burden on the industry involved in and affected by LPG evolutions. Coast Guard research into this issue has shown that prohibiting vessels from mooring within 400 feet from LPG vessels moored at the LPG facility is excessive and unnecessary. Reduction of the requirement from 400 feet to 200 feet provides ignition source protection and the necessary space for shoreside or waterside firefighting or tug-assisted emergency break-away from the pier.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This amendment is an act of deregulation designed to eliminate an unnecessary burden. Reducing the safety zone around a moored LPG vessel from 400 feet to 200 feet fore and aft will benefit the LPG facility economically in that the required total additional pier space for which they must pay to meet the regulations is reduced from 800 feet to 400 feet. This will also benefit the Port of Providence economically in that more pier space will be available for other vessels to moor while a LPG vessel is in port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard expects the economic impact of this rule to be minimal and the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principals and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that under section 2.B.2.e of Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 604–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.121 is amended by revising paragraph (a)(3) to read as follows:

§ 165.121 Safety Zone: Rhode Island Sound, Narragansett Bay, Providence River.

(a) * * *

(3) For Liquefied Petroleum Gas (LPG) vessels while moored at the LPG facility, Port of Providence; a safety zone within 50 feet around the vessel. No vessel shall moor within 200 feet from the LPG vessel. All vessels transiting the area are to proceed with caution to minimize the effects of wake around the LPG vessel.

* * * * *

Dated: October 3, 1994.

P.A. Turlo,

Captain, U.S. Coast Guard, Captain of the Port, Providence.

[FR Doc. 94–25725 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS–4–1–6508a; FRL–5079–2]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The state of Kansas has submitted revisions to the State Implementation Plan (SIP) which amend certain state rules concerning sulfur dioxide (SO_2) and volatile organic compounds (VOC). It has also submitted two source-specific permits for electric utilities which restrict (SO_2) emissions. EPA is approving these revisions to the SIP. This action is necessary to keep the Kansas SIP current with state regulations and to make the state permits federally enforceable.

DATES: This final rule is effective December 19, 1994 unless notice is received by November 17, 1994 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to the Kansas City address below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: The EPA is publishing this action as a direct-final because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. If adverse comments are received, a withdrawal notice will be published and all public comments will be addressed in a subsequent final rule based on the proposed rule published in this **Federal Register**.

On May 16, 1994, the Secretary of the Kansas Department of Health and Environment (KDHE) (designee for the Governor) submitted an SIP revision to the EPA Region VII Administrator. The Secretary requested that EPA revise the SIP to include the revisions discussed below.

K.A.R. 28–19–31, Indirect Heating Equipment Emissions; Emission Limitations

This rule has been amended in a number of ways. First, paragraphs A through E were relettered to read a through e. Paragraph c has been changed to state the emission limitations in terms of SO_2, rather than sulfur, in order to be consistent with federal standards. The rule amendment does not change the amount of allowable emissions, but merely restates it in the same terminology as the National Ambient Air Quality Standards (NAAQS) it is designed to protect.

The rule has also been amended to state the emissions limitation in terms of pounds of SO_2 per million British thermal units (SO_2/mmBtu) of heat input without respect to heat input per hour. This is merely a technical correction; the regulation applies to heating equipment having a heat input of 250 Btu/hour, so the additional reference to emissions based on heat input per hour was unnecessary. The rule also now provides for an alternative emission limit to the 3.0 pounds of SO_2/mmBtu, provided that the alternate limit is set forth in a permit issued pursuant to K.A.R. 28–19–14, is adequate to protect the SO_2 NAAQS, and has been approved by EPA as part of the state SIP. This revision was effective November 8, 1993.

K.A.R. 28–19–32, Exemptions

This rule, which created exemptions from the emissions limitations on indirect heating equipment imposed by K.A.R. 28–19–31, was approved as part of the original SIP in 1971. Paragraph D provided an exemption to the SO_2 emission limit in rule K.A.R. 28–19–31 if a source operated less than 2000 hours per year. This was a deficiency in the SIP which EPA has strived to correct.

Kansas revised K.A.R. 28–19–32 in 1981, 1982, and in 1993. The revisions in 1981 and 1982 were not submitted as SIP revisions at that time. Thus, EPA is today acting on the cumulative revisions of this rule. In the 1981 revision, the state deleted paragraphs A and B of the SIP approved rule. These provisions were eliminated because equipment which had been exempted was, by that time, operating within the limitations of other regulations. At the same time, the state added an exemption which provided that electric generating plants of 90 megawatts could, under certain circumstances, be exempt from the SO_2 emission limits contained in K.A.R. 28–19–31(C). In the 1982 state rule revision, this provision was expanded to specifically include three electric generating plants with specified capacities.

The 1993 revisions deleted completely the provisions which allowed exemptions to the SO_2 emission limits in K.A.R. 28–19–31. Of the three sources previously eligible for the exemption, two are operating within the 3.0 lbs SO_2 mm/Btu emission limit allowed in rule K.A.R. 28–19–32. The third source is now subject to emission limits contained in a permit issued pursuant to rule K.A.R. 28–19–14. This limit is more restrictive than the 3.0 lbs per mm/Btu allowed in K.A.R. 28–19–31. This permit has been submitted as a SIP revision, and EPA is taking action on it as discussed below (see Quindaro Power Station).

In summary, the state's submittal of its revisions to rule K.A.R. 28–19–32 deletes exemptions allowed in the original SIP rule, deletes exemptions allowed in previous versions of the state rule, will make the state and SIP rule consistent, and will greatly enhance the enforceability of both rules. This revision was effective November 8, 1993.

K.A.R. 28–19–63, Automobile and Light-Duty Truck Surface Coating

This reasonably available control technology rule is applicable to automobile or light-duty truck top coat and primer surface coating application systems at the one facility subject to the regulation. This amendment clarifies existing requirements by adopting a standard industry procedure for demonstrating continual compliance with organic vapor emission

requirements. The state has incorporated by reference the EPA protocol, "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," EPA-450/3-88-018 (December 1988). This protocol provides an alternative compliance demonstration method and adds some flexibility to the previous requirements. The regulatory change does not affect the current monitoring and inspection program for volatile organic compound sources. This revision improves the enforceability of the state rule. This rule was effective November 8, 1993.

Permits

The Kansas City, Kansas, Board of Public Utilities (BPU) owns and operates three electric utility generation stations in the Kansas City, Kansas, area. This action approves new emission limits, as contained in state operating permits, for the Kaw and Quindaro stations.

Kaw Power Station

Upon a showing by EPA Region VII that the BPU Kaw Power Station, even though operating within the permit limits established by state rule K.A.R. 28-19-31(C), was causing modeled violations of the SO_2 NAAQS, the BPU entered into a Consent Agreement (C.A.) with the state, which set a schedule for BPU to develop an emissions control strategy sufficient to protect and maintain the SO_2 NAAQS.

In accordance with the terms of the C.A., BPU conducted a modeling analysis in accordance with the protocol agreed to by the state and EPA. The modeling was performed in accordance with the EPA Guideline on Air Quality Models (Revised), EPA-450/2-78-027R, as supplemented. The modeling results established emission limits which were incorporated into an operating permit issued by the state pursuant to K.A.R. 28-19-14. Emission limits were set based on a maximum ambient impact of less than 330 $\mu g/m^3$. This provides an adequate safety margin for the 24-hour SO_2 standard of 365 $\mu g/m^3$, which was the controlling standard.

Permit #2090049 contains interim and final compliance limits. The interim limits are based on coal sampling analysis. Final compliance limits are based on continuous emission monitoring (CEM). The CEM systems are to be installed and certified in conformance with the requirements of 40 CFR part 75 no later than October 1994. The permit contains enforceable monitoring, and recordkeeping and reporting requirements.

The emission limit previously applicable to this source was 3.0 lbs SO_2/mmBtu. The new limit contained in the permit is 1.1 lbs SO_2/mmBtu when only one of the three units is operating, or 0.91 lbs SO_2/mmBtu when two or more units are operating. The state permit was effective October 20, 1993. This permit is being incorporated into the SIP for purposes of federal enforceability.

Quindaro Power Station

As noted in the discussion above revisions to rules K.A.R. 28-19-31 and 28-19-32, the Quindaro station was able to operate under an exemption which was difficult to enforce and which did not ensure protection of the NAAQS.

The BPU agreed in the C.A. mentioned above to conduct a modeling analysis for the Quindaro station at the same time it was performing the modeling analysis for the Kaw station.

The modeling results established emission limits which were incorporated into an operating permit issued by the state pursuant to K.A.R. 28-19-14. Emission limits were set based on a maximum ambient impact of less than 320 $\mu g/m^3$. This is adequate to ensure attainment and maintenance of the 24-hour SO_2 NAAQS of 365 $\mu g/m^3$, which was the controlling standard. The emission limits are equivalent to 4.75 lbs of SO_2/mmBtu when only unit Q-1 is operating, and 4.75 for Q-1 and 3.57 for Q-2 when both units are operating. (Unit Q-2 is a CAA Title IV Phase I unit.)

Permit #2090048, issued pursuant to K.A.R. 28-19-14, contains interim and final compliance limits. The interim limits are based on coal sampling analysis and the final limits are based on CEM monitoring. The CEM systems are scheduled for final part 75 certification testing by October 1994. The permit contains enforceable monitoring, and reporting and recordkeeping requirements. This permit is being approved into the SIP for purposes of federal enforceability. The permit was effective October 20, 1993.

The state has met the public notification requirements of 40 CFR 51.102. EPA proposes to approve the above revisions to the Kansas SIP.

EPA Action

EPA is taking final action to approve revisions to the Kansas SIP. This includes revisions to the SO_2 emission limitations and exemptions rules, and a surface coating rule. EPA is also approving two source-specific permits which set SO_2 emission limits on two electric power stations.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request or 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 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, EPA certifies that 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 action 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)).

The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and

recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 16, 1994.

William Rice,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart R—Kansas

2. Section 52.870 is amended by adding paragraph (c)(29) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

(29) On May 16, 1994 the Secretary of KDHE submitted revisions to rules K.A.R. 28–19–31, 28–19–32, 28–19–63, and operating permits #20090048 (BPU Quindaro station) and #20090049 (BPU Kaw station).

(i) Incorporation by reference.

(A) Revised regulations K.A.R. 28–19–31, K.A.R. 28–19–32, K.A.R. 28–19–63, effective November 8, 1993.

(B) Operating permits; Kansas City, Kansas, Board of Public Utilities Quindaro permit #20090048, and Kaw permit #20090049, effective October 20, 1993.

(ii) Additional material.

(A) Letter from BPU to KDHE dated December 11, 1992, regarding compliance verification methods and schedules.

* * * * *

3. Section 52.873 is amended by adding paragraph (c) to read as follows:

§ 52.873 Approval status.

* * * * *

(c) The Administrator approves Rule K.A.R. 28–19–31 as identified at § 52.870(c)(29), with the understanding that any alternative compliance plans issued under this rule must be approved by EPA as individual SIP revisions.

[FR Doc. 94–25675 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P–M

40 CFR Part 52

[RI6–1–5811; A–1–FRL–5081–6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Clean Air Act Approval and Promulgation of Implementation Plans for Rhode Island State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island Department of Environmental Management (DEM). The intended effect of this action is to approve Rhode Island Air Pollution Control Regulations Number 19, "Control of Volatile Organic Compounds from Surface Coating Operations," Number 25, "Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt," and Number 26, "Control of Volatile Organic Compound Emissions from Manufacture of Synthetic Pharmaceutical Products." The DEM submitted these revisions to EPA on November 13, 1992 in response to the Clean Air Act, as amended in 1990, which requires States to adopt Reasonably Available Control Technology (RACT) rules for all areas designated nonattainment for ozone and classified as moderate or above. This revision establishes and requires the implementation of RACT for the following source categories: Metal Coil Coating, Metal Furniture Coating, Magnet Wire Coating, Large Appliance Coating, Miscellaneous Metal Parts Coating, Wood Products Coating, Flat Wood Paneling Coating, Manufacture and Application of Cutback and Emulsified Asphalt, and Manufacture of Synthetic Pharmaceutical Products. In addition, the applicability thresholds for RACT for the source categories Paper Coating, Fabric Coating, and Vinyl Coating have been lowered from the potential to emit 100 tons per year to actual emissions of 15 pounds per day.

EFFECTIVE DATE: This rule will become effective on November 17, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., (LE–131), Washington, DC 20460; and Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Martha Larson, (617) 565–3270.

SUPPLEMENTARY INFORMATION: On March 21, 1994 (59 FR 13292), EPA published a notice of proposed rulemaking (NPR) for the State of Rhode Island. The NPR proposed approval of Rhode Island Air Pollution Control Regulations Number 19, "Control of Volatile Organic Compounds from Surface Coating Operations," Number 25, "Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt," and Number 26, "Control of Volatile Organic Compound Emissions from Manufacture of Synthetic Pharmaceutical Products." The formal SIP revision was submitted by Rhode Island on November 13, 1992.

Under the Clean Air Act, prior to the 1990 Amendments, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of Control Technique Guidelines (CTG) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January, 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Rhode Island established an attainment date of December 31, 1982 and, therefore, was required to adopt RACT for Group I and II CTGs. Rhode Island adopted rules for the applicable source categories covered by Group I and II CTGs. In addition, Rhode Island adopted a rule which covered all major sources (100 tons per year or more of VOC emissions).

Section 182(b)(2) of the Clean Air Act as amended in 1990 requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the Clean Air Act Amendments of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. This RACT requirement applies to nonattainment areas that previously were exempt from certain RACT requirements and requires them to "catch up" to those nonattainment areas that became subject to those requirements during an earlier period. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas.

Rhode Island is required to adopt rules under section 182(b)(2) for the entire State because all areas within the State are classified as serious ozone nonattainment areas. Under section 182(b)(2), the State is required to adopt RACT requirements for all major sources, including sources covered by a post-enactment CTG, or not covered by a CTG. Rhode Island has adopted rules which cover major sources which will be covered by post-enactment CTGs or which are not covered by a CTG. The major source definition for serious area has been lowered under the amended Act to sources that emit greater than 50 tons per year of VOC. EPA will be proposing to approve these rules in a separate notice. With the exception of Wood Products coating, all of the categories which were submitted in the State's November 13, 1992 submittal and are being approved are existing CTG categories. The rules in the November 13, 1992 submittal which EPA is approving meet the requirements of section 182(b)(2)(B), which requires that RACT be adopted for all CTG categories issued before the date of the enactment of the Clean Air Act Amendments of 1990.

EPA has evaluated the State's submittal for consistency with the Clean Air Act, and EPA policy. EPA is approving Rhode Island's submittal as meeting the requirements of section 182(b)(2)(B). The rationale for EPA's proposed approval are explained in the NPR (59 FR 13292) and will not be restated here. Rhode Island's regulations and EPA's evaluation are detailed in a memorandum, dated July 14, 1993, entitled "Technical Support Document for Rhode Island's Revised Regulations Controlling Surface Coating Sources and New Regulations Controlling Volatile Organic Compound Emissions from Pharmaceutical and Cutback Asphalt Sources." Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document.

Final Action

EPA is approving Rhode Island Air Pollution Control Regulations Number 19, "Control of Volatile Organic Compounds from Surface Coating Operations," Number 25, "Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt," and Number 26, "Control of Volatile Organic Compound Emissions from Manufacture of Synthetic Pharmaceutical Products" as a revision to the Rhode Island SIP, with the exception of sections 19.2.2, 25.2.2, 26.2.3, and the last sentence of 19.1.1, which were not submitted by Rhode Island to EPA as part of the SIP submittal.

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.

EPA received no adverse public comment on the proposed action. As a direct result, I have reclassified this action from Table 2 to Table 3 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 document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. The U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on U.S. EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

SIP approvals under section 110 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, I certify that 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).

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.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: September 6, 1994.

John P. DeVillars,

Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart OO—Rhode Island

2. Section 52.2070 is amended by adding paragraph (c)(40) to read as follows:

§ 52.2070 Identification of plan.

* * * * * *

(c) * * *

(40) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on November 13, 1992.

(i) Incorporation by reference.

(A) Letter from the Rhode Island Department of Environmental Management dated November 13, 1992 submitting a revision to the Rhode Island State Implementation Plan.

(B) Rhode Island Department of Environmental Protection, Division of Air and Hazardous Materials, Air Pollution Control Regulations No. 19, entitled "Control of Volatile Organic Compounds from Surface Coating Operations," submitted to the Secretary of State on October 30, 1992 and effective on November 20, 1992.

(C) Rhode Island Department of Environmental Protection, Division of Air and Hazardous Materials, Air Pollution Control Regulations No. 25, entitled "Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt," submitted to the Secretary of State on October 30, 1992 and effective on November 20, 1992.

(D) Rhode Island Department of Environmental Protection, Division of Air and Hazardous Materials, Air Pollution Control Regulations No. 26, entitled "Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products," submitted to the Secretary of State on October 30, 1992 and effective on November 20, 1992.

(ii) Additional materials.

(A) Letter from the Rhode Island Department of Environmental Protection, dated February 10, 1993, clarifying the November 13, 1992 revision to the SIP.

(B) Nonregulatory portions of the submittal.

§ 52.2081 [Amended]

3. In § 52.2081, Table 52.2081 is amended by adding a new entry to existing state citation "No. 19"; and by adding new state citations for "No. 25" and "No. 26" to read as follows:

TABLE 52.2081—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by state	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
*	*	*	*	*	*	*
No. 19	Control of Volatile Organic Compounds from Surface Coating Operations.	10/30/92	10/18/94	[Insert FR citation from published date].	(c)(40)	All of No. 19 is approved with the exception of 19.2.2, and the last sentence of 19.1.1, which Rhode Island did not submit as part of the SIP revision. No. 19 was amended to change applicability and to add emission limitations for metal coil coating, metal furniture coating, magnet wire coating, large appliance coating, miscellaneous metal parts coating, wood products coating, and flat wood paneling coating.
No. 25	Control of Volatile Organic Compound Emissions from Cutback and Emulsified Asphalt.	10/30/92	10/18/94	[Insert FR citation from published date].	(c)(40)	All of No. 25 is approved, with the exception of 25.2.2, which was not submitted by Rhode Island as part of the SIP revision.
*	*	*	*	*	*	*
No. 26	Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products.	10/30/92	10/18/94	[Insert FR citation from published date].	(c)(40)	All of No. 26 is approved, with the exception of 26.2.3, which was not submitted by Rhode Island as part of the SIP revision.
*	*	*	*	*	*	*

[FR Doc. 94–25789 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NC–44–1–6641a; FRL–5081–7]

Approval and Promulgation of Sulfur Dioxide State Implementation Plan, North Carolina: Approval of Texasgulf, Incorporated, Air Permit No. 2331R10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 13, 1989, the State of North Carolina issued to Texasgulf, Incorporated (TG), located in Aurora, Beaufort County, North Carolina, air permit number 2331R10, which set the sulfur dioxide emission limit at 2.3 pounds per million British Thermal Units (BTU). The State then submitted this permit to EPA on November 2, 1989, for approval as a revision to the State implementation plan (SIP). Upon review of the permit,

EPA finds that the designated limit for Texasgulf is adequate to protect the ambient standard and approves this permit.

DATES: This final rule will be effective December 19, 1994 unless notice is received by November 17, 1994 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), US Environmental Protection Agency, 443, 401 M Street, SW., Washington DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Management, P.O. Box 29535, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: On December 7, 1982 (47 FR 54934), EPA announced approval of a revised sulfur dioxide (SO_2) emission limit for most fuel- burning sources in North Carolina. This revision raised the emission limit of SO_2 from 1.6 pounds per million BTU to 2.3 pounds per million BTU. Texasgulf, Incorporated, located in Aurora, Beaufort County, North Carolina, was included in this rulemaking, but was not allowed to increase it's emission level until such time that appropriate conditions could be applied to ensure that the ambient standard was not violated. These conditions included the issuance of an air permit. On October 13, 1989, North Carolina Environmental Management Commission issued air permit no. 2331R10 to Texasgulf, Incorporated. On November 2, 1989, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources submitted this permit to EPA for approval as a revision to the North Carolina SIP regarding the SO_2 emissions limitation for Texasgulf, Incorporated. In a letter dated November 25, 1991, EPA responded to the Texasgulf, Incorporated submittal with several comments concerning the enforceability of the permit. EPA questioned North Carolina's ability to enforce the condition of reporting any 4-hour exceedances of SO_2, opacity and particulate standards without requiring the installation of SO_2 and opacity monitors. EPA also stated that the permit should be revised to incorporate the emission limits for the F.W. and B.W. boilers because alternative operating procedures are allowable if one or more of the acid plants are inoperable. EPA directed North Carolina to address these sections before the permit could be approved. On April 29, 1994, North Carolina submitted a letter to EPA which effectively responded to all of EPA's concerns and demonstrated that the permit contains adequate recordkeeping and testing requirements.

Final Action

EPA is approving Texasgulf, Inc's Air Permit No. 2331R10 submitted on November 2, 1989, for incorporation into the North Carolina SIP. The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 19, 1994 unless, by November 17, 1994, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 19, 1994.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 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 Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver 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.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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 110 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, I certify that 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).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 22, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(76) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(76) The North Carolina Department of Environment, Health and Natural Resources submitted revisions to the North Carolina State Implementation Plan on November 2, 1989. These revisions incorporate SO_2 limits and permit conditions for Texasgulf, Incorporated.

(i) Incorporation by reference.

(A) Permit for Texasgulf, Incorporated (air permit no. 2331R10) which was issued by the Environmental Management Commission on October 13, 1989.

(ii) Additional material–none.

[FR Doc. 94–25679 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 52 and 81

[MN25–1–6002a, MN–1–6093a; FRL–5083–2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On June 22, 1993, the Minnesota Pollution Control Agency (MPCA) submitted a State Implementation Plan (SIP) revision and request for redesignation from nonattainment to attainment to the United States Environmental Protection Agency (USEPA). This submittal was in response to a designation to nonattainment, effective January 6, 1992, for an area in Dakota County, Minnesota. The MPCA submittal consisted of an administrative order for the Gopher Smelting and Refining Company, a secondary lead smelter located in Eagan, Minnesota. The submittal also contained technical support information in the form of air dispersion modeling an ambient air monitoring data. The proposed SIP revision and request for redesignation was submitted to satisfy the requirements of the Clean Air Act (CAA). A letter, identifying specific issues pertaining to the proposed SIP revision, was sent to the MPCA on April 8, 1994. In response to those issues, the MPCA amended the original administrative order and has submitted it to USEPA. In this action, USEPA is granting direct final approval of the SIP revision and redesignation requests.

DATES: This final rule is effective December 19, 1994 unless notice is received by November 17, 1994, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE–17J), Chicago, Illinois 60604; and Air Docket (6102), United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 6, 1991, USEPA, in accordance with the Clean Air Act (CAA), title I, section 107(d)(3), designated an area in Dakota County, Minnesota as nonattainment for the primary and secondary National Ambient Air Quality Standards (NAAQS) for lead of 1.5 micrograms per cubic meter ($\mu g/m^3$). The nonattainment area is bounded by Lone Oak Road (County Road 26) to the north, County Road 63 to the east, Westcott Road to the south, and Lexington Avenue (County Road 43) to the west. The basis for the nonattainment designation was monitored violations of the NAAQS. The major lead source in the area is the Gopher Smelting and Refining Company (Gopher Smelting), located in Eagan, Minnesota. As a result of this nonattainment designation, the State of Minnesota was required to submit to the USEPA a revised SIP for the area within 18 months from January 6, 1992, which was the effective date of the redesignation.

The State submitted to USEPA, a SIP revision and a request for redesignation to attainment, dated June 22, 1993. The submittal was determined to be complete, in accordance with the requirements found in 40 CFR part 51, appendix V, on September 1, 1993. The submittal consisted of an administrative order which includes specific information pertaining to emission limits and operating restrictions, compliance demonstrations, and recording/reporting requirements. In addition, the submittal contained technical support pertaining to the attainment demonstration and ambient air monitoring data. Initial review of the proposed SIP revision identified several issues which needed to be addressed by the State before the revision could be approved. The issues were detailed in an April 8, 1994, letter from George Czerniak, Chief, Air Enforcement Branch, USEPA, to David Thornton, Administrator, Program Development and Air Analysis Section, MPCA. The issues involved clarification of language pertaining to source descriptions and sweeping requirements and additional information regarding negative pressure testing methodology and stack testing conditions. The issues identified in the April 8, 1994, letter were adequately

addressed by the State and an amended administrative order, dated September 13, 1994, was submitted to USEPA. The remainder of this rulemaking summarizes USEPA's review of the Minnesota lead SIP revision package, followed by a review of the request for redesignation, and then the final rulemaking action.

II. Analysis of SIP Revision Submittal

The State SIP revision submittal consisted of four major sections: (1) The completeness review material; (2) the SIP revision request providing background information and citing statutory requirements; (3) materials from the MPCA including the administrative order issued to Gopher Smelting and Refining Company and public hearing material; and (4) technical information supporting the attainment demonstration. This section will discuss the modeling analysis of the attainment demonstration, provisions of the administrative order, and whether the submittal meets the requirements of sections 172(c), 191, and 192, of the CAA. Section 172(c), pertaining to nonattainment plan provisions, and sections 191 and 192 pertaining to lead nonattainment plan deadlines and attainment dates.

Administrative Order Provisions

The administrative order submitted by MPCA on June 22, 1993, was amended, pursuant to comments by USEPA, on September 13, 1994. The comments were identified in a previous section. The following analysis refers to the amended administrative order.

Emission Limits and Operating Restrictions

Gopher Smelting emits lead through two stacks: Emission points 1 and 3. Emissions point 1 is limited to no more than 7000 micrograms of lead per dry standard cubic meter (μg/dscm) (0.00306 grains per dry standard cubic foot); emission point 3 is limited to no more than 5720 μg/dscm (0.00250 grains per dry standard cubic foot). In addition, emission points 1 and 3 are subject to a 5 percent opacity limit.

The Gopher Smelting facility is also subject to numerous operating restrictions. These restrictions are designed to control fugitives from building openings, reentrained traffic dust, and wind erosion. Additionally, Gopher Smelting must store slag material inside the facility building and must apply water as a suppressant when the material is transported. Gopher Smelting must store other raw material inside the facility building. Further operating restrictions affect the maintenance of air pollution control equipment.

Compliance Demonstration

Gopher Smelting must demonstrate compliance with the emission limits and operating restrictions by annual stack tests and opacity tests, negative pressure testing, inspections, and recordkeeping.

Gopher Smelting will demonstrate compliance with the operating restrictions to control fugitives through negative pressure testing and mandatory monthly inspections of vegetative cover and railway ballast and pavement to insure cover is continuous. Additionally, the administrative order requires regularly scheduled inspections and maintenance of control monitoring equipment and property access restrictions.

Reporting

Pursuant to the administrative order, the Company is required to report the results of any performance stack test as well as report each shutdown or breakdown of any control equipment or process equipment if that process equipment shutdown causes increased lead emissions.

Contingency Measures

Section 172(c)(9) of the Clean Air Act defines contingency measures as measures in a SIP which are to be implemented if an area fails to make reasonable further progress or to attain the NAAQS by the applicable attainment date. These measures should become effective without further action by the State or the Administrator and should consist of available control measures that are not included in the primary control strategy.

The administrative order contains contingency measures which shall be implemented by the Company within 30 days following notification by the MPCA or USEPA. Since the submittal provides for immediate attainment, it therefore satisfies reasonable further progress requirements. Implementation of the contingency measures would result from a finding that the area has failed to attain the NAAQS. The measures consist of increased frequency (twice daily) sweeping with a vacuum equipped road sweeper over areas that are normally daily swept and daily sweeping with a vacuum sweeper over areas that are normally swept on a weekly basis.

Modeling Analysis

In order to demonstrate that the limits and restrictions imposed by the administrative order are sufficient to demonstrate attainment of the National Ambient Air Quality Standards (NAAQS) for lead, air dispersion modeling must be conducted. The dispersion modeling accompanying this submittal was performed using the Industrial Source Complex—Long Term (ISCLT2) model, version 92062. The modeling methodology used was compared against the guidance contained in the "Guideline on Air Quality Models (Revised)"; July 1986, including Supplement A.

The Gopher Smelting and Refining Company facility is located just south of St. Paul in Eagan, Minnesota. The modeling analysis used five years (1985 through 1989) of surface meteorological data from the Minneapolis/St. Paul National Weather Service station, and upper air data from the St. Cloud, Minnesota, National Weather Service station. The data sets are representative of the meteorological conditions at Gopher Smelting.

The process sources at Gopher Smelting which discharge lead into the atmosphere are: Two reverberatory furnaces, a blast furnace, six refining kettles, a flue dust agglomeration furnace, a scrap dryer for the feed desulfurization system, and the central vacuum system. Fugitive emissions are also generated from raw material handling. Lead emissions from these sources are vented to four dust collectors (baghouses or cartridge filters). The lead emissions passing through these dust collectors are emitted through two stacks.

The dispersion modeling also took into account fugitive emissions generated from vehicular traffic at the facility as well as emissions generated by wind erosion of the area surrounding the facility. The lead emissions from unpaved areas at the facility were estimated using the "PM10 Open Fugitive Dust Source Computer Model" package distributed by USEPA. The lead content of emissions due to wind erosion was based on soil sample analyses conducted at the facility. Snowcover was assumed for the months of November through March, therefore fugitives from grassy areas was considered to be zero for these months.

The receptor grid used in the analysis consisted of a cartesian coordinate system with various spacing resolutions. After initial screening runs with receptor grids extending as far as 50 kilometers, a refined receptor grid, with 100 meter spacing, was established for a 1.0 kilometer square area surrounding the facility. Lead impacts at the fenceline of the property were modeled.

Background levels of lead were estimated in order to consider the

contribution to the total ambient air concentration made by sources other than Gopher Smelting. The background value was determined using a wind direction analysis which identified when air monitors were upwind of the Gopher Smelting Facility. The resulting value of 0.11 micrograms per cubic meter ($\mu g/m^3$) is representative of background lead concentrations in the area. The background concentration was added to the maximum modeled concentration for a total maximum lead concentration of 0.97 $\mu g/m^3$. This is well below the NAAQS value of 1.5 $\mu g/m^3$.

General Statutory Requirements

The purpose of this section is to discuss whether the SIP revision submittal meets the statutory requirements set forth in the Clean Air Act. The Gopher Smelting area of Dakota County, Minnesota is designated nonattainment for lead. Therefore, the SIP for this area must meet the applicable requirements of Subpart 1 and 5 of Part D of Title 1 of the Clean Air Act, specifically, Sections 172(c), 191, and 192.

Section 172(c)(1) states that Part D plans must require reasonably available control measures, including reasonably available control technology (RACT). The submittal includes modeling which demonstrates that the Gopher Smelting area of Dakota County will achieve attainment of the lead NAAQS with the control measures fully implemented. The control measures were required to be fully implemented on June 22, 1993 (the effective date of the order). Consequently, the application of additional available measures would not result in attainment any faster. Therefore, the control measures included in the SIP revision satisfy the RACT requirements.

Section 172(c)(2) states that plans shall require reasonable further progress. The Minnesota submittal provides for immediate attainment.

Section 172(c)(3) requires a suitable emission inventory. A suitable inventory of actual and allowable lead emissions from the Gopher Smelting facility was provided in Attachment C.1 of the submittal.

Section 172(c)(4) mandates that any stationary source growth margin included in the submittal be expressly identified and quantified. The submittal provides for a zero growth margin.

Section 172(c)(5) mandates a suitable permit program for new and modified major stationary sources. A new source permitting program for nonattainment areas has been approved by USEPA on April 4, 1994 (59 FR 21939). In addition, MPCA has been delegated authority to implement the Federal Prevention of Significant Deterioration rules in attainment areas.

Section 172(c)(6) requires enforceable limitations sufficient to provide for attainment. The administrative order contains emission and operating limits which, when implemented, provide for attainment.

Section 172(c)(7) mandates satisfaction of Section 110(a)(2). The USEPA has determined that the submittal meets the applicable provisions of Section 110(a)(2).

Section 172(c)(8) states that the Administrator, in some circumstances, may allow the use of equivalent modeling emission inventory, and planning procedures. In the Gopher Smelting submittal, no equivalent techniques were used for modeling, emission inventory, or planning procedures.

Section 172(c)(9) requires the plan to provide for implementation of specific measures to be undertaken if the area fails to make reasonable further progress or to attain the primary NAAQS by the attainment date applicable under this part (i.e., contingency measures). The administrative order for Gopher Smelting contains measures to be taken if the area fails to attain the NAAQS. The administrative order provides for immediate attainment which precludes the need for a schedule by which the company would demonstrate reasonable further progress toward attainment. Therefore, any future violations of the NAAQS in the area would require the Company to implement the contingency measures.

Section 191(a) requires a State with an area designated as nonattainment subsequent to the date of enactment of the CAA, to submit an applicable plan to the Administrator within 18 months. A part of Dakota County, Minnesota was designated nonattainment for lead, effective January 6, 1992. The SIP revision was submitted on June 23, 1993; in accordance with the 18 month schedule.

Section 192(a) requires that a plan submitted pursuant to section 191(a) provide for attainment of the relevant standard no later than 5 years from the date of the nonattainment designation. The limits and restrictions in the Minnesota lead plan revision are effective immediately and have been demonstrated to provide for immediate attainment.

III. Analysis of the Redesignation Request

The State redesignation request consisted primarily of a maintenance plan and air quality monitoring data. The request also referenced the provisions and technical information in the SIP revision submittal. The State submitted this information to comply with title I, section 107(d)(3)(E) of the CAA, which requires that USEPA determine whether certain criteria have been met before a redesignation of a nonattainment area to attainment can be promulgated. The CAA criteria and the State responses are discussed below.

Redesignation Request Requirements

Section 107(d)(3)(E)(i) requires a determination of whether the area has attained the NAAQS. The State used both air quality monitoring data and a dispersion modeling analysis to show that the area has attained the NAAQS for lead of 1.5 $\mu g/m^3$ based on a quarterly average.

Monitoring data for four ambient air monitors was included in the June 22, 1993, redesignation submittal. Additional ambient air monitoring data was submitted by the State on December 3, 1993. The additional data set replaced some 1992 data for two monitors due to problems identified by the State with the testing method used (flameless atomic absorption). The revised 1992 data was analyzed using flame atomic absorption (atomic absorption using an air-acetylene flame is the 40 Code of Federal Regulations (CFR) Part 50 Appendix G reference method). The flame atomic absorption method had much better recovery results with spiked samples of lead. The monitors are all located near the Gopher facility. The data collected from the four monitors has been quality assured according to the procedures specified in 40 (CFR) Part 58, and is submitted to USEPA Aerometric Information Retrieval System (AIRS).

The Lead Guideline Document (EPA-452/R-93-009), April 1993, states that in demonstrating, through monitoring data, that an area is attaining the lead NAAQS, the area must show no exceedances on a quarterly basis. Based on a April 21, 1983, memorandum from Meyers, S., Office of Air Quality Planning and Standards, the demonstration should consist of "the most recent eight quarters of quality-assured representative air quality data." The State has submitted ambient monitoring data for the period from first quarter 1990 to the third quarter 1993. The first quarter of 1990 shows the NAAQS violation which precipitated the nonattainment designation. No violations of the NAAQS for lead have been recorded at any of the monitors since that time.

The State also submitted an air dispersion modeling analysis to demonstrate that the Gopher facility, with the emission limits and operating restrictions applied, attains the NAAQS for lead. The modeling demonstration was an integral part of the proposed SIP revision submittal and has been assessed as part of the regulatory review process pertaining to the SIP revision.

The dispersion modeling accompanying the submittal was performed using the Industrial Source Complex—Long Term (ISCLT2) model, version 92062. The modeling methodology used was compared against the guidance contained in the "Guideline on Air Quality Models (Revised)"; July 1986. The modeling analysis used surface meteorological data from the Minneapolis/St. Paul National Weather Service station, and upper air data from the St. Cloud, Minnesota, National Weather Service station. The data sets are considered to be representative of the meteorological conditions at Gopher Smelting. The sources that were modeled included both process and fugitive. Concentrations of lead were predicted around the Gopher facility through the use of a receptor grid with 100 meter spacing near identified areas of maximum concentrations. Background levels of lead, determined from the ambient air monitors, were added to the maximum modeled concentration. The resulting value of 0.97 $\mu g/m^3$ is well below the NAAQS value of 1.5 $\mu g/m^3$.

Based on the monitoring and modeling information included in the June 22, 1993 proposed SIP revision and redesignation request submittal, USEPA has determined that the State has demonstrated that the area around the Gopher facility, which encompasses the current nonattainment area, has attained the NAAQS for lead.

Section 107(d)(3)(E)(ii) states that USEPA may not promulgate a redesignation request to attainment unless USEPA has fully approved the area SIP under section 110(k). The June 22, 1993 package consisted of a proposed SIP revision and a redesignation request. The SIP revision was submitted to meet the Clean Air Act requirements of Title I, Part D. The SIP revision was discussed earlier in this notice and is being approved in this notice.

Section 107(d)(3)(E)(iii) states that USEPA may not promulgate a redesignation request to attainment unless USEPA determines that "the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions." In the first quarter of 1990, three of the four ambient air monitors sited around the Gopher facility recorded a violation of the lead NAAQS. Lead violations were also recorded in the fourth quarter of 1988 and the second quarter of 1989. As a result, the area near the Gopher facility was designated nonattainment, effective on January 6, 1992. An investigation into the cause of the violations concluded that fugitive emissions from process sources and also from general work practices were the primary reason for the high monitored values. The Gopher Smelting and Refining Company implemented a program that included improved materials handling procedures and work practices. These initial procedures and practices, among other controls, are included in the Federally enforceable Administrative Order, which was discussed earlier. No violations of the lead NAAQS have been recorded at any of the ambient air monitors surrounding the Gopher facility since the first quarter of 1990. The State has reasonably attributed the improvement in air quality to the changes in work practices at the Gopher facility. Additionally, the Gopher facility has installed control equipment (i.e., baghouses and a negative pressure system vented through cartridge filters) to further limit process fugitive emissions. The operation, testing, and maintenance of this control equipment is required in the administrative order for the facility. The administrative order for the Gopher facility has no expiration date. Therefore, USEPA agrees with the State that the improvement in air quality over the last four years in the nonattainment area surrounding the Gopher facility is attributable to permanent and enforceable lead emission reductions.

Section 107(d)(3)(E)(iv) states that USEPA may not promulgate a redesignation request to attainment unless USEPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A. The redesignation request submitted on June 22, 1993 by the Minnesota Pollution Control Agency (MPCA), was accompanied by a proposed SIP revision affecting the primary lead source in the nonattainment area. The measures required in the proposed SIP revision (i.e., administrative order for Gopher Smelting and Refining Company), provided for attainment of the lead NAAQS as demonstrated by the modeling analysis performed for the area. The limits and operating restrictions detailed in the administrative order do not expire. Furthermore, once the SIP revision is promulgated, it cannot be revised without approval of USEPA. Therefore, attainment of the lead NAAQS has been projected for the required 10 year period as is discussed in Section 175A.

Section 175A(d) requires contingency provisions be submitted to assure that the State will promptly correct any violation of the lead standard which occurs after the area has been redesignated to attainment. The current monitoring network is continuing to operate in order to verify the attainment status of the area. The proposed SIP revision, discussed earlier, contained specific measures which the Gopher facility will implement, without further action to be taken by the State or USEPA, upon notification that a violation of lead NAAQS has occurred. These measures consist of sweeping with a wet vacuum sweeper areas that are swept daily and daily sweeping with a vacuum sweeper areas that are normally swept on a weekly basis. The contingency measures are designed to immediately reduce emissions from areas likely to be causing the violation. The administrative order became effective on June 22, 1993, and enforced by the authority of MPCA. The changes included in the amended administrative order, dated September 13, 1994, did not affect the contingency measures. Therefore, the limits and restrictions in the administrative order will have been implemented prior to promulgation of redesignation to attainment.

Section 107(d)(3)(E)(v) states that USEPA may not promulgate a redesignation request to attainment unless the State has met all the requirements applicable to the nonattainment area under section 110 and part D. The Gopher Smelting area of Dakota County, Minnesota is designated nonattainment for lead. Therefore, the SIP revision for this area must meet the requirements of Subpart 1 and 5 of Part D of Title 1 of the Clean Air Act, specifically Section 172(c) and Sections 191 and 192. Based on the regulatory review, the SIP revision is being approved as having satisfied the requirements of the applicable CAA sections.

IV. Rulemaking Action

This action has evaluated the approvability of the Minnesota Lead SIP revision submittal and request for redesignation to attainment for the area around Gopher Smelting and Refining Company, located in the city of Eagan,

Dakota County, Minnesota. It has been determined that the submittal meets the applicable requirements of the CAA.

Because U.S. EPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on December 19, 1994. However, if we receive notice by November 17, 1994 that someone wishes to submit adverse comments, then USEPA will publish a document that withdraws this action and will address the comments received in the final rule on the requested redesignation and SIP revision which have been proposed for approval in the proposed rules section of this **Federal Register**.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. U.S. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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). A revision to the SIP processing review tables was approved by the Acting Assistant Administrator for Office of Air and Radiation on October 4, 1993 (Michael Shapiro's memorandum to Regional Administrators). A future document will inform the general public of these tables. Under the revised tables this action remains classified as a Table 2 action. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. The USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request. This request continued in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 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, I certify that 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 19, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air Pollution control, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control.

Dated: September 20, 1994.

Valdas V. Adamkus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1220 is amended by adding paragraph (c)(36) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(36) On June 22, 1993, and September 13, 1994, the State of Minnesota submitted revisions to its State Implementation Plan for lead for a portion of Dakota County.

(i) Incorporation by reference.

(A) For Gopher Smelting and Refining Company, located in the city of Eagan, Dakota County, Minnesota:

(1) An administrative order, dated, submitted, and effective June 22, 1993.

(2) Amendment One to the administrative order, dated, submitted, and effective, September 13, 1994.

(ii) Additional material.

(A) A letter from Charles W. Williams to Valdas V. Adamkus, dated June 22, 1993, with enclosures providing technical support (e.g., computer modeling) for the revisions to the State Implementation Plan for lead.

(B) A letter from Charles W. Williams to Valdas V. Adamkus, dated September 13, 1994, with enclosures providing technical support for the revised administrative order for Gopher Smelting and Refining Company.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.324 the table "Minnesota Lead" is revised to read as follows:

§ 81.324 Minnesota.

* * * * *

MINNESOTA—LEAD

Designated area	Designation		Classification	
	Date	Type	Date	Type
Dakota County (part) . . . Lone Oak Road (County Road 26) to the north, County Road 63 to the east, Westcott Road to the south, and Lexington Avenue (County Road 43) to the west.	Dec. 19, 1994			
Rest of State not designated.				

* * * * *

[FR Doc. 94–25681 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base (100-year) flood elevations are indicated on the following table and revise the Flood Insurance Rate (Map(s) in effect for each listed community prior to this date.

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

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base (100-year) flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base (100-year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

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

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

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

The changes in base (100-year) flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base (100-year) flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No. 7089).	City of Chandler	Mar. 18, 1994, Mar. 25, 1994, *Chandler Arizonan: Tribune.*	The Honorable Coy Payne, Mayor, City of Chandler, 25 South Arizona Place, Chandler, Arizona 85225.	Feb. 7, 1994	040040
Arizona: Santa Cruz (FEMA Docket No. 7094).	City of Nogales	May. 5, 1994, May 12, 1994, *Nagoles Daily Herald.*	The Honorable Jose Canchola, Mayor, City of Nogales, 777 North Grand Avenue, Nogales, Arizona 85621.	Mar. 17, 1994 ...	040091
Arizona: Pima (FEMA Docket No. 7094).	City of Tucson	Mar. 18, 1994, Mar. 25, 1994, *The Daily Territorial.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726–7210.	Feb. 14, 1994 ...	040076
Arizona: Pima (FEMA Docket No. 7094).	Unincorporated Areas.	Mar. 18, 1994, Mar. 25, 1994, *The Daily Terriorial.*	The Honorable Edwin Moore, Chairman, Pima County, Board of Supervisors, 130 West Congress Street, Tucson, Arizona 85701.	Feb. 14, 1994 ...	040073
Colorado: Denver (FEMA Docket No. 7094).	City and County of Denver.	Apr. 19, 1994, Apr. 26, 1994, *Daily Journal.*	The Honorable Wellington E. Webb, Mayor, City and County of Denver, 1437 Banock Street, Room 350, Denver, Colorado 80202.	Apr. 8, 1994	080046
Iowa: Story (FEMA Docket No. 7096).	City of Ames	Apr 22, 1994, Apr. 29, 1994, *The Daily Tribune.*	The Honorable Larry Curtis, Mayor, City of Ames, P.O. Box 811, Ames, Iowa 50010.	Mar. 3, 1994	190254
Louisiana: St. Tammany Parish (FEMA Docket No. 7096).	Unincorporated Areas.	Apr. 7, 1994, Apr. 14, 1994, *Farmer Newspaper.*	The Honorable Kevin Davis, President, St. Tammany Parish Police Jury, P.O. Box 628, Covington, Louisiana 70434.	Feb. 22, 1994 ...	225205
North Dakota: Cass (FEMA Docket No. 7096).	City of Fargo, ...	Apr. 19, 1994, Apr. 26, 1994, The Forum.	The Honorable Jon G. Lindgren, Mayor, City of Fargo, City Hall, 200 North Third Street, Fargo, North Dakota 58102.	Apr. 12, 1994	385364
Texas: Bexar (FEMA Docket No. 7096).	Unincorporated Areas.	Apr. 14, 1994, Apr. 21, 1994, *San Antonio Express News.*	The Honorable Cyndi Krier, Bexar County Judge, Bexar County Courthouse, 100 Dolorosa, San Antonio, Texas 78205.	Feb. 2, 1994	480035
Texas: Dallas, Denton, and Collin (FEMA Docket No. 7094).	City of Carrollton ...	Apr. 14, 1994, Apr. 21, 1994, *Metrocrest News.*	The Honorable Milburn Gravley, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011–0535.	Mar. 24, 1994 ...	480167
Texas: Dallas and Denton (FEMA Docket No. 7096).	City of Carrollton ...	Apr. 21, 1994, Apr. 28, 1994, *Metrocrest News.*	The Honorable Milburn Gravley, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011–0535.	Mar. 9, 1994	480167
Texas: Dallas (FEMA Docket No. 7094).	City of Dallas	Mar. 24, 1994, Mar. 31, 1994, *The Dallas Morning News.*	The Honorable Steve Bartlett, Mayor, City of Dallas, Office of the Mayor and City Council, 1500 Madrilla, 5E North, Dallas, Texas 75201.	Mar. 1, 1994	480171
Texas: Dallas (FEMA Docket No. 7096).	City of Dallas	Apr. 12, 1994, Apr. 19, 1994, *Daily Commercial Record.*	The Honorable Steve Bartlett, Mayor, City of Dallas, Office of the Mayor and City Council, 1500 Madrilla, 5E North, Dallas, Texas 75201.	Feb. 17, 1994 ...	480171
Texas: Fort Bend (FEMA Docket No. 7094).	Unincorporated Areas.	Mar. 16, 1994, Mar. 23, 1994, *Fort Bend Star.*	The Honorable Roy Cordes, Jr., Fort Bend County Judge, 309 South Fourth Street, Richmond, Texas 77469.	Feb. 24, 1994 ...	480228
Texas: Collin (FEMA Docket No. 7094).	City of Frisco	Mar. 25, 1994, Apr. 1, 1994, *Frisco Enterprise.*	The Honorable Robert Warren, Mayor, City of Frisco, P.O. Drawer 1100, Frisco, Texas 75034.	Jan. 7, 1994	480134
Texas: Williamson (FEMA Docket No. 7096).	City of Georgetown	Apr. 20, 1994, Apr. 27, 1994, *Williamson County Sun.*	Mr. David Hall, Floodplain Administrator, City of Georgetown, P.O. Box 409, Georgetown, Texas 78627.	Jan. 24, 1994	480668
Texas: Harris (FEMA Docket No. 7096).	Unincorporated Areas.	Apr. 1, 1994, Apr. 8, 1994, *Houston Chronicle.*	The Honorable Jon Lindsay, Harris County Judge, Ninth Floor Courtroom, 1001 Preston, Houston, Texas 77002.	Mar. 11, 1994 ...	480287
Texas: Tarrant (FEMA Docket No. 7096).	City of Keller	Apr. 19, 1994, Apr. 26, 1994, *The Keller Citizen.*	The Honorable John Buchanan, Mayor, City of Keller, P.O. Box 770, Keller, Texas 76244.	Mar. 11, 1994 ...	480602
Texas: Tarrant (FEMA Docket No. 7094).	City of North Richland Hills.	Mar. 3, 1994, Mar. 10, 1994, *The Mid-Cities News.*	The Honorable Tommy Brown, Mayor, City of North Richland Hills, 7301 North East Loop 820, North Richland Hills, Texas 76180.	Jan. 18, 1994	480607
Texas: Parker (FEMA Docket No. 7094).	Unincorporated Areas.	Mar. 24, 1994, Mar. 31, 1994, *The Weatherford Democrat.*	The Honorable Ben Long, Parker County Judge, P.O. Box 819, Weatherford, Texas 76086.	Mar. 2, 1994	480520

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Collin (FEMA Docket No. 7094).	City of Plano	Mar. 4, 1994, Mar. 11, 1994, *The Dallas Morning News.*	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75986–0358.	Feb. 16, 1994 ...	480140
Texas: Fort Bend (FEMA Docket No. 7094).	City of Stafford	Mar. 16, 1994, Mar. 23, 1994, *Fort Bend Star.*	The Honorable Leonard Scarcella, Mayor, City of Stafford, 2610 South Main, Stafford, Texas 77477.	Feb. 24, 1994 ...	480233
Texas: Smith County (FEMA Docket No. 7094).	City of Tyler	Mar. 8, 1994, Mar. 25, 1994, *The Tyler Morning Telegram.*	The Honorable Smith T. Reynolds, Jr., Mayor, City of Tyler, P.O. Box 2039, Tyler, Texas 75710.	Feb. 24, 1994 ...	480571
Texas: Parker (FEMA Docket No. 7094).	City of Weatherford	Mar. 24, 1994, Mar. 31, 1994, *The Weatherford Democrat.*	The Honorable Sherri Watson, Mayor, City of Weatherford, P.O. Box 255, Weatherford, Texas 76086.	Mar. 2, 1994	480522

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

Dated: October 5, 1994.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–25739 Filed 10–17–94; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 65

[Docket No. FEMA–7113]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

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

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

ADDRESSES: The modified base (100-year) flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection is provided.

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

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

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

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base (100-year) flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Benton	City of Bentonville	Aug. 5, 1994, Aug. 12, 1994, *Benton County Daily Record.*	The Honorable John W. Fryer, Mayor, City of Bentonville, 117 West Central, Bentonville, Arkansas 72712.	July 15, 1994	050012
Colorado: El Paso	City of Colorado Springs.	Aug. 4, 1994, Aug. 11, 1994, *Gazette Telegraph.*	The Honorable Robert Isaac, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	July 1, 1994	080060
Colorado: El Paso	City of Colorado Springs.	Aug. 11, 1994, Aug. 18, 1994, *Gazette Telegraph.*	The Honorable Robert Isaac, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901–1575.	July 22, 1994	080060
Colorado: El Paso	Unincorporated areas.	Aug. 4, 1994, Aug. 11, 1994, *Gazette Telegraph.*	The Honorable Jerri Howells, Chairperson, El Paso County Board of Commissioners, 27 East Vermijo, Colorado Springs, Colorado 80903.	July 1, 1994	080059
Idaho: Ada	City of Boise	Aug. 23, 1994, Aug. 30, 1994, *The Statesman.*	The Honorable Brent Coles, Mayor, City of Boise, P.O. Box 500, Boise, Idaho 83701–0500.	Aug. 9, 1994	160002
Idaho: Ada	City of Meridian	Aug. 11, 1994, Aug. 18, 1994, *Valley News.*	The Honorable Grant P. Kingsford, Mayor, City of Meridian, 33 East Idaho Avenue, Meridian, Idaho 83642.	July 20, 1994	160180
Idaho: Ada	Unincorporated areas.	Aug. 23, 1994, Aug. 30, 1994, *The Idaho Statesman.*	The Honorable Vern Bisterfeldt, Chairman, Ada County Board of Commissioners, 650 Main Street, Boise, Idaho 83702.	Aug. 9, 1994	160001
Kansas: Sedgwick	Unincorporated areas.	Aug. 2, 1994, Aug. 9, 1994, *Wichita Eagle.*	Ms. Betsy Gwin, Chairperson, Sedgwick County Board of Commissioners, 525 North Main Street, Suite 320, Wichita, Kansas 67203.	July 1, 1994	200321
Texas: El Paso	City of El Paso	Aug. 5, 1994, Aug. 12, 1994, *Gazette Telegraph.*	The Honorable Larry Francis, Mayor, City of El Paso, Two Civic Center Plaza, El Paso, Texas 79901–1196.	June 23, 1994	480214
Texas: Dallas	City of Farmers Branch.	Aug. 4, 1994, Aug. 11, 1994, *Metrocrest News.*	The Honorable Dave Blair, Mayor, City of Farmers Branch, 13000 William Dodson Parkway, Farmers Branch, Texas 75234.	July 1, 1994	480174
Texas: Harris	Unincorporated areas.	Aug. 24, 1994, Aug. 31, 1994, *Houston Chronicle.*	The Honorable Jon Lindsay, Harris County Judge, Ninth Floor Courtroom, 1001 Preston, Suite 911, Houston, Texas 77002.	Aug. 5, 1994	480287
Texas: Montgomery.	Unincorporated areas.	Aug. 12, 1994, Aug. 19, 1994, *Houston Chronicle.*	The Honorable Alan Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Aug. 5, 1994	480483
Texas: Bell	City of Temple	Aug. 5, 1994, Aug. 12, 1994, *Temple Daily Telegram.*	The Honorable J.W. Perry, Mayor, City of Temple, P.O. Box 1200, Temple, Texas 76503–1200.	June 15, 1994	480034

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

Dated: October 5, 1994.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–25738 Filed 10–17–94; 8:45 am]

BILLING CODE 6718–03–P–M

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below. The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures

that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646–2756.

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
CALIFORNIA	
Foster City (city), San Mateo County (FEMA Docket No. 6915)	
San Francisco Bay:	
Areas on bay side of the Foster City Levee System	*7
Maps are available for inspection at City Hall, City of Foster City, 610 Foster City Boulevard, Foster City, California.	
NEBRASKA	
Bellevue (city), Sarpy County (FEMA Docket No. 7088)	
Big Papillion-Papillion Creek:	
At the southern extraterritorial limits, approximately 2,300 feet downstream of Burlington Northern Railroad	*973
Approximately 100 feet upstream of Wagon Trail Road	*978
Just upstream of Kennedy Expressway	*982
Just upstream of State Highway 370	*989
Just downstream of Cornhusker Drive	*993
At Sarpy-Douglas County Boundary	*998
West Papillion Creek:	
At the confluence with Big Papillion Creek	*990
Approximately 100 feet upstream of 36th Street	*991
At the extraterritorial limits located approximately 2,800 feet upstream of 48th Street	*1,002
Betz Road Ditch:	
Approximately 600 feet downstream of U.S. Highway 73–75	*998
Approximately 150 feet downstream of State Highway 370	*1,003
Approximately 100 feet upstream of Twin Ridge Drive	*1,028
Just upstream of Fairfax Drive	*1,057
Approximately 250 feet upstream of Lincoln Road	*1,073
Maps are available for inspection at the Planning Department, City of Bellevue, 210 West Mission Street, Bellevue, Nebraska.	
La Vista (city), Sarpy County (FEMA Docket No. 7088)	
Big Papillion-Papillion Creek:	
Approximately 6,370 feet upstream of Cornhusker Drive	*994
At the Sarpy-Douglas County Boundary	*998
West Papillion Creek:	
Approximately 2,700 feet downstream of Giles Road	*1,026
Approximately 1,500 feet downstream of Giles Road at the extraterritorial limits	*1,027
Just downstream of Giles Road	*1,029
Approximately 400 feet downstream of Harrison Road	*1,040

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 950 feet upstream of Interstate Highway 80 at the Sarpy-Douglas County Boundary	*1,044
Maps are available for inspection at City Hall, City of La Vista, 8116 Parkview Boulevard, La Vista, Nebraska.	
Papillion (city), Sarpy County (FEMA Docket No. 7088)	
Big Papillion Creek:	
At the intersection of the floodway boundary and the east extraterritorial limits, at a point located approximately 1,600 feet north of Cornhusker Drive	*993
Approximately 6,370 feet upstream of Cornhusker Drive	*994
West Papillion Creek:	
At the east extraterritorial limits located approximately 2,800 feet upstream of 48th Street	*1,002
Just upstream of 66th Street	*1,006
Just downstream of Washington Street (84th Street)	*1,012
Approximately 1,500 feet downstream of Giles Road at the extraterritorial limits	*1,027
West Midland Creek:	
Approximately 1,040 feet upstream of Chicago Rock Island and Pacific Railroad	*1,060
Approximately 2,040 feet upstream of Chicago Rock Island and Pacific Railroad	*1,069
Maps are available for inspection at City Hall, City of Papillion, 122 East Third Street, Papillion, Nebraska.	
Sarpy County (unincorporated areas) (FEMA Docket No. 7095)	
Big Papillion-Papillion Creek:	
At Laplatte Road	*967
At the extraterritorial limits of the City of Bellevue, approximately 2,300 feet downstream of Burlington Northern Railway	*973
Maps are available for inspection at the Sarpy County Courthouse, 1210 Golden Gate Drive, Papillion, Nebraska.	
OREGON	
Eugene (city), Lane County (FEMA Docket No. 7103)	
Amazon Creek:	
Just downstream of Beltline Highway	*390
Approximately 1,200 feet downstream of Bertelson Road	*392
Just downstream of Bertelson Road	*393
Just downstream of West 11th Avenue	*394
Maps are available for inspection at the City of Eugene, Engineering Division, 244 East Broadway, Eugene, Oregon.	

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

Dated: October 5, 1994.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94–25736 Filed 10–17–94; 8:45 am]

BILLING CODE 6718–03–P–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–35; RM–8442]

Radio Broadcasting Services; Muscatine, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Muscatine Communications, Inc., allots Channel 226A to Muscatine, Iowa. *See* 59 FR 25874, May 18, 1994. Channel 226A can be allotted to Muscatine, Iowa, in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.8 kilometers (3.0 miles) south to avoid a short-spacing to Station KATF(FM), Channel 225C1, Dubuque, Iowa. The coordinates for Channel 226A at Muscatine are North Latitude 41–22–52 and West Longitude 91–04–26. With this action, this proceeding is terminated.

DATES: Effective November 28, 1994. The window period for filing applications will open on November 28, 1994, and close on December 29, 1994.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–35, adopted October 4, 1994, and released October 13, 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, ITS, 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 Iowa, is amended by adding Channel 226A to Muscatine.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–25700 Filed 10–17–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–9; RM–8423]

Radio Broadcasting Services; Tunica, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Tunica Broadcasting, allots Channel 241C3 to Tunica, Mississippi. See 59 FR 07669, February 16, 1994. Channel 241C3 can be allotted to Tunica, Mississippi, in compliance with the Commission's minimum distance separation requirements with a site restriction 6.8 kilometers (4.2 miles) southwest to avoid short-spacing conflicts with Station WLZA–FM, Channel 241C2, Eurpora, Mississippi, and with a rule making proposal (RM–8336) to allot Channel 240C3 at Harrisburg, Arkansas. The coordinates for Channel 241C3 at Tunica are 34–38–56 and 90–26–39. With this action, this proceeding is terminated.

DATES: Effective November 28, 1994. The window period for filing applications will open on November 28, 1994, and close on December 29, 1994.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–9, adopted October 4, 1994, and released October 13, 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, ITS, 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 Mississippi, is amended by adding Channel 241C3 at Tunica.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–25699 Filed 10–17–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–40, RM–8456]

Radio Broadcasting Services, Bamberg, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Branch Communications, substitutes Channel 239A for Channel 221A at Bamberg, South Carolina, and modifies Station WWBD(FM)'s license accordingly. See 59 FR 25875, May 18, 1994, Channel 239A can be allotted to Bamberg in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's licensed site. The coordinates for Channel 239A at Bamberg are North Latitude 33–18–50 and West Longitude 81–04–43. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 28, 1994.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6350.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 94–40, adopted Oct. 6, 1994, and released Oct. 14, 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, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.292(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 221A and adding Channel 239A at Bamberg.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 94–25793 Filed 10–17–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 235

Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Contracting Procedures

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Department of Defense is amending the Defense FAR Supplement to provide streamlined research and development contracting procedures for complex, detailed statements of work that are inappropriate for the Broad Agency Announcement process.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Mrs. Linda W. Neilson, (703) 604–5929.

SUPPLEMENTARY INFORMATION:

A. Background

These test procedures are the result of a 1987 Defense Science Board summer group recommendation that called for streamlined research and development contracting procedures. The Lab Demo Contracting Subgroup of the Lab Demo project proposed a streamlined procedure for solicitation and a standard format for award of R&D contracts in support of military department laboratories.

The streamlined contracting procedures consist of a solicitation published in the Commerce Business Daily (CBD); terms and conditions incorporated by reference; a supplemental package, if necessary, which is mailed to all interested parties who provide address information. The statement of work may be published in the CBD with the solicitation summary or may be included in a supplemental package. The use of a standard contract is intended to make the contracting process easier on industry, because offerors can expect all DoD laboratories to use the same contract format.

The Department of Defense published proposed streamlined research and development contracting procedures, with a request for comments, on November 3, 1993 (58 FR 58673). The streamlined procedures have been revised as a result of the public comments received in response to the proposed rule.

A. Regulatory Flexibility Act

DoD certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because the rule uses existing clauses and provisions and merely provides a streamlined method for communicating solicitation information to prospective offerors. In addition, the use of a standard contract is intended to make the contracting process easier on industry, because offerors can expect all DoD laboratories to use the same contract format.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose any new recordkeeping, information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 235

Government procurement.

Nancy L. Ladd,

Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 235 is amended as follows:

1. The authority citation for 48 CFR Part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Subpart 235.70 is added as follows:

Subpart 235.70—Research and Development Streamlined Contracting Procedures—Test

Sec.
235.7000 Scope.
235.7001 Definitions.
235.7002 Applicability.
235.7003 Reporting requirements.
235.7004 The research and development streamlined solicitation (RDSS).
235.7004–1 General.
235.7004–2 Solicitation procedures.
235.7004–3 Proposal evaluation and contract award procedures.
235.7005 The research and development standard contract (RDSC).
235.7006 The research and development streamlined contracting format.

Subpart 235.70—Research and Development Streamlined Contracting Procedures—Test

235.7000 Scope.

This subpart prescribes streamlined acquisition procedures for use in support of DoD laboratories in acquiring research and development, as defined in 235.001 and FAR 35.001.

235.7001 Definitions.

As used in this subpart—

(a) *Research and development standard contract (RDSC)* means the contract that results from the use of the research and development streamlined solicitation (RDSS), or other solicitation procedures that meet the criteria for use of the RDSS.

(b) *Research and development streamlined solicitation (RDSS)* means the solicitation published in the Commerce Business Daily and a supplemental package, if necessary.

(c) *Supplemental package* is part of the streamlined solicitation, if appropriate. It contains any information that is too voluminous to be included in the solicitation published in the Commerce Business Daily.

235.7002 Applicability.

(a) Contracting offices that have been approved by the Director of Defense Procurement for participation in the test may use the procedures of this subpart in accordance with the approved test plan and paragraphs (b) through (d) of this section. The Director of Defense Procurement has approved—

(1) Army: Army Materiel Command contracting offices when contracting for Army Research Laboratory, Missile Research & Development Center, and the Medical Research & Development Command; Army Corps of Engineers contracting offices when contracting for the Waterways Experiment Station.

(2) Navy: Naval Research Laboratory contracting office; Naval Surface Warfare Center contracting offices when contracting for the Carderock, Crane, Dahlgren, Indian Head and Port Hueneme divisions.

(3) Air Force: Air Force Materiel Command contracting offices when contracting for Armstrong Laboratory, Phillips Laboratory, Rome Laboratory, Wright Laboratory.

(4) Defense Agencies: Armed Forces Radiobiology Research Institute contracting office, Defense Nuclear Agency contracting office.

(b) Consider using the procedures in this subpart when the acquisition will result in a cost-reimbursement type contract that is valued at $10,000,000 or less and meets the criteria for research and development as defined in 235.001 and FAR 35.001.

(c) Do not use the procedures of this subpart to contract for "engineering development," "operational system development," or "management and support" as defined in 235.001; or for laboratory supplies and equipment, base support services, or other services identified in FAR 37.101 (a) through (h).

(d) Regardless of whether or not the RDSS is used, the contracting officer may use the RDSC format at 235.7006 for any acquisition that meets the criteria in 235.7002(b).

235.7003 Reporting requirements.

(a) The reporting requirement in this subpart is exempt from licensing in accordance with paragraph E.4.c. of DoD 8910.1M, "DoD Procedures for Management of Information Requirements."

(b) Contracting offices that have been approved for participation in the test shall report the information required in paragraphs (c) and (d) of this subpart to their representatives on the Test Oversight Committee. These representatives are—

(1) Army: Mr. Chuck Boylan, Army Research Laboratory, Fort Monmouth, Phone: (908) 544–3471; DSN 995–3471, FAX: (908) 532–5188; DSN 992–5188.

(2) Navy: Ms. Mary Ann Carpenter, Naval Research Laboratory, Phone: (202) 767–0066; DSN 297–0066, FAX: (202) 767–5896; DSN 297–5896.

(3) Air Force: Lt Col Bill Borchardt, Air Force Materiel Command, Wright-Patterson Air Force Base, Phone: (513) 257–8934; DSN 787–8934, FAX: (513) 476–1431; DSN 986–1431.

(4) Defense Agencies:

(i) Armed Forces Radiobiology Research Institute: Major Vikki Stocker, Logistics and Engineering, Phone: (301) 295–0454; DSN 295–0454, FAX: (301) 295–1863; DSN 295–1863.

(ii) Defense Nuclear Agency: Mr. Tom McCabe, Acquisition Management Office, Phone: (703) 325–6961; DSN 221–6961, FAX: (703) 325–9291; DSN 221–9291.

(c) Each approved test contracting office shall collect the following aggregate data during the test period:

(1) Number of contract actions selected for the test.

(2) Number of claims related to the streamlined procedures and streamlined solicitation/standard contract.

(3) Contracting office feedback regarding—

(i) The streamlined procedures.

(ii) Use of the RDSC.

(4) Number of acquisitions processed that used the RDSC in conjunction with traditional solicitations.

(5) Number of solicitations and contracts in which clauses and provisions not listed in the format at 235.7006 are added.

(d) Each approved test contracting office shall collect and provide the following data for each contracting action processed using the streamlined procedures:

(1) Activity processing the contracting action.

(2) Total value of the resulting contract.

(3) Brief description of the item/service acquired.

(4) Procurement action lead time for the specific action.

(5) Whether or not a supplemental package was used.

(i) Size (number of pages).

(ii) Contents.

(6) Use of RDSC in conjunction with traditional solicitations.

(7) If a protest is filed, the issues under protest, and the disposition.

(8) The rationale supporting any requests for replacement of RDSS with a traditional solicitation.

235.7004 The research and development streamlined solicitation (RDSS).

235.7004–1 General.

The RDSS process consists of:

(a) *Synopsis.* The synopsis required by FAR 5.203(a), in addition to providing the information set forth at FAR 5.207, must advise potential offerors that a conventional solicitation will not be issued but that the solicitation will appear in a subsequent edition of the Commerce Business Daily (CBD). The synopsis must also advise potential offerors to provide address information to the office indicated in order to be included on the mailing list for any supplemental packages and/or amendments.

(b) *Solicitation.* The solicitation is published in a second CBD notice. The solicitation consists of the information listed at 235.7006(c)(A.1), including the statement of work, and incorporates by reference the appropriate terms and conditions in the format at 235.7006. FAR 5.207 limits the submissions to the CBD to 12,000 textual characters (approximately 3½ single-spaced pages).

(c) *Supplemental package.* Use a supplemental package if the solicitation must exceed 3½ single-spaced pages, or to provide forms or other printed material to potential offerors. Send the supplemental package on the date the solicitation is published in the CBD to all interested parties that provide address information.

(d) *Amendments.* Amend the RDSS as set forth at 235.7004–2(f).

235.7004–2 Solicitation procedures.

(a) Publish the synopsis as soon as the information required by FAR 5.207 is available.

(b) Publish the solicitation no earlier than 15 days after publication of the synopsis and include, as a minimum, the information required by 235.7006(c)(A.1) and a reference to the synopsis.

(c) Send any supplemental package on the date the solicitation is published in the Commerce Business Daily, to all interested parties that provided address information.

(d) In accordance with FAR 5.203(b), establish a due date for submission of offers that is no earlier than 45 days after publication of the synopsis.

(e) Request cost and technical proposals from all offerors. To encourage preparation of better cost proposals, consider allowing a delay between the due dates for technical and cost proposals.

(f) Amend the solicitation, if necessary, by forwarding an SF 30, Amendment of Solicitation/Modification of Contract, to all interested parties that provided address information in response to the synopsis.

(g) Post copies of all Commerce Business Daily notices in accordance with FAR 5.101(a)(2).

235.700–3 Proposal evaluation and contract award procedures.

(a) Evaluate proposals in accordance with FAR Subpart 15.6, as supplemented by departmental procedures and this subpart.

(b) Select the proposal which offers the greatest value in terms of the evaluation factors set forth in the RDSS.

(c) Before award, require the apparent successful offeror to submit the representations and certifications set forth in 235.7006(c), Section K, Representations, Certifications and Other Statements of Offerors or Quoters.

(d) Whenever appropriate, award without discussion pursuant to FAR 52.215–16, Alternate (III).

235.7005 The research and development standard contract (RDSC).

The RDSC is the standard contract that results from the use of the RDSS or other solicitation procedures that meet the criteria for use of the RDSS. Include the following in RDSCs:

(a) Standard Form (SF) 33, Solicitation, Offer and Award, or SF 26, Award/Contract;

(b) Sections B through J of the RDSS or other solicitation, with applicable fill-ins completed and clause dates added.

235.7006 The research and development streamlined contracting format.

(a) The clauses and provisions prescribed in the exhibit to paragraph (c) of this section are mandatory unless they are marked with an asterisk. Terms, clauses and provisions marked with an asterisk are for use as appropriate as prescribed elsewhere in FAR and DFARS. List the numbers of any asterisked terms, clauses and provisions that apply to the acquisition in the solicitation published in the Commerce Business Daily (See 235.7006(c)(A.1)(v)).

(b) At the time of contract award to educational or nonprofit institutions, delete those clauses and provisions that do not apply to such institutions, and, as necessary, replace with the appropriate alternatives. For example, FAR 52.203–10 will be included in all solicitations, but deleted in awards to educational institutions.

(c) The research and development streamlined contracting format is set forth in the following exhibit:

Exhibit—Research and Development Streamlined Contracting Format

Part I—The Schedule

Section A, Solicitation/Contract Form

(A.1) Research and development streamlined solicitation (RDSS). Include the following in the RDSS:

(i) Solicitation number;

(ii) A statement that award will be made in accordance with DFARS Subpart 235.70, Research and Development Streamlined Contracting Procedures;

(iii) A statement as to whether the RDSS includes a supplemental package.

(iv) Instructions for obtaining any supplemental package, including use of Electronic Bulletin Boards, as appropriate;

(v) A statement that all of the mandatory terms, clauses, and provisions, and certain asterisked terms, clauses, and provisions in DFARS 235.7006 are incorporated by reference. This statement must list the asterisked terms, clauses and provisions that apply. (For example: "All of the mandatory terms, clauses and provisions at DFARS 235.7006, Research and development, streamlined contracting format, and the following optional items are incorporated by reference: B.4, B.5, C.1, E.3, I.80");

(vi) A statement that the clauses and provisions are those in effect through FAC ____ and DAC ____;

(vii) A statement that the standard evaluation factors at Section M of this subpart apply, or, if they do not apply, the applicable evaluation factors. If the standard evaluation factors are modified in any way, the modifications must be clearly expressed so that the result is unambiguous. Additions to and deletions from Section M must be clearly annotated in the RDSS.

(viii) Identification of data requirements by including either:

(A) A summary of the data requirements that identifies all deliverable data items, and specifies number of copies and frequency of delivery; or

(B) A notice that DD Form 1423, Contract Data Requirements List, is included in the supplemental package;

(ix) Type of cost contract contemplated;

(x) Estimated period of performance;

(xi) Notice of preproposal conference, if applicable, with location, date, and time;

(xii) Notice of small business or other set-aside, if applicable;

(xiii) Notice of place, date, and time technical and cost proposals are due;

(xiv) Number of copies of technical and cost proposals required;

(xv) Proposal page limitations;

(xvi) Whether multiple awards are contemplated;

(xvii) Name, address, and telephone number of contracting officer;

(xviii) Any applicable Commerce Business Daily numbered notes;

(xix) Statement that a DD Form 254, Contract Security Classification Specification, will be included in the supplemental package, if appropriate; and

(xx) The statement of work, or a statement that the statement of work is in the supplemental package.

(A.2) Research and development standard contract (RDSC). Use either Standard Form (SF) 33, Solicitation, Offer and Award, or SF 26, Award/Contract.

Section B, Supplies or Services and Prices/Costs

(Use appropriate CLIN structure. Include item descriptions.)

(B.1) Type of Contract.

This is a _____ contract.

(B.2)* Estimated Cost. (Use when no fee will be paid)

The total estimated cost for this contract is $_____.

(B.3)* Cost Plus Fixed Fee. (Applicable to fee-bearing contracts)

The total estimated cost for this contract is $_____.

The total fixed fee for this contract is $_____.

(B.4)* Award Fee. (Applicable to award fee-type contracts)

In addition to the fee set forth elsewhere in the contract, the Contractor may earn an award fee up to $_____ on the basis of performance during the performance periods, and in the amount specified in the award fee plan.

(i) Monitoring of performance. The contractor's performance will be monitored continually by the Award Fee Review Board.

(ii) Award fee plan. This plan provides necessary administrative information, including the evaluation criteria and schedule, for the purpose of implementing the award fee provision. Upon contract award, the Contractor will be provided the award fee plan subject to any withholdings autorized by the ____ (insert appropriate contracting official).

(iii) Modification of award fee plan. Before the start of an evaluation period the Government may unilaterally:

(A) Modify the award fee performance evaluation criteria and areas applicable to the evaluation period; and

(B) Redistribute the remaining award fee dollars among the remaining periods. The Contracting Officer will notify the Contractor in writing of the changes and modify the award fee plan accordingly.

(iv) The following standards of performance shall be used in determining whether and to what extent the Contractor has earned or may be entitled to receive any award fee:

(A) Excellent performance: Contractor performance of virtually all contract task requirements is uniformly well above standard and exceeds the standard by a substantial margin in numerous significant tangible or intangible benefits to the Government (i.e., improved quality, responsiveness, increased timeliness, or generally enhanced effectiveness of operations). There are few areas for improvement; these areas are all minor; there are no recurring problems; and management has initiated effective corrective action whenever needed.

(B) Very good performance: The contractor's performance of most contract task requirements is uniformly well above standard and exceeds the standard in many significant areas. Although some areas may require improvements, these are minor and are more than offset by better performance in other areas. Few, if any, recurring deficiencies have been noted in the Contractor's performance and the contractor has demonstrated/taken satisfactory corrective action. Innovative management actions have resulted in tangible or intangible benefits to the Government (i.e., improved quality, responsiveness, increased quantity, increased timeliness, or generally enhanced effectiveness of operations).

(C) Good performance: Contractor's performance of most contract task requirements meets the standard, and it exceeds the standard in several significant areas. While the remainder of the contractor's effort generally meets contract requirements, areas requiring improvement are more than offset by better performance in other areas. Management actions taken or initiated have resulted in some demonstrated benefits to the Government (i.e., improved quality, responsiveness, timeliness, or effectiveness of operations).

(D) Marginal performance: Contractor performance meets most contract standards. Although there are areas of good or better performance, these are more or less offset by lower rated performance in other areas. Little additional tangible benefit is observable due to contractor effort or initiative.

(E) Submarginal performance: Contractor performance is below standard in several areas. Contractor performance in accordance with requirements is inconsistent. Quality, responsiveness, timeliness, and/or economy in many areas require attention and action. Corrective actions have not been taken, or are ineffective. Overall submarginal performance shall not be given award fee.

(v) Maximum payable award fee. The maximum payable award fee in any evaluation period shall be determined based on the amount set forth in the applicable contract line items and a percentage based on the Government's evaluation on the Contractor's performance as follows:

Performance	Percent of maximum award fee payable
Excellent	___ to ___
Very Good	___ to ___
Good	___ to ___
Marginal	___ to ___
Submarginal	0

(vi) Self-evaluation. The Contractor may submit to the Contracting Officer within five working days after the end of each award fee evaluation period, a brief written self-evaluation of its performance for the period. This statement may contain information which may be used to assist the Award Fee Review Board in its evaluation of the Contractor's performance during the period.

(vii) Disputes. The decision of the Fee Determining Official on the amount of award fee will not be subject to the "Disputes" clause.

(viii) Award fee payment.

(A) As determined by the Fee Determining Official, payment of any award fee will not be subject to the "Allowable Cost and Payment" and "Termination (Cost Reimbursement)" clauses of this contract.

(B) The Contractor may submit vouchers for the award fee immediately upon receipt of the Contracting Officer's written award fee notification.

(B.5)* Target Cost and Fee. (Applicable to incentive fee-type contracts.)

The target cost is $_____.

The target fee is $_____.

The minimum fee the contractor may receive $_____.

The maximum fee the contractor may receive $_____.

Share ration: _____. (Government/Contractor)

(B.6)* Payment of Fixed Fee on Cost-plus-fixed-fee (Completion) Contracts. The fixed fee shall be paid in monthly installments based upon the percentage of completion of work as determined by the Administrative Contracting Officer, subject to the withholding provisions of the Contract.

(B.7)* Payment of Fixed Fee on Cost-plus-fixed-fee (Term) Contracts. (Applicable to cost-plus-fixed-fee (term) contracts when the clause at FAR 52.216–8 is used.) Pursuant to the clause at FAR 52.216–8, "Fixed Fee," and subject to withholding provisions contained in that clause or elsewhere in this contract, fixed fee shall be paid to the Contractor based upon the percentage of hours completed as related to the total hours set forth in the contract on each voucher. The Contractor shall certify to the level of effort expended during that period. The Government technical representative shall sign a statement on the certificate that the work performed during the period has been performed satisfactorily.

(B.8)* Options. (Applicable to contracts with options) The Government may require performance of the work required by CLIN _____. The Contracting Officer shall provide written notice of intent to exercise this option to the Contractor on or before _____. If the Government exercises this option by _____ (insert date), the Contractor shall perform at the estimated cost and fee, if applicable, set forth below.

Estimated Cost	$_____
or	
Estimated Cost	$_____
Fixed Fee	$_____
Total	$_____
or	
Estimated Cost	$_____
Base Fee	$_____
Maximum Award Fee	$_____
Total	$_____
or	
Target Cost	$_____
Minimum Fee	$_____
Target Fee	$_____
Maximum Fee	$_____
Share Ratio	$_____

Section C, Description/Specifications/Work Statements

(C.1)* Classified Work Statement. (Applicable if Section C is classified.) The description/specifications/work statement entitled, "_____," classified _____, dated _____, is incorporated herein by reference. A copy may be obtained from the Contracting Officer, if a need-to-know is established and appropriate security clearance has been granted.

(C.2)* Unclassified Work Statement. (Applicable if Section C is unclassified and is attached to the contract.) The description/specifications/work statement is included as Attachment _____.

(C.3)* Contractor's Technical Proposal. (Applicable if portions of the Contractor's proposal are incorporated by reference. Include only those portions of the proposal that specifically describe the work to be performed.) The Contractor's proposal entitled, "_____," pages _____, dated _____, is incorporated herein by reference.

Section D, Packing and Marking

(D.1) Commercial Packaging.

Preservation, packaging, and packing shall provide adequate protection against physical damage during shipment for all deliverable items in accordance with standard commercial practices.

Section E, Inspection and Acceptance

(1) Federal Acquisition Regulation clauses.

(E.1)* ..... 52.246–8 ..... Inspection of Research and Development—Cost Reimbursement

(E.2)* ..... 52.246–8 ..... Inspection of Research and Development—Cost Reimbursement (Alternate I)

(E.3)* ..... 52.246–9 ..... Inspection of Research and Development (Short Form)

(2) Defense Federal Acquisition Regulation Supplement clauses.

(E.4)* ..... 252.246–7000 .. Material Inspection and Receiving Report

(3) Other provisions.

(E.5) Inspection and Acceptance

Inspection and acceptance of any and all deliverables under this contract will be accomplished by the contracting officer or a designated representative.

Section F, Deliveries or Performance

(F.1) FAR 52.212–13 Stop Work Order-Alternate I.

(F.2) Delivery of Reports.

(i) All data shall be delivered in accordance with the delivery schedule shown on the Contract Data Requirements List, attachments, or as incorporated by reference.

(ii) All reports and correspondence submitted under this contract shall include the contract number and project number and be forwarded prepaid. A copy of the letters of transmittal shall be delivered to the Procuring Contracting Officer (PCO) and the Administrative Contracting Officer (ACO). The addresses are set forth on the contract award cover page. All other address(es) and code(s) for consignee(s) are as set forth in the contract or incorporated by reference.

(F.3)* FAR 52.247–55 F.O.B. Point for Delivery of Government-Furnished Property

Section G, Contract Administration Data

(G.1)* Contractor Payment Address. (To be filled in at time of contract award. Applicable if the Contractor has specified a payment address other than the address shown on the cover page of the contract.)

Contract Payment Address:

_____

_____

_____

(G.2)* Incremental Funding. (Applicable to incrementally funded contracts.) This contract is incrementally funded pursuant to the "Limitation of Funds clause, FAR 52.232–22. Funds are hereby obligated in the amount of $_____ and it is estimated that they are sufficient for contract performance through _____. From time to time, additional funds will be allotted to the contract in accordance with FAR 52.232–22.

(G.3)* Request for Equal Opportunity Preaward Clearance of Subcontracts. (Applicable to subcontracts over $1 million.) To provide the Contracting Officer with adequate time to process the Contractor's request for preaward clearance of subcontracts as required by FAR 52.222–28, the prime contractor shall request preaward clearance through the Contracting Officer at least 30 calendar days before the proposed award date, unless the cognizant Department of Labor Compliance Office agrees to a shorter time.

(G.4)* Contracting Officer's Representative. (To be filled in at time of contract award.) The Contract Officer's Representative for this contract is:

_____

_____

_____

Section H, Special Contract Requirements

(H.1) Incorporation of Section K by Reference. Pursuant to Federal Acquisition Regulation (FAR) 15.406–1(b), Section K of the solicitation is hereby incorporated by reference.

(H.2)* Rent-Free Use of Government Property. The Contractor may use on a rent-free, noninterference basis, as necessary for the performance of this contract, the Government property accountable under contract(s) _____. The Contractor is responsible for scheduling the use of all property covered by the above referenced contract(s) and the Government shall not be responsible for conflicts, delays, or disruptions to any work performed by the Contractor due to use of any or all such property under this contract or any other contracts under which use of such property is authorized.

(H.3)* Government-Furnished Property. The Government will furnish to the Contractor for use in the performance of the contract on a rent-free basis the Government-owned property listed in an attachment to this contract, subject to the provisions of the Government Property Clause of the Contract Clauses.

(H.4)* Scientific/Technical Information. If not already registered, the Contractor is encouraged to register for Defense Technical Information Center (DTIC) service by contacting the following: Defense Technical Information Center, Attn: Registration Section (DTIC–BCS), Bldg 5, Cameron Station, Alexandria, VA 22304–6135, (703) 274–6871.

To avoid duplication of effort and conserve scientific and technical resources, the Contractor is encouraged to search existing sources in DTIC to determine the current state of the art concepts, studies, etc.

(H.8) List of Data to be Provided with Other Than Unlimited Rights (See 227.403–70(b) and 252.227–7013(k)).

With the exception of the technical data or computer software set out below, technical data and computer software to be delivered under this contract shall be furnished with unlimited rights as defined in Section I clause DFARS 252.227–7013.

Items, components, processes or computer software	Drawing/document No. or title	Government's rights
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Part II—Contract Clauses

Section I, Contract Clauses

(1) Federal Acquisition Regulation clauses.

(I.1) ..... 52.252–2 ..... Clauses Incorporated by Reference

(I.2) ..... 52.202–1 ..... Definitions

(I.3) ..... 52.203–1 ..... Officials not to Benefit

(I.4) ..... 52.203–3 ..... Gratuities

(I.5)	52.203–5	Covenant Against Contingent Fees
(I.6)	52.203–7	Anti-Kickback Procedures
(I.7)	52.203–10	Price or Fee Adjustment for Illegal or Improper Activity (Except educational institutions.)
(I.8)	52.209–6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
(I.9)	52.215–1	Examination or Records by Comptroller General
(I.10)	52.215–2	Audit—Negotiation
(I.11)	52.215–2	Audit—Negotiation, Alternate II (For educational institutions and nonprofit organizations.)
(I.12)	52.215–26	Integrity of Unit Prices
(I.13)	52.215–33	Order of Precedence
(I.14)	52.216–7	Allowable Cost and Payment (Modified in accordance with 16.307 as applicable.)
(I.15)	52.219–8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns
(I.16)	52.219–13	Utilization of Women-Owned Small Businesses
(I.17)	52.220–3	Utilization of Labor Surplus Area Concerns
(I.18)	52.220–4	Labor Surplus Area Subcontracting Program
(I.19)	52.222–3	Convict Labor
(I.20)	52.222–26	Equal Opportunity
(I.21)	52.222–35	Affirmative Action for Special Disabled and Vietnam Era Veterans
(I.22)	52.222–36	Affirmative Action for Handicapped Workers
(I.23)	52.222–37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era
(I.24)	52.223–6	Drug-Free Workplace
(I.25)	52.225–11	Restrictions on Certain Foreign Purchases
(I.26)	52.227–1	Authorization and Consent—Alternate I
(I.27)	52.227–2	Notice and Assistance Regarding Patent and Copyright Infringement
(I.28)	52.228–7	Insurance-Liability to Third Persons
(I.29)	52.232–9	Limitation on Withholding of Payments
(I.30)	52.232–23	Assignment of Claims
(I.31)	52.232–25	Prompt Payment
(I.32)	52.232–28	Electronic Funds Transfer Payment Methods
(I.33)	52.233–1	Disputes
(I.34)	52.233–3	Protest After Award—Alternate I
(I.35)	52.242–1	Notice of Intent to Disallow Costs
(I.36)	52.242–13	Bankruptcy
(I.37)	52.244–2	Subcontracts (Cost-Reimbursement and Letter Contracts) Alternate I
(I.38)	52.244–5	Competition in Subcontracting
(I.39)	52.247–1	Commercial Bill of Lading Notations
(I.40)	52.249–14	Excusable Delays
(I.41)	52.253–1	Computer-Generated Forms
(I.42)*	52.203–9	Requirement for Certificate of Procurement Integrity-Modification
(I.43)*	52.203–12	Limitation on Payments to Influence Certain Federal Transactions
(I.44)*	52.204–2	Security Requirements
(I.45)*	52.204–2	Security Requirements—Alternate I (For educational institutions.)
(I.46)*	52.215–22	Price Reduction for Defective Cost or Pricing Data
(I.47)*	52.215–23	Price Reduction for Defective Cost or Pricing Data-Modifications
(I.48)*	52.215–24	Subcontractor Cost or Pricing Data
(I.49)*	52.215–25	Subcontractor Cost or Pricing Data-Modifications
(I.50)*	52.215–27	Termination of Defined Benefit-Pension Plans (Except educational institutions.)
(I.51)*	52.215–31	Waiver of Facilities Capital Cost of Money (Except educational institutions.)
(I.52)*	52.215–39	Reversion or Adjustment of Plans for Post-retirement Benefits Other than Pension (PRB)
(I.53)*	52.216–8	Fixed Fee
(I.54)*	52.216–10	Incentive Fee
(I.55)*	52.216–11	Cost Contract—No Fee
(I.56)*	52.216–12	Cost Contract—No Fee—Alternate I
(I.57)*	52.216–12	Cost-Sharing Contract—No Fee
(I.58)*	52.216–12	Cost-Sharing Contract—No Fee—Alternate I
(I.59)*	52.216–15	Predetermined Indirect Cost Rates
(I.60)*	52.219–6	Notice of Total Small Business Set-Aside
(I.61)*	52.219–6	Notice of Total Small Business Set-Aside—Alternate I
(I.63)*	52.219–9	Small Business and Small Disadvantaged Business subcontracting Plan
(I.64)*	52.219–14	Limitations on Subcontracting
(I.65)*	52.219–16	Liquidated Damages—Small Business Subcontracting Plan
(I.66)*	52.220–1	Preference of Labor Surplus Area Concerns
(I.67)*	52.222–1	Notice to the Government of Labor Disputes
(I.68)*	52.222–2	Payment for Overtime Premiums
(I.69)*	52.222–28	Equal Opportunity Preaward Clearance of Subcontracts
(I.70)*	52.223–2	Clean Air and Water
(I.71)*	52.223–3	Hazardous Material Identification and Material Safety Data
(I.72)*	52.223–7	Notice of Radioactive Materials (21 Days)
(I.73)*	52.226–1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises
(I.74)*	52.227–10	Filing of Patent Applications—Classified Subject Matter
(I.75)*	52.227–11	Patent Rights—Retention by the Contractor (Short Form)
(I.76)*	52.227–12	Patent Rights—Retention by the Contractor (Long Form)
(I.77)*	52.227–13	Patent Rights—Acquisition by the Government
(I.78)*	52.228–7	Insurance—Liability to Third Persons—Alternate I
(I.79)*	52.228–7	Insurance—Liability to Third Persons—Alternate II
(I.80)*	52.229–8	Taxes—Foreign Cost—Reimbursement Contracts

(I.81)*	52.229–10	State of New Mexico Gross Receipts and Compensating Tax
(I.82)*	52.230–2	Cost Accounting Standards (Except if exempted)
(I.83)*	52.230–3	Disclosure and Consistency of Cost Accounting Practices (Except if exempted)
(I.84)*	52.230–5	Administration of Cost Accounting Standards (Except educational institutions)
(I.85)*	52.232–17	Interest
(I.86)*	52.232–20	Limitation of Cost
(I.87)*	52.232–22	Limitation of Funds
(I.88)*	52.232–23	Assignment of Claims—Alternate I
(I.89)*	52.233–1	Disputes—Alternate I
(I.90)*	52.237–2	Protection of Government Buildings, Equipment and Vegetation
(I.91)*	52.242–10	F.O.B. Origin—Government Bills of Lading or Prepaid Postage
(I.92)*	52.242–11	F.O.B. Origin—Government Bills of Lading or Indicia Mail
(I.93)*	52.242–12	Report of Shipment (REPSHIP)
(I.94)*	52.243–2	Changes—Cost-Reimbursement—Alternate V
(I.95)*	52.243–6	Change Order Accounting
(I.96)*	52.243–7	Notification of Changes (30 Calendar Days)
(I.97)*	52.245–5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts)
(I.98)*	52.245–5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts—Alternate I (For educational institutions and nonprofit organizations.)
(I.99)*	52.245–19	Government Property Furnished "As Is"
(I.100)*	52.246–23	Limitation of Liability
(I.101)*	52.246–24	Limitation of Liability—High Value Items
(I.102)*	52.246–24	Limitation of Liability—High Value Items—Alternate I
(I.103)*	52.246–25	Limitation of Liability—Services
(I.104)*	52.247–63	Preference for U.S.-Flag Air Carriers
(I.105)*	52.247–66	Returnable Cylinder
(I.106)*	52.249–5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions)
(I.107)*	52.249–6	Termination (Cost-Reimbursement)
(I.108)*	52.251–1	Government Supply Sources
(2) Defense Federal Acquisition Regulation Supplement clauses.		
(I.109)	252.201–7000	Contracting Officers Representative
(I.110)	252.203–7001	Special Prohibition on Employment
(I.112)	252.203–7003	Prohibition Against Retaliatory Personnel Actions
(I.113)	252.204–7003	Control of Government Personnel Work Product
(I.114)	252.209–7000	Acquisitions from Subcontractors Subject to On-Site Inspection under the Intermediate-Range Nuclear Forces (INF) Treaty
(I.115)	252.225–7012	Preference for Certain Domestic Commodities
(I.116)	252.225–7031	Secondary Arab Boycott of Israel
(I.117)	252.227–7013	Rights in Technical Data and Computer Software
(I.118)	252.227–7018	Restrictive Markings on Technical Data
(I.119)	252.227–7029	Identification of Technical Data
(I.120)	252.227–7030	Technical Data—Withholding of Payment
(I.121)	252.227–7037	Validation of Restrictive Markings on Technical Data
(I.122)	252.231–7000	Supplemental Cost Principles
(I.123)	252.232–7006	Reduction or Suspension of Contract Payments Upon Finding of Fraud
(I.124)	252.242–7000	Postaward Conference
(I.125)	252.242–7001	Certification of Indirect Costs
(I.126)	252.247–7023	Transportation of Supplies by Sea
(I.127)*	252.203–7000	Statutory Prohibition on Compensation to Former Department of Defense Employees
(I.128)*	252.203–7002	Display of DoD Hotline Poster
(I.129)*	252.204–7000	Disclosure of Information
(I.130)*	252.204–7002	Payment for Subline Items Not Separately Priced
(I.131)*	252.205–7000	Provision of Information to Cooperative Agreement Holders
(I.132)*	252.215–7000	Pricing Adjustments
(I.133)*	252.215–7002	Cost Estimating System Requirements
(I.134)*	252.219–7001	Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns
(I.135)*	252.219–7002	Notice of Small Disadvantaged Business Set-Aside
(I.136)*	252.219–7003	Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts)
(I.137)*	252.219–7004	Small Business and Small Disadvantaged Business Subcontracting Plan (Test Program)
(I.138)*	252.219–7005	Incentive for Subcontracting with Small Business, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions (* * * To be negotiated___%.)
(I.139)*	252.219–7005	Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions—ALTERNATE I (* * * To be negotiated ___%.)
(I.140)*	252.219–7006	Notice of Evaluation Preference for Small Disadvantaged Business Concerns
(I.141)*	252.233–7001	Hazard Warning Labels
(I.142)*	252.223–7002	Safety Precautions for Ammunitions and Explosives
(I.143)*	252.223–7003	Change in Place of Performance—Ammunition and Explosives
(I.144)*	252.223–7004	Drug-Free Work Force
(I.145)*	252.225–7014	Preference for Domestic Speciality Metals
(I.146)*	252.225–7016	Restriction on Acquisition of Antifriction Bearings
(I.147)*	252.225–7025	Foreign Source Restrictions
(I.148)*	252.225–7026	Reporting of Contract Performance Outside the United States
(I.149)*	252.225–7032	Waiver of United Kingdom Levies
(I.150)*	252.226–7000	Notice of Historically Black College or University and Minority Institution Set-Aside
(I.151)*	252.227–7026	Deferred Delivery of Technical Data of Computer Software

(I.152)*	252.227–7027	Deferred Ordering of Technical Data or Computer Software
(I.153)*	252.227–7031	Data Requirements
(I.154)*	252.227–7034	Patent—Subcontracts
(I.155)*	252.227–7036	Certification of Technical Data Conformity
(I.156)*	252.227–7039	Patents—Reporting of Subject Inventions
(I.157)*	252.231–7001	Penalties for Unallowable Costs
(I.158)*	252.232–7000	Advance Payment Pool (For educational institutions and nonprofit organizations)
(I.159)*	252.233–7000	Certification of Claims and Requests for Adjustment or Relief
(I.160)*	252.235–7002	Animal Welfare
(I.161)*	252.242–7002	Submission of Commercial Freight Bills for Audit
(I.162)*	252.242–7003	Application for U.S. Government Shipping Documentation/Instructions
(I.163)*	252.242–7004	Material Management and Accounting System
(I.164)*	252.245–7001	Reports of Government Property
(I.165)*	252.247–7024	Notification of Transportation of Supplies by Sea
(I.166)*	252.249–7001	Notification of Substantial Impact on Employment
(I.167)*	252.251–7000	Ordering From Government Supply Sources

Part III—List of Documents, Exhibits, and Other Attachments

Section J, List of Attachments

Use attachments and exhibits to inform the contractor of local information such as:

(1) Procedures for laboratory access;

(2) Laboratory hours of operation;

(3) Special procedures related to unique laboratory working environments which are not covered by FAR/DFARS; and

(4) Base support or government property information.

(J.1)* List of Attachments:

(J.2)* List of Exhibits:

Part IV—Representations and Instructions

Section K, Representations, Certifications and Other Statements of Offerors or Quoters

The following solicitation provisions require representations, certifications or the submission of other information by offerors. They are mandatory, and are included by reference. Full text copies of these provisions are available from the Contracting Officer and must be completed and certified before contract award.

(1) Federal Acquisition Regulation solicitation provisions.

(K.1)	52.203–4	Contingent Fee Representation and Agreement
(K.2)	52.203–8	Requirement for Certificate of Procurement Integrity Alternate I
(K.3)	52.203–11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
(K.4)	52.204–3	Taxpayer Identification
(K.5)	52.209–5	Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
(K.6)	52.215–6	Type of Business Organization
(K.7)	52.215–11	Authorized Negotiators
(K.8)	52.215–20	Place of Performance
(K.9)	52.215–30	Facilities Capital Cost of Money (Except educational institutions.)
(K.10)	52.219–1	Small Business Concern
(K.11)	52.219–3	Women-Owned Small Business Representation
(K.12)	52.219–22	SIC Code and Small Business Size Standard
(K.13)	52.222–21	Certification of Nonsegregated Facilities
(K.14)	52.222–22	Previous Contracts and Compliance Reports
(K.15)	52.222–25	Affirmative Action Compliance
(K.16)	52.223–1	Clean Air and Water Certification
(K.17)	52.223–5	Certification Regarding a Drug-Free Workplace
(K.18)	52.227–6	Royalty Information
(K.19)	52.230–1	Cost Accounting Standards Notices and Certification

(2) Defense Federal Acquisition Regulation Supplement solicitation provisions.

(K.20)	252.209–7001	Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism
(K.21)	252.209–7002	Disclosure of Ownership or Control by a Foreign Government
(K.22)	252.219–7000	Small Disadvantaged Business Concern Representation (DoD Contracts)
(K.23)	252.219–7009	Certificate of Competency
(K.24)*	252.226–7000	Notice of Historically Black College or University and Minority Institution Set-Aside
(K.25)	252.226–7001	Historically Black College or University and Minority Institution Certification
(K.26)	252.227–7028	Requirement for Technical Data Representation
(K.27)	252.247–7022	Representation of Extent of Transportation by Sea

Section L. Instructions, Conditions, and Notices to Offerors or Quoters

(1) Federal Acquisition Regulation solicitation provisions.

(L.1)	52.252–1	Solicitation Provisions Incorporated by Reference
(L.2)	52.209–7	Organizational Conflict of Interest Certificate Marketing Consultants
(L.3)	52.210–2	Availability of Specifications and Standards Listed in the DoD Index of Specifications and Standards (DODISS) and Descriptions Listed in DoD 5010.12–L (Deviation)
(L.4)	52.215–5	Solicitation Definitions
(L.5)	52.215–7	Unnecessarily Elaborate Proposals or Quotations
(L.6)	52.215–8	Amendments to Solicitations
(L.7)	52.215–9	Submission of Offers
(L.8)	52.215–10	Late Submissions, Modifications, and Withdrawals of Proposals
(L.9)	52.215–12	Restriction on Disclosure and Use of Data
(L.10)	52.215–13	Preparation of Offers
(L.11)	52.215–14	Explanation to Prospective Offerors
(L.12)	52.215–15	Failure to Submit Offer

(L.13) ..... 52.215–16 ..... Contract Award
(L.14)* ..... 52.215–16 ..... Contract Award—Alternate III
(L.15) ..... 52.216–1 ..... Type of Contract (See 235.7006(c)(B.1))
(L.16) ..... 52.222–24 ..... Preaward On-Site Equal Opportunity Compliance Review
(L.17) ..... 52.228–6 ..... Insurance—Immunity from Tort Liability
(L.18) ..... 52.233–2 ..... Service of Protest (See 235.7006(c)(A.1)(xvii))
(L.19) ..... 52.237–1 ..... Site Visit
(L.20) ..... 52.252–5 ..... Authorized Deviations in Provisions

(2) Defense Federal Acquisition Regulation Supplement solicitation provisions.

(L.21) ..... 252.204–7001 ..... Commercial and Government Entity (CAGE) Code Reporting
(L.22) ..... 252.227–7019 ..... Identification of Restricted Rights Computer Software

(3) Other Instructions, Conditions, and Notices to Offerors.

(L.23) Government-Furnished Property.

No material, labor, or facilities will be furnished by the Government unless provided for in the solicitation.

(L.24) Proposal Preparation and Submission Instructions.

(i) Page limitation, format.

(A) A proposal shall be prepared in separate volumes with the page limit and number of copies specified below. The table of contents and tabs are exempt from the page limits. No cross-referencing between volumes for essential information is permitted except where specifically set forth herein. The following volumes of material will be submitted:

Title	Copies	Maximum page limits
Cost	As specified in solicitation summary	*50
Technical	As specified in solicitation summary	100

*The 50-page cost proposal is a goal not a limit. The Contractor may use additional pages if necessary to comply with public law.

(B) Any technical proposal pages submitted which exceed the page limitations set forth above will not be read or evaluated. Proposal pages failing to meet paragraph D format will not be read or evaluated.

(C) No program cost data or cross-reference to the cost proposal will be included in any other volume.

(D) Format of the above proposal volumes shall be as follows:

(1) Proposals will be prepared on 8½ × 11 inch paper except for foldouts used for charts, tables, or diagrams, which may not exceed 11 × 17 inches. Foldouts will not be used for text. Pages will have a one inch margin.

(2) A page is defined as one face of a sheet of paper containing information. Two pages may be printed on one sheet.

(3) Type size will be no smaller than 10 point character height (vertical size) and no more than an average of 12 characters per inch. Use of type-setting techniques to reduce type size below 10 points or to increase characters beyond 12 per inch is not permitted. Such techniques are construed as a deliberate attempt to circumvent the intent of page limitations set forth above.

(4) Proposal must lie flat when open, elaborate binding is not desirable.

(5) No models, mockups or video tapes will be accepted.

(6) Technical proposals will be prepared in the same sequence as the statement of work.

(ii) Content.

All proposals must be complete and respond directly to the requirements of the solicitation. The factors and subfactors listed in Section M of the solicitation shall be addressed. Cost and supporting data shall be included only in the cost volume. All other information shall be included in the technical volume.

Section M, Evaluation Factors for Award

Use of the standard evaluation factors is preferred. If the standard evaluation factors are modified in any way, the modifications must be clearly expressed so that the result is unambiguous. Additions to and deletions from the contents of this Section M must be clearly annotated in the solicitation summary (see 235.7006–1(a)(A.1)(vii).)

*(M.1) FAR 52.217–5 Evaluation of Options (Applicable if the solicitation indicates that options are anticipated in the resulting contract. When this provision is included, evaluation criteria for options shall be included in section M.)

*(M.2) Proposal Evaluation Procedures and Basis for Award. Proposals will be evaluated and award made as follows:

(i) Basis for award.

The award decision will be based on evaluation of all factors and subfactors set forth in this solicitation. The Government may select the source whose proposal offers the greatest value to the Government in terms of technical, cost or price, and other factors set forth in the solicitation. The source selected may or may not have the lowest proposed total costs.

(ii) Evaluation factors.

Proposal will be evaluated in accordance with the following factors. The technical factor is more important than the cost factor. The technical subfactors are in descending order of importance unless otherwise stated in the solicitation. The cost subfactors are of equal weight.

(A) Technical.

(1) Technical approach. The soundness of the offeror's technical approach, including the offeror's demonstrated understanding of the technical requirement.

(2) Qualification. The experience and qualifications of the proposed personnel relevant to the proposed task. The quantity and quality of the offeror's corporate experience relevant to the proposed task.

(3) Management. The degree to which the offeror demonstrates the ability to effectively and efficiently manage and administer the program to a successful conclusion.

(4) Facilities. The degree to which the proposed facilities enable accomplishment of the proposed effort.

(B) Cost.

(1) Reasonableness. Proposed estimated cost and fee (if any).

(2) Completeness. The adequacy of the identification, estimation and support of all relevant costs.

(3) Realism. The consistency of the cost proposal with the technical effort proposed, the organizational structure, method of operations and cost accounting practices.

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BILLING CODE 5000–04–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 538 and 552

[APD 2800.12A, CHGE 57]

General Services Administration Acquisition Regulation; Multiple Award Schedule Price Reductions Clause

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to prescribe a Price Reductions clause for use in multiple award schedule (MAS) solicitations and contracts. The clause is a modification of that currently in use. The modifications clarify the clause's applicability, reduce contractor reporting requirements and eliminate MAS price reductions based on a lower price to an individual Federal agency.

EFFECTIVE DATE: October 19, 1994.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comment

A notice of proposed rulemaking was published in the **Federal Register** on February 23, 1994 (59 FR 8590). Public comments and comments received from other Federal agencies and GSA activities were considered in formulating this final rule. The significant issues and concerns raised during the comment period are summarized below:

Two organizations suggested the entire Price Reductions clause be eliminated because it is confusing and inconsistent with commercial practice. GSA has clarified the aspects of the clause that commentors found to be confusing. GSA does not agree that the clause is inconsistent with commercial practice. Some large commercial contracts contain similar price protection provisions.

GSA believes the clause is necessary to assure that the Government maintains the relative discount position, negotiated at the time of contract award, throughout the term of the contract.

Two organizations offered comments in support of the change in the Price Reductions clause that eliminates certain reporting requirements, increases the time given contractors to notify the Government of price reductions, and requires that the Government be extended price reductions under the same terms and with the same effective dates which the contractor extends to the commercial customers.

Comments were mixed on the elimination of paragraph (c) of the current clause which deals with price reductions to Federal agencies. Federal agencies submitted comments in support of the change, while some contractors and associations representing them opposed the change and argued the MAS price would become the starting point for negotiation on orders and eliminate the need to negotiate a schedule contract. GSA disagrees; the final rule provides that there shall be no price reduction for sales to Federal agencies. GSA believes this change, when combined with revised MAS ordering procedures, gives agencies the flexibility to obtain reductions within the MAS contractual framework and will lead to greater MAS usage.

Several organizations suggested the requirement in paragraph (d) of the proposed clause to pass on general price reductions be deleted as unnecessary. The suggestion was adopted and the provision is not included in the final rule.

B. Executive Order 12866

This rule was submitted to the Office of Management and Budget (OMB) in accordance with Executive Order 12866, Regulatory Planning and Review.

C. Regulatory Flexibility Act

The rule is not expected to have an economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act. An initial regulatory flexibility analysis was prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. Copies of the initial regulatory flexibility analysis were made available for public comment. No comments were received on the impact of the rule on small business. The final regulatory flexibility analysis indicates that the rule will affect contractors, including small businesses, that are awarded contracts under GSA's MAS program. Historically, approximately seventy percent of MAS contractors have been small businesses. Based on the number of MAS contracts currently in effect, it is estimated that 4,288 small businesses will be impacted by the new rule. The final regulatory flexibility analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Copies of the final regulatory analysis are available from the office identified above.

D. Paperwork Reduction Act

The Price Reductions clause contains an information collection requirement which is subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et sequentia*. The information collection has been approved by OMB and assigned OMB Control Number 3090–0235. The title of the information collection is "GSAR 552.238–75 Price Reductions."

The Price Reductions clause is intended to ensure that the Government maintains its price/discount (and/or term and condition) advantage in relation to the contractor's commercial customer(s) upon which the MAS contract is predicated. The customer or category of customer upon which the award is predicated is identified at the conclusion of negotiations and reflected in the MAS contract.

The Price Reductions clause requires MAS contractors to notify the contracting officer of price reductions at the same time that commercial customers are notified.

The Price Reductions clause is needed to assure that the Government maintains the relative discount position, negotiated at the time of contract award, throughout the term of the contract.

The estimated annual burden for the Price Reductions clause is 24,508 hours. This is based upon an estimated average burden per response of 2 hours, a frequency of 2 responses per respondent, and an estimated number of likely respondents of 6,127.

Any comments concerning the accuracy of the burden may be directed to the Director, Office of GSA Acquisition Policy (VP), 18th & F Streets, NW, Room 4006, Washington, DC, 20405 and to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for GSA, Washington, DC 20503.

List of Subjects in CFR Parts 538 and 552

Government procurement.

Accordingly, 48 CFR parts 538 and 552 are amended to read as follows:

PARTS 538 AND 552—[AMENDED]

1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 538.203–71 is amended by revising the heading and adding paragraph (e) to read as follows:

538.203–71 Solicitation provisions and contract clauses.

* * * * *

(e) Contracting officers shall insert the clause at 552.238–76, Price Reductions, in all MAS solicitations and contracts.

3. Section 538.272 is added to read as follows:

538.272 MAS price reductions.

(a) Prior to the award of a MAS contract, the contracting officer and the offeror shall reach an agreement as to the customer (or category of customers), price lists, and discounts which will serve as the basis of contract award. The award document shall expressly state the price/discount relationship between the Government and the identified commercial customer which is the basis of contract award. The Price Reductions clause is intended to maintain this price/discount relationship (and/or term and condition relationship) between the Government and the offeror's customer or category of customers upon which the MAS contract was predicated for the contract period.

(b) During the term of the contract, any changes in discount/pricing practices by the contractor which result

or will result in a less advantageous relationship between the Government and the customer or category of customers upon which the MAS contract discount/price was predicated, shall result in a price reduction to the Government to the extent necessary to reflect the original relationship.

4. Section 552.238–76 is added to read as follows:

552.238–76 Price reductions.

As prescribed in 538.203–71(e), insert the following clause:

Price Reductions (Oct 1994)

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) The customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained throughout the contract period. Any change in the Contractor's commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(c) (1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor—

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that was the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales—

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order limitation specified in this contract;

(2) To Federal agencies; or

(3) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contract will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

(End of Clause)

Dated: August 18, 1994.

Arthur E. Ronkovich,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 94–25703 Filed 10–17–94; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 931100–4043; I.D. 101394A]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels catching pollock for processing by the inshore component to allow a 48–hour directed fishery. This action is necessary to use the allowance of total allowable catch (TAC) of pollock in the AI for the inshore component.

DATES: Effective from 12 noon, Alaska local time (A.l.t.) October 13, 1994, until 12 noon, A.l.t., October 15, 1994, the prohibition of directed fishing for pollock by operators of vessels catching pollock in the AI for processing by the inshore component is terminated; and effective 12 noon, A.l.t., October 15, 1994, through 12 midnight, A.l.t., December 31, 1994, directed fishing for pollock in the AI by operators of vessels catching pollock for processing by the inshore component is prohibited.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The allowance of pollock TAC in the AI for vessels catching pollock for processing by the inshore component was established by the final 1994 initial groundfish specifications (59 FR 7656, February 16, 1994) and a subsequent reserve apportionment (59 FR 21673, April 26, 1994) as 18,324 metric tons (mt). The directed fishery for pollock in the AI by vessels catching pollock for processing by the inshore component was closed on October 8, 1994 (59 FR 51873, October 13, 1994) pursuant to § 675.20(a)(8).

The Director, Alaska Region, NMFS, (Regional Director), in accordance with § 675.20(a)(8), has determined that the remaining allowance of pollock TAC in the AI for the inshore component is sufficient to allow a 48–hour directed fishery. Therefore, NMFS is terminating the previous closure and opening directed fishing for pollock in the AI by operators of vessels catching pollock for processing by the inshore component as of 12 noon, A.l.t., October 13, 1994.

As the allowance of pollock TAC in the AI for the inshore component will be reached before the end of the year, the Regional Director, in accordance with § 675.20(a)(2)(iii) and (a)(8), established a directed fishing allowance of 18,124 mt, with consideration that 200 mt will be taken as incidental catch in directed fishing for other species in that area. The Regional Director has determined that the directed fishing allowance will be reached within a 48–hour directed fishery. Consequently, NMFS is prohibiting directed fishing for pollock in the AI by operators of vessels catching pollock for processing by the inshore component effective from 12 noon, A.l.t., October 15, 1994, until 12 midnight, A.l.t., December 31, 1994.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

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

Dated: October 13, 1994.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–25761 Filed 10–13–94; 4:03 pm]

BILLING CODE 3510–22–F

50 CFR Part 678

[Docket No. 920409–4205; I.D. 110493B]

RIN 0648–AD12

Atlantic Shark Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement certain measures authorized by the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP) that were part of an interim final rule. Final measures implemented by this rule: Clarify operation of vessels with a Federal commercial permit, establish a fishing year, consolidate the regulations for drift gillnets, require dealers to obtain a permit to purchase sharks, require dealer reports, establish recreational bag limits, establish quotas for commercial landings and provide for commercial fishery closures when quotas are reached. The intended effect of this rule is to prevent overfishing of shark resources, encourage consistent Federal and state management of shark stocks, increase the benefits from shark resources to the Nation while preventing waste, and standardize data reporting requirements among different fisheries to avoid confusion among fishermen with multiple permits.

EFFECTIVE DATES: November 17, 1994, except for §§ 678.4(a)(2), 678.5(b), and 678.7(y), which are effective January 1, 1995.

ADDRESSES: Copies of the FMP and related documents, including the Regulatory Impact Review (RIR), Regulatory Flexibility Analysis (RFA), and Environmental Impact Statement (EIS), may be obtained from the Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, (813) 893–3161.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301–713–2347, FAX 301–713–2299, Kevin Foster, 508–281–9260, or Michael E. Justen, 813–893–3161.

SUPPLEMENTARY INFORMATION: The FMP was prepared by NMFS under authority of section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The development and current status of the recreational and commercial shark fisheries, the status of the shark stocks, the history of FMP preparation, the proposed management measures, and the anticipated impacts of the proposed management measures were discussed in the preamble to the proposed rule to implement the FMP (57 FR 24222, June 8, 1992) and are not repeated here. The interim final rule was published on April 26, 1993 (58 FR 21931), with a request for comments on the permit condition, fishing year, bag limits, commercial quotas, the allocation of the large coastal species group between the commercial and recreational sectors, and mandatory dealer permitting and reporting. A summary of the public comments and NMFS responses on the FMP and the proposed rule were provided in the preamble of the interim final rule and are not repeated here.

Comments and Responses

The interim final rule requested comments on the fishing year (§ 678.20), bag limits (§ 678.22), commercial quotas (§ 678.23), permit conditions (§ 678.4), potential changes involving the allocation of the large coastal species group between the commercial and recreational sectors, and mandatory dealer permitting and reporting requirements. Comments were to be received by June 25, 1993. Agency responses to the public comments follow.

1. Permit Conditions

Comment. Florida and Georgia contended that the Federal regulations, as drafted, enabled commercial fishermen with a Federal permit to fish for sharks in state waters and not comply with the more restrictive state fishing, catch, and gear measures. Furthermore, Florida contended that the interim final rule was inconsistent with the State's Coastal Zone Management Plan (CZMP) and stated that it planned to request mediation under the Coastal Zone Management Act (CZMA).

Response. It is NMFS' intent that any fisherman issued a Federal permit must comply with the Federal requirements, regardless of where he/she is fishing. However, to enable states to enforce their more restrictive regulations on anyone fishing in state waters, NMFS has agreed to change the permit conditions to allow Florida and any other state to enforce their more restrictive regulations on federally permitted fishermen when they fish in state waters.

2. Bag Limit—Large Coastal Species and Pelagic Shark Species

Comment. A regional fishery management council, a commercial fishing association, a scientific association, and a conservation association recommended that NMFS reduce the bag limit for the large coastal/pelagic shark species, combined, from four to two sharks per trip per vessel. The purpose of the reduction would be to afford additional protection to the large coastal species. The FMP determined that sharks of the large coastal species group were overfished.

Response. NMFS does not agree that the bag limits need modification. NMFS applied a four-fish bag limit to recreational fishermen because the projected percentage reduction in catch would be 28 percent and roughly equivalent to the reduction in landings of large coastal species for the commercial sector.

This approach balances access to the resource by the recreational sector with reasonable limitations to allow for recovery of the resource. Recreational anglers do not have to harvest the trip limit of sharks, since they have the option of releasing their catch and voluntarily conserving the resource. This trip limit merely sets the upper limit for the recreational catch.

3. Commercial Quotas—Large Coastal and Pelagic Shark Species

Comment. Two commercial fishermen's associations, a scientific association, an animal rights association, and a conservation association commented on the commercial quotas for the large coastal and pelagic species. One commercial fishermen's association generally supported the level of the quotas for the large coastal and pelagic species groups. This association requested that NMFS dedicate the amount of the pelagic quota to the mako, porbeagle, and thresher sharks. The association commented that the quota could be filled prematurely due to the possible emergence of a directed fishery for blue sharks or any other species. The other commercial fishermen's association argued that the level of the harvest of large coastal sharks was significantly understated due to under-reporting, misreporting, and misclassification of the landings by species. Accordingly, the amount of the quota was understated and should be higher. The impact of the reduced quotas would be severe on these fishermen. The scientific association, animal rights group, and the conservation association stated that the level of harvest was too high and the quota for the large coastal species group should be reduced. In addition, the conservation association recommended that NMFS select the most conservative alternative (Option 3) developed by a scientific peer committee consisting of outside scientific experts and NMFS scientists (Review Committee).

Response. NMFS believes that the quota is set at an appropriate level. To

ensure that all FMP management measures were based upon the best scientific information available, a revised assessment of the condition of the large coastal species group was completed by the Southeast Fisheries Science Center, NMFS, using new or corrected information obtained from commercial fishermen and other entities during the public comment periods. At the time that this review was conducted, shark landings data were available only through 1991, and these were used to establish quotas for 1993 through 1995. The Review Committee reviewed the revised assessment, agreed that the large coastal species group was overfished, recommended that the calendar year 1993 landings for the large coastal species group be reduced below the calendar year 1991 landings level of 4,319 metric tons dressed weight (mt dw) to rebuild the resource, and provided three options for either maintaining the resource at current levels or providing the conditions for rebuilding the resource to a fully exploited level. NMFS selected the Review Committee's second option, which established 1993 total landings of 2,900 mt dw for the large coastal species group. Landings of large coastal species in 1992 were 4,461 mt, and in 1993 reached the quota level of 2,900 mt.

Based on historical patterns of reported landings over the period 1986–91, NMFS allocated the allowable harvest levels among the commercial and recreational user groups. The commercial quota of 2,436 mt represented a 29-percent reduction from the average annual commercial landings during the period 1986–91, or a 34-percent reduction from 1991 commercial landings. The recreational bag limit of four large coastal or pelagic shark species combined was expected to reduce recreational landings by 28 percent from the average annual recreational landings during the period 1986–91. These measures will provide the conditions for the resource to recover.

Option 3 would have established 1993 total landings of 2,311 mt dw (a 50-percent reduction from the 1991 landings, which is a 44-percent reduction from the 1986–91 annual average landings) for the large coastal species group. NMFS considered and rejected Option 3 because this alternative would have required a much larger initial reduction in landings in the commercial and recreational fisheries than Option 2. Therefore, Option 3 would have had a greater adverse economic impact on fishermen who are dependent on these fisheries.

The quota for the pelagic species group was designed to maintain current harvest levels. At present, a commercial fishery for blue sharks has not developed. Changes to the regulatory regime for the large coastal or pelagic species groups could be made through the FMP's regulatory adjustment procedure, should new information requiring change in the allowable catch of large coastal sharks become available or if a commercial fishery for blue sharks or any other species develops. NMFS published a notice in February of 1994, requesting additional historical shark landings data and information. Subsequently, NMFS held a stock assessment workshop in March, 1994 to consider new data and revisions to stock estimates. Based on the revised stock assessment for the large coastal species group the workshop committee recommended that the projected commercial quota increase for 1995 be delayed indefinitely.

4. Potential Changes Involving the Allocation of the Large Coastal Species Group Between the Commercial and Recreational Sectors

Comment. A regional fishery management council recommended that the 1979–1992 recreational and commercial landings of sharks be used to allocate the different groups of sharks. The two commercial fishermen's associations recommended that no change be made.

Response. NMFS does not believe that the allocation needs to be adjusted. The allocation of the total allowable catch between the commercial (84 percent) and recreational (16 percent) sectors was based on landings data used in the revised assessment. NMFS prepared the revised assessment based on corrected landing data from the commercial sector for years 1986–91 and the best available data on the recreational sector for 1986–91. NMFS excluded recreational data from the Marine Recreational Fisheries Statistics Survey (MRFSS) prior to 1986 for four reasons. First, the MRFSS data are extremely variable among years, e.g., 1979 landings were 11,512 mt whole weight (ww), whereas 1980 landings were 3,210 mt ww; 1981 landings within the Gulf of Mexico were 7,604 mt ww, whereas 1982 landings were 660 mt ww. Second, sharks in the MRFSS were grouped into one multispecies category that includes some species that are not included in the FMP management unit. Third, the MRFSS grouping was not aligned to the three species groups used in the FMP (large coastal, small coastal, and pelagic species). Fourth, the methodology for collecting recreational data in the MRFSS changed in 1986, when Texas began to collect data on recreational fisheries within the State and to provide the information to NMFS.

5. Mandatory Dealer Permitting and Reporting

Comment. Two regional fishery management councils, one commercial fishermen's association, a scientific organization, and a conservation organization supported mandatory dealer permitting and reporting.

Response. NMFS agrees and is implementing these measures in this rule. The implemented system is limited to the use of current forms and collection of data elements already collected voluntarily from dealers. Permitted dealers can purchase sharks only from fishermen possessing a valid Federal permit, unless the sharks were harvested by a non-permitted vessel that fishes exclusively in state waters. Permitted fishermen can sell sharks only to permitted dealers. The requirement is designed to provide accurate reports from both harvesters and dealers. Further, this rule modifies the prerequisite condition for a Federal permit regarding the sale, by a vessel that fishes in the EEZ, of a shark "in or from the EEZ" to the sale of a shark harvested "from its management unit." This change in the Federal permit condition reflects the basic intent of the FMP to protect and conserve the species in the management unit throughout the range of the resource. No permit, however, is required for vessels that fish exclusively in state waters.

This final rule amends §§ 678.2 and 678.4 to provide for a dealer permit system and § 678.5 to provide for mandatory dealer reporting. Section 678.7 has been revised to provide prohibitions to support the provisions for the dealer permit system and mandatory dealer reporting system. Additionally, redesignated § 678.26 has been amended to institute certain restrictions on sale upon landing under the permit program.

6. Ratio of Fin to Dressed Carcass Weight

Comment. A scientific organization, a regional fishery management council, and a commercial fishermen's organization recommended that the ratio of fins to dressed carcass weight be raised from 5 to 6 percent because fishermen are landing minor fins, fin lobes, and other portions called "chips." Two conservation and one animal rights organization opposed any change. These commenters were concerned that raising the percentage would encourage finning

to continue and make the measure more difficult to enforce.

Response. NMFS believes that the ratio is appropriate. Since raising this percentage could encourage the finning of sharks with undesirable flesh and desirable fins, such as hammerheads, NMFS prefers to delay changes in the ratio of fins to dressed carcass weights until a scientific study on the relationship between the weight of the fins and the dressed carcass weight is conducted. Such changes would be the subject of a separate rulemaking in order to obtain more public comments, detailed analyses of the impacts on the user groups and the resource, and more data from fishermen.

7. Control Date

Comment. Two commercial fishermen's organizations and a regional fishery management council recommended that NMFS establish a control date advising new entrants that, after that date, NMFS may deny access to the fishery.

Response. NMFS established a control date of February 22, 1994 (59 FR 8457, 02/22/94).

8. Permit System

Comment. Two commercial fishermen's organizations recommended that NMFS implement a three-tiered permit system that would identify fishermen in the directed fishery for sharks, fisheries with an incidental catch of sharks, and the recreational fisheries where sharks caught under the bag limit are sold. Qualifications for the different permits would be as follows: For the directed shark fishery permit, the applicant must derive 50 percent of his/her income from the sale of sharks during any 2 of the last 3 years; for the incidental shark fishery permit, the applicant must have documented shark landings and valid swordfish permits; and for the commercial angler permit, the applicant would have to apply and meet the non-income tests for all applicants. Implementation of the commercial angler permit would require creation of a quota from the recreational sector and would enable permittees to sell their fish, subject to the bag limit.

Comment. A scientific organization recommended that the permit condition be limited to individuals who derive 50 percent of their income from the sale of shark or shark products.

Response. At present, NMFS does not believe it has enough information to assess adequately the impact of implementing a three-tiered system of permitting fishermen or to limit the permittees to those individuals who derived a substantial portion of their livelihood from the sale of sharks or shark products. As part of a future rulemaking action, NMFS may consider such a system.

9. Small Coastal Shark Fisheries

Comment. A conservation organization recommended that NMFS develop a quota and other measures for this fishery to prevent overfishing.

Response. At present, NMFS does not believe that the commercial or recreational quotas for the small coastal species groups need adjustment. NMFS will continue to monitor the fisheries and establish quotas when warranted by available information. Quotas may be established in a timely manner using the regulatory amendment process as established in the FMP.

10. Incidental Catch of Sharks

Comment. Due to the bycatch of sharks in the different fisheries, two conservation organizations were concerned that the commercial quotas were too high. These organizations recommended that NMFS reduce these quotas, since overfishing would continue through the incidental catch in other fisheries.

Response. NMFS disagrees. Fishermen who catch sharks on an incidental basis must obtain the same permit to sell them, and follow the anti-finning prohibition and other requirements. Therefore, these incidental catches of sharks are considered in developing the management regime.

11. Fishing Year

No comments were received; NMFS adopts the fishing year without change.

In addition to adopting the interim final rule, NMFS is implementing, by this final rule, several technical amendments designed to implement a statutory prohibition. Section 1857 of the Magnuson Act prohibits use of large-scale drift gillnets by U.S. fishing vessels. To conform these regulations to the statutory requirement, this final rule adds a definition of a drift gillnet to § 678.2, a prohibition on use of large-scale drift gillnets to § 678.7(z), and a new § 678.21 entitled "Gear restrictions."

Classification

NMFS has determined that the provisions of this rule that prohibit the use of large-scale drift gillnets by U.S. fishermen may be published as final without prior notice and an opportunity for public comment because these provisions merely codify a statutory provision. As such, good cause exists to waive notice and comment under authority set forth at 5 U.S.C. 553(b)(B), because such procedures are unnecessary.

NMFS prepared a regulatory flexibility analysis as part of the Regulatory Impact Review (RIR) that concluded the rule implementing the FMP has significant impacts on a substantial number of small entities, as specified under the Regulatory Flexibility Act. Those small entities directly involved in the fishery and affected by the rule include commercial fishing vessels (approximately 800) and processors/dealers (about 850). The final rule implementing the FMP is likely to result in a reduction in annual gross revenues of about 5 percent for some, but not necessarily all, of these small entities. This final rule does not change the original conclusions, because it makes only minor changes in the April 1993 rule. A copy of this analysis is available from NMFS (See ADDRESSES).

This rule contains two new collection of information requirements and refers to an existing information requirement, all of which are subject to the Paperwork Reduction Act (PRA). The existing annual vessel permit requirement and the new mandatory dealer reporting have been approved by the Office of Management and Budget under Control Numbers 0648–0205 and 0648–0013, respectively. The new dealer permit requirement has been submitted to the Office of Management for review under the PRA and will not be implemented until approval is received.

The public reporting burdens for these collections are estimated to average 20 minutes for a vessel permit application, 10 minutes for a dealer report, and 5 minutes for a dealer permit application. These estimates include 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 these burden estimates or any other aspect of these collections of information to NMFS at 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC, 20503 (Attn: NOAA Desk Officer).

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

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 12, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 678 is amended as follows:

PART 678—ATLANTIC SHARKS

1. The authority citation for part 678 continues to read as follows:

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

2. In § 678.2, definitions of "dealer" and "drift gillnet" are added, in alphabetical order, to read as follows:

§ 678.2 Definitions.

* * * * *

Dealer means the person in the United States who first receives by way of purchase, barter, or trade, sharks harvested from the management unit.

Drift gillnet, sometimes called a drift entanglement net or drift net, means a flat net, unattached to the ocean bottom, whether or not it is attached to a vessel, designed to be suspended vertically in the water to entangle the head or other body parts of a shark that attempts to pass through the meshes.

* * * * *

3. In § 678.4, paragraphs (a)(1) through (a)(4) are redesignated as paragraphs (a)(1)(i) through (a)(1)(iv), respectively; paragraph (c) is redesignated as paragraph (l); a heading for paragraph (a)(1) and new paragraphs (a)(2) and (c) are added; and paragraphs (d), (e)(1), (g), (h), redesignated paragraphs (a)(1)(i) and (l), and the last sentence of redesignated paragraph (a)(1)(iv) are revised to read as follows:

§ 678.4 Permits and fees.

(a) * * *

(1) *Annual vessel permit.* (i) As a prerequisite to sell shark from the management unit or to be eligible for exemption from the bag limits specified in § 678.23(b), an owner or operator of a vessel that fishes in the EEZ must obtain an annual vessel permit; except that there is no Federal requirement for a permit for a vessel that fishes exclusively within state waters.

* * * * *

(iv) * * * However, when a vessel fishes in the waters of a state that has more restrictive regulations on shark fishing, those more restrictive regulations may be applied by that state to fishing, catch, and gear in its waters.

(2) *Annual dealer permit.* A dealer who receives sharks from the management unit must have an annual dealer permit.

* * * * *

(c) *Application for an annual dealer permit.* (1) An application for a dealer permit must be submitted and signed by the dealer or an officer of a corporation acting as a dealer. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of each state wholesaler's license held by the dealer.

(ii) Business name; mailing address, including zip code, of the principal office of the business; employer identification number, if one has been assigned by the Internal Revenue Service; and date the business was formed.

(iii) The address of each physical facility at a fixed location where the business receives fish.

(iv) Applicant's name; official capacity in the business; address, including zip code; telephone number; social security number; and date of birth.

(v) Any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director and included on the application form.

(d) *Fees.* A fee is charged for each permit application submitted under paragraph (b) or (c) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(e) * * *

(1) The Regional Director will issue a permit at any time to an applicant if the application is complete and, in the case of the annual vessel permit specified in paragraph (a)(1) of this section, the applicant meets the earned income requirement specified in paragraph (b)(2)(vi) of this section. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified at § 678.5 (a) or (b).

* * * * *

(g) *Transfer.* (1) A vessel permit issued under paragraph (b) of this section is not transferable or assignable. A person purchasing a permitted vessel who desires to conduct activities for which a permit is required must apply for a permit in accordance with the provisions of paragraph (b) of this section. The application must be accompanied by a copy of a signed bill of sale.

(2) A dealer permit issued under paragraph (c) of this section may be transferred upon sale of the dealer's business. However, such transferred permit remains valid for a period not to exceed 30 days after sale of the dealer's business. A person purchasing a permitted dealership who desires to conduct activities for which a permit is required after that 30-day period must apply promptly for a permit in accordance with paragraph (c) of this section.

(h) *Display.* A vessel permit issued pursuant to paragraph (b) of this section must be carried on board the vessel and such vessel must be identified as required by § 678.6. A dealer permit issued pursuant to paragraph (c) of this section must be available on the dealer's premises. The operator of a vessel or a dealer must present the permit for inspection upon the request of an authorized officer.

* * * * *

(l) *Change in application information.* The owner or operator of a vessel with a permit or a dealer with a permit must notify the Regional Director within 30 days after any change in the application information required by paragraph (b) or (c) of this section. The permit is void if any change in the information is not reported within 30 days.

4. In § 678.5, in the second to the last sentence of paragraph (a)(2), the word "third" is removed and the word "fifth" is added in its place; paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively; and a new paragraph (b) is added to read as follows:

§ 678.5 Recordkeeping and reporting.

* * * * *

(b) *Dealer reports.* (1) A dealer who has been issued a dealer permit pursuant to § 678.4 must submit a report to the Science and Research Director as specified in paragraph (b)(2) of this section. A report form is available from the Science and Research Director. The following information must be included in each report:

(i) Name, address, and permit number of the dealer.

(ii) Names and official numbers of fishing vessels from which shark were received.

(iii) Dates of receipt of shark.

(iv) Listed by each port and county where shark were off-loaded from fishing vessels:

(A) Total weight (pounds) by market category for shark, if applicable, and for other species received with the shark.

including, but not limited to, swordfish, yellowfin tuna, bigeye tuna, and albacore; and

(B) Price per pound or total value paid by market category for shark and other species, to the extent that such price information is known at the time of reporting.

(2) A report of shark and other applicable species received by a dealer on the first through the 15th days of each month must be submitted to the Science and Research Director postmarked not later than the 20th day of that month. A report of shark and other applicable species received by the dealer on the 16th through the last day of each month must be submitted to the Science and Research Director postmarked not later than the fifth day of the following month. If no shark was received during the reporting period, a report so stating must be submitted postmarked as specified for that respective reporting period.

(3) The reporting requirement of paragraph (b)(1) of this section may be satisfied by providing a copy of each appropriate weigh-out sheet and/or sales record, provided such weigh-out sheet and/or sales record, by itself or combined with the form available from the Science and Research Director, includes all of the required information.

(4) For purposes of this paragraph (b), for a shark offloaded from a fishing vessel in an Atlantic coastal state from Maine through Virginia, "Science and Research Director" means the Science and Research Director, Northeast Fisheries Science Center, NMFS, Woods Hole, MA 02543, telephone 617–548–5123, or a designee. For a shark offloaded from a fishing vessel in an Atlantic coastal state from Maine through Virginia, in lieu of providing a required report to the Science and Research Director by mail, as specified in paragraph (b)(2) of this section, a dealer may provide a report to a state or Federal fishery port agent designated by the Science and Research Director. Reports so provided must be delivered to such port agent not later than the prescribed postmark date for submitting each such report.

* * * * *

5. In § 678.7, in paragraph (d), the reference to "§ 678.5(c)" is removed and the reference "§ 678.5(d)" is added in its place; paragraphs (a), (c), (k) through (q), and (s) through (v) are revised; and new paragraphs (y) and (z) are added to read as follows:

§ 678.7 Prohibitions.

* * * * *

(a) Falsify information required in § 678.4(b) and (c) on an application for a permit.

* * * * *

(c) Falsify or fail to provide information required to be maintained, submitted, or reported, as specified in § 678.5.

* * * * *

(k) Remove the fins from a shark and discard the remainder, as specified in § 678.22 (a)(1).

(l) Possess shark fins, carcasses, or parts, aboard or offload shark fins from a fishing vessel, except as specified in § 678.22, or possess shark carcasses or parts aboard, or offload shark fins, carcasses, or parts, from a vessel, except as specified in § 678.22(b).

(m) Fail to release a shark in the manner specified in § 678.22(d).

(n) Exceed the bag limits, as specified in § 678.23 (a) through (c).

(o) Operate a vessel with a shark aboard in excess of the bag limits, as specified in § 678.23(d).

(p) Land or possess on any trip, shark in excess of the vessel trip limit, as specified in § 678.22(c)(1).

(q) Transfer a shark at sea, as specified in §§ 678.22(c)(2) and 678.23(e).

* * * * *

(s) Sell, trade, or barter, or attempt to sell, trade or barter, a shark from the management unit, except as an owner or operator of a vessel with a permit, as specified in § 678.26.

(t) Purchase, trade, or barter, or attempt to purchase, trade or barter, shark meat or fins from the management unit from an owner or operator of a vessel that does not possess a vessel permit, as specified in § 678.26(b); or sell, trade, or barter, or attempt to sell, trade, or barter, a shark from the management unit, except to a permitted dealer, as specified in § 678.26(d).

(u) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, shark fins that are disproportionate to the weight of carcasses landed, as specified in § 678.26(c).

(v) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

* * * * *

(y) Purchase, trade, or barter, or attempt to purchase, trade, or barter, a shark from the management unit without an annual dealer permit, as specified in § 678.4(a)(2).

(z) Fish for sharks with a drift gillnet that is 2.5 km or more in length or possess a shark aboard a vessel possessing such drift gillnet, as specified in § 678.21.

§§ 678.21 through 678.27 [Redesignated as §§ 678.22 through 678.28]

6. Sections 678.21 through 678.27 are redesignated as §§ 678.22 through 678.28, respectively, and a new § 678.21 is added to read as follows:

§ 678.21 Gear restrictions.

A drift gillnet with a total length of 2.5 km or more may not be used to fish for shark. A vessel using or having aboard a drift gillnet with a total length of 2.5 km or more may not possess a shark.

7. In redesignated § 678.22, paragraph (c)(1) is revised to read as follows:

§ 678.22 Harvest limitations.

* * * * *

(c) *Vessel trip limits.* (1) A vessel that has been issued a permit pursuant to § 678.4 may not possess on any trip, or land from any trip, large coastal species in excess of 4,000 lb (1,814 kg), dressed weight.

§ 678.25 [Amended]

8. In redesignated § 678.25, paragraph (a) introductory text is amended by removing the reference "§ 678.23(b)" and adding the reference "§ 678.24(b)" in its place, and paragraph (a)(2) is amended by removing the reference "§ 678.22(b)" and adding the reference "§ 678.23(b)" in its place.

9. In redesignated § 678.26, paragraph (c) is amended by removing the reference to "§ 678.21(a)(2)" and adding the reference to "§ 678.22(a)(2)" in its place, the introductory text and paragraphs (a) and (b) are revised, and paragraph (d) is added to read as follows:

§ 678.26 Restrictions on sale upon landing.

Subject to the restrictions of § 678.25,

(a) Upon landing, meat or fins from a shark from the management unit may be sold, traded, or bartered, or attempted to be sold, traded, or bartered, only by an owner or operator of a vessel that has been issued a permit pursuant to § 678.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fished exclusively within the waters under the jurisdiction of any state.

(b) Upon landing, meat or fins from a shark from the management unit may be purchased, traded, or bartered, or attempted to be purchased, traded, or bartered, only from the owner or operator of a vessel that has been issued a permit pursuant to § 678.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fished

exclusively within the waters under the jurisdiction of any state.

* * * * *

(d) A shark from the management unit may be sold, traded, or bartered, or attempted to be sold, traded, or bartered, only to a dealer having a permit under § 678.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fished exclusively within the waters under the jurisdiction of any state.

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Proposed Rules

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 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.

OFFICE OF PERSONNEL MANAGEMENT

RIN 3206–AG14

5 CFR Parts 214, 317, 319, 359, and 534

Executive Positions and Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations governing employment Procedures for Senior Executive Service, senior-level, and scientific and professional positions as part of the implementation of Federal Personnel Manual (FPM) sunset. The regulations incorporate certain requirements that currently exist only in the provisionally retained FPM and that would otherwise be abolished after December 31, 1994, when the provisionally retained material sunsets.

DATES: Comments on the proposed regulations must be received on or before December 19, 1994.

ADDRESSES: Send or deliver written comments to Assistant Director, Office of Executive Resources, HRDG, Room 6484, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Neal Harwood at 202–606–2826.

SUPPLEMENTARY INFORMATION: These proposed regulations affect senior-level (SL), scientific and professional (ST), and Senior Executive Service (SES) positions and employment.

One of the recommendations of the September 1993 Report of the National Performance Review (From Red Tape to Results: Creating a Government that Works Better and Costs Less) Was that the Federal Personnel Manual (FPM) should be "sunset." Following consultation with agencies and other interested parties, the Director of the Office of Personnel Management (OPM) issued a memorandum abolishing the FPM as of December 31, 1993. Portions of the FPM and FPM supplements, however, were provisionally retained until December 31, 1994.

The proposed regulations would continue certain requirements and authorities that are currently in the provisionally retained FPM material and that would otherwise go out of existence as of December 31, 1994, because they are not specified in existing regulations or statute. No new requirements would be imposed on agencies under the regulations.

Decisions on what to place in the proposed regulations were based on whether the requirement or authority was necessary to continue existing flexibilities (e.g., delegations of authority to agencies), to assure uniformity in executive personnel operations where needed, and/or to protect employee rights. The proposals take into account the recommendation in the Report of the National Performance Review for a "corporate approach to managing executive resources." Under such an approach, there are some basic features of executive personnel systems that need to be administered uniformly on a Governmentwide basis.

The proposed regulations also clarify certain existing regulatory provisions and delete out-of-date provisions.

Draft copies of the proposed regulations were provided agencies and the Senior Executives Association (SEA). We received comments from nine agencies and the SEA. Several of the agencies expressed concern about the level of detail in the regulations and recommended that procedural requirements be placed in some other issuance, such as the handbook on Executive Resources Management that OPM is planning to issue. SEA, on the other hand, while agreeing with much of what was in the draft, expressed concerns about certain current FPM requirements that had been modified or deleted in the regulations.

With the abolishment of the FPM, procedural requirements now have to be in regulation or an operations manual if they are not in statute. Our planned handbook on Executive Resources Management is not an operations manual and will be guidance only, except where it repeats requirements already in statute or regulation. Therefore, if something is to be required, it must be in regulation if it does not already exist in statute. We have tried to hold these requirements to a minimum, but a basic regulatory framework (including certain procedural requirements) is necessary to assure an executive personnel system that meets statutory requirements and carries out merit system principles.

In order to help us balance NPR's streamlining and flexibility initiatives with its call for a corporate approach to managing executive resources, please provide specifics on why a particular provision should or should not be included in any comments.

The proposed regulations are summarized below, along with references to where in the provisionally retained FPM material the provisions are currently located. In the references, "Ch" refers to a chapter in the basic FPM; and "Supp" refers to FPM Supplement 920–1, Operations Handbook for the Senior Executive Service.

Part 214—Senior Executive Service

(1) *Section 214.203, Reporting requirement.* The section is added to require that agencies provide such data on SES positions and employees as OPM may request, in accordance with Civil Service Rule 5.2(a). [Supp. S14–3]

(2) *Section 214.204, Interchange agreements.* The section is added to state the authority of OPM and agencies to enter into interchange agreements between the SES and agency executive personnel systems. [Supp. S13–5]

Part 317—Employment in the Senior Executive Service

(1) *Section 317.301, Conversion coverage.* Paragraph (a)(4) is redesignated (a)(5) and new paragraph (a)(4) is added to deal with situations where OPM makes a determination that an agency previously excluded from the SES on the basis it did not meet the definition of "Executive agency" does in fact meet the definition. This would allow the conversion provisions of the section to apply, and career and career-type employees could convert to career SES appointments without further competition.

(2) *Section 317.401, General.* Paragraph (b) is added to require that qualifications standards be established prior to a vacancy announcement in a merit staffing action and prior to appointment in other cases. [Supp. S5 2a(3)]

(3) *Section 317.501, Recruitment and selection for initial SES career appointment.* Paragraph (a) is revised to reference existing merit staffing requirements in the section. Paragraph (b)(2) is revised to require that vacancies must be included in OPM's biweekly listing of SES vacancies for at least 14 calendar days. [Supp. S5–4b(2)(c)] Paragraph (f) is added to state OPM's authority to review agency merit staffing actions and direct corrective action where necessary. [Supp. S5–4h]

(4) *Section 317.502, Qualifications Review Board (QRB) certification.* Paragraph (b) provides that QRB cases must be received by OPM within 12 months [compared with 9 months in Supp. S5–4d(3)] of the closing date of the announcement, unless the time period is extended by OPM. Paragraph (d) is revised to clarify OPM's authority regarding the disposition of QRB cases when an agency head has changed or will be changing, or when there is a Presidential transition. [Supp. S5-4d(7)] New paragraph (e) states that OPM will not submit to a QRB the conversion of a noncareer SES employee to a career SES appointment in the employee's own position since there is no bona fide vacancy. [Former FPM Letter 273–4]

(5) *Section 317.503, Probationary period.* Paragraphs (c) and (d) are redesignated (d) and (e). New paragraph (c) states the conditions for crediting service towards completion of the probationary period. [Supp. S5–4g(5)] New paragraph (f) states the conditions when an employee separates from the SES before completion of the probationary period and later receives a new SES career appointment. [Supp. S5–4g(6)]

(6) *Subpart F, Noncareer and Limited Appointments.* The subpart, which now covers only limited appointments, is revised to also cover noncareer appointments.

Sections 317.601 and 317.604 are revised to provide that agencies may appoint or reassign noncareer appointees only with the prior approval of OPM unless otherwise provided by OPM. [Supp. S4–3d(2) and S5–7b(2)]

Section 317.601 also is revised to provide a pool of limited appointment authorities equal to two percent of an agency's SES position allocation (with a minimum of one authority for each agency) that agencies can use without getting prior OPM approval as long as the appointee is currently a career or career-type appointee outside the SES. (Limited appointment authorities already approved by OPM at the time the pool goes into effect would not be counted against the pool.) Where the pool is not available (e.g., for appointment of an individual from outside the Federal service or when all the pool spaces have been used), agencies would still have to get prior OPM approval unless otherwise provided by OPM. (Under the regulations OPM could still authorize an individual agency to make limited appointments on its own under specified circumstances, e.g., to bring in persons from universities on a rotating basis.) In using the pool, agencies would have to comply with all other statutory and regulatory provisions affecting limited appointments, e.g., that an appointment may be made only to a general position and that the appointee must meet the qualifications standard for the position. The regulation provides that OPM may suspend the pool authority if necessary, either Governmentwide or for an individual agency (e.g., if total appointments under the pool and as approved by OPM are nearing the statutory five percent limit on limited appointments Governmentwide or an agency is not making appointments in accordance with statutory and regulatory provisions).

Section 317.605 is revised to provide that a noncareer or limited appointee may be terminated at any time (unless a limited appointee is covered under adverse action procedures), but must be given at least a 1-day notice. [Supp. S10–6b(1)]

(7) *Section 317.703, Guaranteed reinstatement: Presidential appointees.* New paragraph (a)(2) states what Presidential appointees have to do to maintain reinstatement rights to the SES if they receive a new Presidential appointment. [Supp. S11–5b(2)]

(8) *Section 317.801, Retention of SES provisions.*

Paragraph (b) is revised. The paragraph describes the procedures under which career SES appointees may elect to retain certain SES benefits when they take appointments at Executive Level V or higher. New paragraph (b)(2) states that the appointing agency is responsible for informing the appointee of the election opportunity and that the election must be in writing. [Supp. S5–9b(2)] New paragraph (b)(3) states that if the appointee elects to retain SES basic pay, the appointee is eligible for locality pay and special law enforcement pay that would otherwise be received as an SES member, in accordance with the provisions of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Public Law 101–509.

Paragraph (d), relating to the retroactive election of SES benefits by certain former career SES appointees under Public Law 101–335 of July 17, 1990, and Public Law 102–378 of October 2, 1992, is deleted since any such election has already been made.

(9) *Section 317.901, Reassignments.*

Paragraph (d) is added to state the authority of agencies to run 15-day (nongeographic) and 60-day (geographic) advance notices on reassignments of career SES appointees concurrently with the 120-day moratorium on involuntary reassignments. [Supp. S5–5c(4)(b)] If the notice could not be issued until after the moratorium, the moratorium in effect would be extended by the length of the notice period. Note that there is nothing in the regulations to prevent recision of a reassignment notice once it is issued based on the executive's performance during the remainder of the moratorium period.

We are not placing in the regulations the provision in Supp. S5–5c(4)(c) that if a 15 or 60-day advance notice of reassignment is issued before the 120-day moratorium began, an involuntary reassignment may not be effected until the moratorium has ended. Agencies, however, still may delay the reassignment until after the moratorium if they want. Note that it would not be in accord with the moratorium provision for a proposed agency head or noncareer supervisor to have some other official issue a reassignment notice prior to appointment to avoid application of the moratorium.

(10) *Section 317.903, Details.* Paragraph (b) on time limits has been revised to incorporate, with certain modifications, provisions in Supp. S5–8c. The intent of the proposals is to reduce the paperwork currently associated with details and to provide agencies greater flexibility in temporarily staffing SES positions, while still recognizing that the SES is a separate service and protecting the rights of employees.

The regulations provide that an SES employee may not be detailed to unclassified duties for more than 240 days (currently 120 days in the Supp.). If the detail is for more than 240 days to a position at the GS–15 level or below, prior OPM approval must be obtained (same as in the Supp.).

The regulations also provide that there must be competition when detailing a non-SES employee to an SES position for more than 240 days (currently 120 days in the Supp.). However, an employee who is eligible for a noncompetitive career SES appointment, e.g., an employee who has SES reinstatement eligibility or who has been certified by a QRB following completion of an SES candidate development program, is not subject to

the competitive requirement. As currently provided in the Supp., when competition is required agencies may use the merit promotion procedures under 5 CFR part 335, or their SES merit staffing procedures, although it is not necessary to open competition outside the agency.

The regulations do not require prior OPM approval after 240 days when detailing a non-SES employee to an SES position, as currently provided in the Supp., unless the position to which the employee is detailed supervises other SES positions. We anticipate that providing agencies with a pool of limited appointment authorities under section 317.601 will make it easier for agencies to use limited appointments rather than details when a career or career-type employee from outside the SES is serving temporarily in an SES position.

Part 319—Employment in Senior-Level and Scientific and Professional Positions

Part 319 currently delegates to agency heads a variety of authorities relating to senior-level (SL) and scientific and professional (ST) positions and employees based on criteria established in the FPM. In order to continue the delegations following FPM sunset, we are proposing to incorporate the criteria in the regulations. Under 5 U.S.C. 1104, OPM is required to establish standards which shall apply to the activities of any agency under delegated authority and to establish and maintain an oversight program to assure that activities under delegated authorities are in accordance with merit system principles. Delegated authorities may be redelegate by agency heads.

We also are proposing to delete current section 319.103 on conversion to the SL and ST systems under FEPCA since all conversion actions have already taken place.

(1) *Subpart A, General.* The subpart contains provisions on coverage [Ch. 319, 2–1 and 3–1], applicability of regulatory provisions relating to the competitive and excepted services in general [Ch. 319, 2–1e], and reporting requirements [Ch. 319, 1–3].

(2) *Subpart B, Position Allocations and Establishment.* The subpart requires agencies to receive an allocation from OPM for their SL and ST positions in accordance with 5 U.S.C. 3104 and 5108. It delegates authority to agencies to establish individual SL and ST positions within their allocation in accordance with prescribed criteria. [Ch. 319, 2–2 and 3–2]

(3) *Subpart C, Qualifications Requirements.* The subpart delegates authority to agencies to establish qualifications standards and to approve the qualifications of individual appointees in accordance with prescribed criteria. [Ch. 319, 2–4, 3–3, and A–1]

(4) *Subpart D, Recruitment and Examination.*

The subpart delegates authority to agencies to recruit and examine applicants and establish civil service registers for SL positions in the competitive service in accordance with prescribed criteria. [Ch. 319, 2–5b and A–2] The criteria implement provisions in statute (5 U.S.C. chapter 33, subchapter I) and elsewhere in the regulations for examination, certification, and selection of individuals who do not have status in the competitive service. These criteria include rating applicants on a 70 to 100-point scale, with veterans preference points (5 CFR 337.101), and applying the "rule of three" in selection (5 CFR part 332, subpart D). Actions to fill SL positions in the competitive service by reassignment, promotion, transfer, or reinstatement of individuals with status are subject to the regulatory provisions applicable to those actions in general (e.g., 5 CFR part 335 for promotions).

Under 5 U.S.C. 3325, ST positions are filled without competitive examination. The subpart provides that since the positions are not filled by competitive examination, citizenship and probationary period requirements are not applicable. [Ch. 319, 2–5d and 3–4d]

Part 359, Removal From the SES; Guaranteed Placement in Other Personnel Systems

(1) *Subpart F, Reduction in Force.*

Section 359.601(b) is revised by adding a definition of "agency" in paragraph (3) as an executive department or independent establishment. Thus for RIF purposes the entire Department of Defense is treated as one agency, although this still allows initial competition to be held in separate components. [Supp. S10–7a(3)]

Section 359.602(a)(2) on competitive procedures is revised to provide that final performance ratings, not interim ratings, must be used in determining retention standing. Ratings for more than 1 year may be considered. [Supp. S10–7d(5)] Section 359.602(a)(4) is added to provide certain exceptions to the use of competitive procedures when an agency is being abolished. [Supp. S10–7d(1)(b)]

Sections 359.603 (a)(1) and (d)(2) are revised to permit the agency head to delegate to an official at the Assistant Secretary level or above in departments, or an equivalent official above the director of personnel in other agencies, the authority to certify to OPM that the agency does not have an SES position for a RIF'd employee or that a RIF'd employee referred by OPM is not qualified for the referred position. Current regulations do not permit any delegation. Agencies have pointed out that sometimes it is difficult to get the agency head to act in a timely manner because of other activities where the agency head is involved, and they have indicated the same problem would arise if delegation was limited to the deputy agency head. We believe the proposed condition on the degree of delegation will allow more efficient conduct of the RIF program while providing that determinations are reviewed at a high enough level to assure that employee rights are protected.

Section 359.603(a)(4) is added to state explicitly that a RIF'd employee remains a career SES appointee during the OPM placement period. [Supp. S10–7e(1)(f)]

Section 359.603(d)(3) is added to cover situations where an agency cancels a position to which a RIF'd employee was referred by OPM. [Supp. S11–3f(4)(d)]

Section 359.603(f) is revised to state that OPM placement efforts will cease if an employee declines a reasonable offer of placement. [Supp. S11–3c(4)]

Section 359.605 is revised to bring the notice requirements following a RIF into accordance with those in Supp. S10–7g.

(2) *Subpart G, Guaranteed Placement.*

In section 359.705, new paragraph (b) provides that an employee who is placed in another agency under the subpart is entitled to saved pay under 5 U.S.C. 3594. [Supp. S10–8d(2)]

New Section 359.705(c) provides that the Executive Level V cap that normally applies to General Schedule basic pay does not apply if the employee is receiving saved pay under 5 U.S.C. 3594. Thus the employee could save his or her full SES basic pay even if it was above the rate of Executive Level V. [Supp. S10–8d(3)] Note, however, that there is no provision in statute for retaining locality pay upon removal from the SES. Therefore, the employee is entitled only to any locality pay for the position in which placed outside the SES. If the position is in the General Schedule, the Executive Level IV cap on combined basic pay and locality pay in 5 U.S.C. 5304(g)(1) would be applicable.

New section 359.705(e) states the conditions under which saved pay is terminated. This is a matter not covered in existing regulations. The termination provisions are similar to those for termination of pay retention in 5 CFR 536.209.

(3) *Subpart H, Furlough in the SES.* Section 359.803 is revised to indicate that 22 workdays are equivalent to 30 calendar days. [Supp. S10–9b and c]

Part 534, Subpart D, Pay and Performance Awards Under the SES

(1) *Section 534.401, Definitions and setting individual basic pay.* Paragraph (f) is added to incorporate from FPM Letter 920–22 provisions restricting the reduction in pay of career SES members to performance and disciplinary reasons.

(2) *Section 534.403 Performance awards.*

Paragraph (a)(1) is revised to include eligibility criteria currently in Supp. S9–3b.

Paragraph (a)(4) is added to state the final authority of the agency head to determine who receives a performance award and the amount of the award. [Supp. S9–3f]

Paragraph (c) is revised to state that the minimum and maximum limits of 5 and 20 percent of basic pay for individual awards do not include locality pay. Per 5 U.S.C. 5304(c)(2)(A), locality pay is considered part of basic pay only when provided by law or regulation. 5 U.S.C. 4505a(a)(2)(B) specifically provides that the rate of basic pay for computing performance awards outside the SES be determined without taking into account locality pay. The proposed regulation provides the same exclusion for the SES.

Paragraph (f) is revised to provide that if the full performance award cannot be paid because of the Executive Level I ceiling on aggregate compensation and the excess amount is carried over to the next calendar year, the full award is charged against the agency's bonus pool for the fiscal year in which the initial payment was made. [Supp. S9–3g(2)]

(3) *Section 534.405, Restrictions on premium pay and compensatory time.* This section is added. Paragraph (a) notes the statutory prohibition on premium pay, including overtime pay, for SES members. Paragraph (b) provides that since SES members are not eligible for overtime pay, they also may not receive compensatory time, except for religious purposes. [Supp. S12–1b]

E.O. 12866, Regulatory Planning and Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will only affect Federal Government employees who are in executive positions.

List of Subjects

5 CFR Parts 214, 317, 319, and 359

Government employees.

5 CFR Part 534

Government employees, hospitals, students, wages.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend 5 CFR Parts 214, 317, 319, 359, and 534 as follows:

PART 214—SENIOR EXECUTIVE SERVICE

1. The authority citation for part 214 continues to read as follows:

Authority: 5 U.S.C. 3132.

Subpart B—General Provisions

2. In subpart B, § 214.203 and § 214.204 are added to read as follows:

§ 214.203 Reporting requirements.

Agencies shall report such information as may be requested by OPM relating to positions and employees in the Senior Executive Service.

§ 214.204 Interchange agreements.

(a) In accordance with 5 CFR 6.7, OPM and agency with an executive personnel system essentially equivalent to the Senior Executive Service (SES) may, pursuant to legislative and regulatory authorities, enter an agreement providing for the movement of persons between the SES and the other system. The agreement shall define the status and tenure that the persons affected shall acquire upon the movement.

(b) Persons eligible for movement must be serving in permanent, continuing positions with career or career-type appointments. They must meet the qualifications requirements of any position to which moved.

(c) An interchange agreement may be discontinued by either party under such conditions as provided in the agreement.

PART 317—EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

3. The authority citation for part 317 continues to read as follows:

Authority: 5 U.S.C. 3392, 3393, 3393a, 3395, 3397, 3593, and 3595.

Subpart C—Conversion to the Senior Executive Service

4. In subpart C, § 317.301 is amended by redesignating paragraph (a)(4) as paragraph (a)(5) and by adding a new paragraph (a)(4) to read as follows:

§ 317.301 Conversion coverage.

(a) * * *

(4) The implementation of the SES in a formerly excluded agency when OPM determines that the agency is an "Executive agency" under 5 U.S.C. 3132(a)(1).

* * * * *

Subpart D—Qualifications Standards

5. In subpart D, the current paragraph in § 317.401 is designated as paragraph (a), and paragraph (b) is added to read as follows:

§ 317.401 General.

* * * * *

(b) A written qualification standard must be established for a position before any appointment is made to the position. If a position is being filled competitively, the standard must be established before the position is announced.

Subpart E—Career Appointments

6. In subpart E, § 317.501 is amended by revising the last sentence of paragraph (a), revising paragraph (b)(2), and by adding paragraph (f) to read as follows:

§ 317.501 Recruitment and selection for initial SES career appointment.

(a) * * * The ERB shall, in accordance with the requirements of this section, conduct the merit staffing process for initial SES career appointment.

(b) * * *

(2) Announcements of SES vacancies to be filled by initial career appointment must be listed in OPM's publication of SES vacancies for at least 14 calendar days, including the date of publication.

* * * * *

(f) *OPM review.* OPM may review proposed career appointments to ensure that they comply with all merit staffing requirements and are free of any impropriety. An agency shall take such action as OPM may require to correct an action contrary to any law, rule, or regulation.

7. Section 317.502 is amended by revising the last sentence of paragraph (b), revising paragraph (d), redesignating paragraph (e) as paragraph (f), and by adding a new paragraph (e) to read as follows:

§ 317.502 Qualifications Review Board certification.

* * * * *

(b) * * * Requests must be received by OPM within 12 months from the closing date of a vacancy announcement, or in the case of an SES candidate development program, within 12 months from the date of completion of the program, unless the time period is extended by OPM.

* * * * *

(d) OPM may determine the disposition of agency QRB requests where the QRB has not yet acted if the agency head leaves office or announces an intention to leave office, if the President has nominated a new agency head, or if there is a Presidential transition.

(e) OPM will not submit to a QRB any action to convert a noncareer SES employee to a career SES appointment in the employee's current position or a successor to that position.

* * * * *

8. Section 317.503 is amended by removing the last sentence in paragraph (b), redesignating paragraphs (c) and (d) as paragraphs (d) and (e) respectively, and adding a new paragraph (c) and paragraph (f) to read as follows:

§ 317.503 Probationary period.

* * * * *

(c) The following conditions apply to crediting service towards completion of the probationary period.

(1) Time on leave with pay while in an SES position is credited. Earned leave for which the employee is compensated by lump-sum payment upon separation is not credited.

(2) Time in a nonpay status while in an SES position is credited up to a total of 30 calendar days (or 22 workdays). After 30 calendar days, the probationary period is extended by adding to it time equal to that served in a nonpay status.

(3) Time absent on military duty or due to compensable injury is credited upon restoration to the SES when no other break in SES service has occurred.

(4) Time following transfer to an SES position in another agency is credited, i.e., the individual does not have to start a new probationary period.

* * * * *

(f) An individual who separated from the SES during the probationary period and who has been out of the SES more than 30 calendar days must serve a new 1-year probationary period upon reappointment and may not credit previous time in a probationary period. In the following situations, however, there is an exception and the individual is only required to complete the remainder of the previously served probationary period.

(1) The individual left the SES without a break in service for a Presidential appointment and is exercising reinstatement rights under 5 U.S.C. 3593(b).

(2) The individual left the SES without a break in service for other civilian employment that provides a statutory or regulatory reemployment right to the SES when no other break in service occurred.

(3) The break in SES service was the result of military duty or compensable injury, and the time credited under paragraph (c)(3) of this section was not sufficient to complete the probationary period.

Subpart F—Noncareer and Limited Appointments

9. In subpart F, the heading for the subpart is revised to read as follows:

10. Section 317.601 is revised to read as follows:

§ 317.601 Authorization

(a) An agency may make a noncareer or limited appointment only to a general position.

(b) Each use of a noncareer appointment authority must be approved individually by the Office of Personnel Management, and the authority reverts to the Office upon departure of the incumbent, unless otherwise provided by the Office.

(c) Use of a limited appointment authority is subject to the conditions in this paragraph.

(1) Agencies are provided a pool of limited appointment authorities equal to two percent of their Senior Executive Service (SES) position allocation, or one authority, whichever is greater. An agency may use the pool to make a limited appointment only of an individual who has a career or career-conditional appointment (or an appointment of equivalent tenure) in a permanent civil service position outside the SES. If necessary, the Office of Personnel Management may suspend use of the pool authority.

(2) Each use of a limited appointment authority other than under paragraph (c)(1) of this section must be approved individually by the Office, and the authority reverts to the Office upon departure of the incumbent, unless otherwise provided by the Office.

11. Section 317.602 is amended by revising the heading and removing the first sentence in paragraph (a) to read as follows:

§ 317.602 Conditions of a limited appointment.

* * * * *

12. Section 317.603 is amended by revising the heading and the first sentence to read as follows:

§ 317.603 Selection.

An agency may make a noncareer or limited appointment without the use of merit staffing procedures.* * *

13. Section 317.604 is amended by revising the heading, designating the first paragraph as paragraph (b), redesignating paragraphs (a) and (b) as paragraphs (b)(1) and (b)(2) respectively, and by adding a new paragraph (a) to read as follows:

§ 317.604 Reassignment.

(a) An agency may reassign a noncareer appointee only with the prior approval of the Office unless otherwise provided by the Office.

* * * * *

14. Section 317.605 is amended by revising paragraphs (a) and (b) to read as follows:

§ 317.605 Tenure of appointees.

(a) A noncareer or limited appointee does not acquire status within the Senior Executive Service on the basis of the appointment.

(b) An agency may terminate a noncareer or limited appointment at any time, unless a limited appointee is covered under 5 CFR 752.601(c)(2). The agency must give the noncareer or limited appointee a written notice at least 1 day prior to the effective date of the removal.

* * * * *

Subpart G—SES Career Appointment by Reinstatement

15. In subpart G, § 317.703 is amended by designating the material after the heading in paragraph (a) as paragraph (a)(1) and adding a new paragraph (a)(2) to read as follows:

§ 317.703 Guaranteed reinstated: Presidential appointees.

(a) * * *

(2) If an individual is serving under a Presidential appointment with reinstatement entitlement and receives another Presidential appointment without a break in service between the two appointments, the individual continues to be entitled to be reinstated to the SES following termination of the second appointment. If there is an interim period between the two Presidential appointments, the individual must be reinstated as an SES career appointee before the effective date of the second appointment to

preserve reinstatement entitlement following termination of the second appointment.

* * * * *

Subpart H—Retention of SES Provisions

16. In subpart H, § 317.801 is amended by revising the heading for paragraph (b), designating the material after the heading in paragraph (b) as paragraph (b)(1), adding paragraphs (b)(2) and (b)(3), and by removing paragraph (d) to read as follows:

§ 317.801 Retention of SES Provisions.

* * * * *

(b) *Election.*

* * * * *

(2) The appointing agency is responsible for advising the appointee of the election opportunity. The election decision must be in writing.

(3) If an appointee elects to retain SES basic pay, the appointee is entitled to receive locality-based comparability payments under 5 CFR, part 531, subpart F, if such pay is applicable to SES employees in the locality pay area, and any applicable special pay adjustment for a law enforcement officer under 5 CFR part 531, subpart C, even though the appointee may be in an Executive Schedule position otherwise excluded from such payments.

Subpart I—Reassignments, Transfers, and Details

17. In subpart I, § 317.901 is amended by adding paragraph (d) to read as follows:

§ 317.901 Reassignments.

* * * * *

(d) A 15 or 60-day advance notice described in paragraph (b) of this section may be issued during the 120-day moratorium on the involuntary reassignment of a career appointee described in paragraph (c) of this section, but an involuntary reassignment may not be effected until the moratorium has ended.

18. Section 317.903 is amended by revising paragraph (b)(2) and by adding paragraphs (b)(3) and (b)(4) to read as follows:

§ 317.903 Details.

* * * * *

(b) * * *

(2) An agency may not detail an SES employee to unclassified duties for more than 240 days.

(3) An agency must use competitive procedures when detailing a non-SES employee to an SES position for more than 240 days unless the employee is eligible for a noncompetitive career SES appointment.

(4) An agency must obtain OPM approval for a detail of more than 240 days if the detail is of:

(i) A non-SES employee to an SES position that supervises other SES positions; or

(ii) An SES employee to a position at the GS–15 or equivalent level or below.

19. Part 319 is revised to read as follows:

PART 319—EMPLOYMENT IN SENIOR-LEVEL AND SCIENTIFIC AND PROFESSIONAL POSITIONS

Subpart A—General

Sec.
319.101 Coverage.
319.102 Senior-level positions.
319.103 Scientific and professional positions.
319.104 Applicable instructions.
319.105 Reporting requirements.

Subpart B—Position Allocations and Establishment

319.201 Coverage.
319.202 Allocation of positions.
319.203 Establishment of positions.

Subpart C—Qualifications Requirements

319.301 Qualifications standards.
319.302 Individual qualifications.

Subpart D—Recruitment and Examination

319.401 Senior-level positions.
319.402 Scientific and professional positions.

Authority: 5 U.S.C. 1104, 3104, 3324, 3325, 5108, and 5376.

Subpart A—General

§ 319.101 Coverage.

(a) This part covers senior-level (SL) and scientific and professional (ST) positions that are classified above GS–15 and are paid under 5 U.S.C. 5376. See 5 CFR part 534, subpart E, for pay provisions.

(b) Positions that meet the criteria for placement in the Senior Executive Service (SES) under 5 U.S.C. 3132(a) may not be placed in the SL or ST system and are not covered by this part.

§ 319.102 Senior-level positions.

(a) SL positions are positions classified above GS–15 pursuant to 5 U.S.C. 5108 that are not covered by other pay systems (e.g. the SES and ST systems).

(b) Positions in agencies that are excluded from 5 U.S.C. chapter 51 (Classification) under section 5102(a), or positions that meet one of the exclusions in section 5102(c), are excluded from the SL system.

(c) SL positions in the executive branch are in the competitive service unless the position is excepted by statute, Executive order, or the Office of Personnel Management (OPM).

§ 319.103 Scientific and professional positions.

(a) ST positions are established under 5 U.S.C. 3104 to carry out research and development functions that require the services of specially qualified personnel.

(b) Research and development functions are defined in appendix 2 of the Introduction to the Position Classification Standards.

(c) An ST position must be engaged in research and development in the physical, biological, medical, or engineering sciences, or a closely related field.

(d) ST positions are in the competitive service.

§ 319.104 Applicable instructions.

Provisions in statute, Executive order, or regulations that relate in general to competitive and excepted service positions and employment apply to positions and employment under the SL and ST systems unless there is a specific provision to the contrary.

§ 319.105 Reporting requirements.

Agencies shall report such information as may be requested by OPM relating to SL and ST positions and employees.

Subpart B—Position Allocations and Establishment

§ 319.201 Coverage.

This section applies to SL positions in an executive agency per 5 U.S.C. 5108 and ST positions in any agency per 5 U.S.C. 3104.

§ 319.202 Allocation of positions.

SL and ST positions may be established only under a position allocation approved by OPM.

§ 319.203 Establishment of positions.

(a) Prior approval of OPM is not required to establish individual SL and ST positions within an allocation, but the positions must be established in accordance with the standards and procedures in paragraph (b) of this section. OPM reserves the right to require the prior approval of individual positions if the agency is not in compliance with these standards and procedures.

(b) Before an SL or ST position may be established, an agency must:

(1) Prepare a description of the duties, responsibilities, and supervisory relationships of the position; and

(2) Determine, consistent with published position classification

standards and guides and accepted classification principles, that the position is properly classified above GS–15. In addition, for an ST position an agency must determine that the position meets the functional research and development criteria described in § 319.103.

Subpart C—Qualifications Requirements

§ 319.301 Qualifications standards.

(a) *General.* Agency heads are responsible for establishing qualifications standards in accordance with the criteria in this section.

(1) The standard must be in writing and identify the breadth and depth of the knowledges, skills, and abilities, or other qualifications, required for successful performance in position.

(2) Each criterion in the standard must be job related.

(3) The standard may not include any criterion prohibited by law or regulation.

(b) *Standards for senior-level positions.*

(1) The standard must be specific enough to enable applicants to be rated and ranked according to their degree of qualifications when the position is being filled on a competitive basis.

(2) The standard may not include a minimum length of experience or minimum education requirement beyond that authorized for similar positions in the General Schedule.

(c) *Standards for scientific and professional positions.* (1) Unless the agency obtains the approval of OPM, the standard must provide that the candidate have at least 3 years of specialized experience in, or closely related to, the field in which the candidate will work. At least 1 year of this experience must have been in planning and executing difficult programs of national significance or planning and executing specialized programs that show outstanding attainments in the field of research or consultation.

(2) Agencies may require that at least 1 year of the specialized experience must be at least equivalent to experience at GS–15.

(3) Agencies may require applicants to furnish positive evidence that they have performed highly creative or outstanding research where similar abilities are required in the ST position.

§ 319.302 Individual qualifications.

Agency heads are delegated authority to approve the qualifications of individuals appointed to SL and ST positions. The agency head must determine that the individual meets the qualifications standards for the position to which appointed.

Subpart D—Recruitment and Examination

§ 319.401 Senior-level positions.

(a) *General.* This section applies to appointments from a civil service register. It does not apply to reassignments, promotions, transfers, and reinstatements, which shall be made in accordance with applicable statutory and regulatory provisions.

(1) Agency heads are delegated authority to recruit and examine applicants for SL positions in the competitive service, establish competitor inventories, and issue certificates of eligibles in conformance with the requirements of this section, other applicable regulations, and statute.

(2) Agencies shall take such action as OPM may require to correct an action taken under delegated authority.

(3) Delegated authority may be terminated or suspended at any time by OPM for reasons such as, but not limited to:

(i) Evidence of unequal treatment of candidates; or

(ii) Identifiable merit system abuses.

(b) *Recruitment.* (1) A recruiting plan, with appropriate emphasis on affirmative recruitment, must be developed and followed.

(2) Vacancy announcements must remain open for a minimum of 14 calendar days. The closing date may not be a nonworkday.

(3) State Job Service offices must be notified of the vacancy in accordance with 5 CFR 330.102. Publication in OPM's listing of Senior Executive Service and other executive vacancies, which is provided the offices, will satisfy this requirement.

(c) *Evaluation of applicants.* (1) Rating factors must be job-related and based on competence and fitness.

(2) The qualification standard must be applied impartially to all applicants.

(3) Bona fide consideration must be given to all applications received from eligible applicants.

(4) All eligible applicants must be rated on the same basis.

(5) Numerical ratings must be used unless the total number of eligible applicants is three or fewer and all are in the same category, i.e., veterans or nonveterans.

(6) The raw score for eligible applicants must be converted to an earned rating on a scale of 100 points, with the lowest passing score set at 70 points.

(7) Five or ten points must be added to the earned rating of each eligible applicant who meets the requirements for veteran preference.

(d) *Establishment of a roster of eligibles.* (1) Each eligible applicant is entered on the roster according to the final numerical rating. A preference eligible is listed ahead of a nonpreference eligible with the same rating. A preference eligible who has a compensable service-connected disability of 10 percent is listed ahead of other eligibles without this kind of preference unless the vacancy is a scientific or professional position where there is a minimum education requirement.

(2) Applicants are placed on the selection certificate in the order of their ranking on the roster of eligibles.

(e) *Selection.* (1) Selection must be from among the top three candidates on the selection roster who are available for appointment.

(2) The selecting official may not pass over an eligible with veteran preference to appoint an eligible without preference, or object to any eligible, unless the action is approved by a designated agency official. OPM, however, retains the final approval authority on:

(i) Objections or passovers based on suitability considerations.

(ii) Objections or passovers based on medical consideration of preference eligibles with a compensable service-connected disability of 30 percent or more; and

(iii) Objections based on qualifications which would result in the passover of a preference eligible with a compensable service-connected disability of 30 percent or more.

(f) *Applicant rights.* (1) Applicants upon request must be given their numerical score and their relative position on the certificate. They also may have access to qualification questionnaires or reports of qualification investigations about themselves, except for information that would identify confidential sources.

(2) Applicant appeals, grievances, and complaints are subject to the provisions of 5 CFR 300.104.

(g) *Records.* (1) Agencies must maintain records sufficient to allow reconstruction of the merit staffing process.

(2) Records must be kept for 2 years after an appointment, or, if no appointment is made, for 2 years after the closing date of the vacancy announcement.

§ 319.402 Scientific and professional positions.

(a) ST positions are filled without competitive examination under 5 U.S.C. 3325.

(b) ST positions are not subject to the citizenship requirements in 5 CFR part 338, subpart A. Agencies, however, must observe any restrictions on the employment of noncitizens in applicable appropriations acts.

(c) ST employees acquire competitive status immediately upon appointment. They are not required to serve a probationary or trial period.

PART 359—REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

20. The authority citation for part 359 continues to read as follows:

Authority: 5 U.S.C. 1302 and 3596, unless otherwise noted.

Subpart F—Removal of Career Appointees as a Result of Reduction in Force

§ 359.601 General.

* * * * *

(b) * * *

(3) *Agency* in this subpart means an executive department or an independent establishment.

* * * * *

22. Section 359.602 is amended by adding a sentence at the end of paragraph (a)(2) and by adding a new paragraph (a)(4) to read as follows:

§ 359.602 Agency reductions in force.

(a) * * *

(2) * * * When performance ratings are used, they shall be the final ratings under 5 CFR part 430, subpart C.

* * * * *

(4) Competitive procedures are not required if an agency is being abolished, without a transfer of functions, and all SES appointees will be separated at the same time or within 3 months of abolishment.

* * * * *

23. Section 359.603 is amended by revising the last sentence in paragraph (a)(1), adding a new paragraph (a)(4), revising the last sentence in paragraph (d)(2), adding paragraph (d)(3), and by revising paragraph (f) to read as follows:

§ 359.603 OPM priority placement.

(a) * * *

(1) * * * This certification may not be delegated below the Assistant Secretary level in a department, or an equivalent level above the director of personnel in other agencies.

* * * * *

(4) An individual remains a career SES appointee in his or her agency during the OPM placement period.

* * * * *

(d) * * *

(2) * * * The response may not be delegated below the Assistant Secretary level in a department, or an equivalent level above the director of personnel in other agencies.

(3) If an agency cancels a position while a referral to the position is pending, the appointee will be entitled to priority consideration for the position if it or a successor position is reestablished in the SES within 1 year of the cancellation date and the appointee has not been placed in another SES position.

* * * * *

(f) *Declination by employee.* If a career appointee declines a reasonable offer of placement, OPM's placement efforts will cease. The appointee may be removed from the SES at the expiration of the agency notice period.

24. Section 359.605 is revised to read as follows:

§ 359.605 Notice Requirements.

(a) Each career appointee subject to removal under § 359.604(b) is entitled to a specific, written notice at least 45 calendar days before the effective date of the removal. The notice shall state, as a minimum—

(1) The action to be taken and its prospective effective date;

(2) The nature of the competition, including the appointee's competitive area, if less than the agency, and standing on the retention register;

(3) The place where the appointee may inspect the regulations and records pertinent to the action;

(4) Placement rights within the agency and through OPM, including how the employee can apply for OPM placement assistance; and

(5) The appointee's appeal rights, including the time limit for appeal and the location of the Merit Systems Protection Board office to which an appeal should be sent.

(b) A career appointee who has received a notice under paragraph (a) of this section is entitled to a second notice in writing at least 1 day before removal from the SES. The notice shall state, as a minimum—

(1) The basis for the removal, i.e., 5 U.S.C. 3595(b)(5) if the basis is expiration of the 45-day OPM placement period, or 5 U.S.C. 3595(b)(4) if the basis is declination of a reasonable offer of placement, in which case identify the position offered and the date on which it was declined;

(2) The effective date of the removal;

(3) Placement rights outside the SES and, when applicable, the appointee's eligibility for discontinued service retirement in lieu of placement; and

(4) Reminder of the appointee's appeal rights.

Subpart G—Guaranteed Placement

25. In subpart G, § 359.705 is amended by redesignating paragraph (b) as paragraph (d) and by adding new paragraphs (b), (c), and (e) to read as follows:

§ 359.705 Pay.

* * * * *

(b) An employee who is placed under this subpart in a position outside the SES in another agency is entitled to receive basic pay under the provisions of this section.

(c) An employee who is placed under this subpart in a General Schedule position is not subject to the limitation on General Schedule basic pay in 5 U.S.C. 5303(f) of level V of the Executive Schedule. The employee is subject, however, to the limitation on General Schedule basic pay plus locality-based comparability payments in 5 U.S.C. 5304(g)(1) of level IV of the Executive Schedule.

* * * * *

(e) Pay received under this section shall terminate if:

(1) The employee has a break in service of 1 workday or more; or

(2) The employee is demoted based on conduct or unacceptable performance or at the employee's request.

26. The authority citation for subpart H of part 359 continues to read as follows:

Authority: 5 U.S.C. 3133 and 3136.

Subpart H—Furloughs in the Senior Executive Service

27. Section 359.803 is amended by revising the first sentence to read as follows:

§ 359.803 Competition.

Any furlough for more than 30 calendar days, or for more than 22 workdays if the furlough does not cover consecutive calendar days, shall be made under competitive procedures established by the agency. * * *

PART 534—PAY UNDER OTHER SYSTEMS

28. The authority citation for part 534 is revised to read as follows:

Authority: 5 U.S.C. 1104, 5307, 5351, 5352, 5353, 5376, 5383, 5384, 5385, 5541, and 5550a.

Subpart D—Pay and Performance Awards Under the Senior Executive Service

29. Section 534.401 is amended by revising paragraph (c)(3) and paragraph (f) to read as follows:

§ 534.401 Definitions and setting individual basic pay.

* * * * *

(c) * * *

(3) An appointing authority may lower the pay for a senior executive only one rate at the time of an adjustment. Restrictions on reducing pay of career senior executives are in paragraph (f) of this section.

* * * * *

(f) *Restrictions on reducing pay of career senior executives.* (1) The ES rate of a career senior executive may be reduced involuntarily in the appointee's agency or upon a transfer of function to another agency only:

(i) For performance reasons, i.e., the executive has received a less than fully successful performance rating under 5 CFR part 430, subpart C, or has been conditionally recertified or not recertified under 5 CFR 317.504; or

(ii) As a disciplinary action resulting from conduct related activity, e.g., misconduct, neglect of duty, or malfeasance.

(2) If the pay reduction is for performance reasons, the agency shall provide the executive at least 15 days' advance written notice.

(3) If the pay reduction is for disciplinary reasons, the agency shall:

(i) Provide the executive at least 30 days' advance written notice;

(ii) Provide a reasonable time, but not less than 7 days, for the executive to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

(iii) Allow the executive to be represented by an attorney or other representative; and

(iv) Provide the executive a written decision and specific reasons therefor at the earliest practicable date.

30. Section 534.403 is amended by revising paragraph (a)(1), redesignating paragraph (a)(2) as paragraph (a)(3), adding new paragraphs (a)(2) and (a)(4), adding a sentence at the end of paragraph (c), and by adding a sentence at the end of paragraph (f) to read as follows:

§ 534.403 Performance awards.

(a) * * *

(1) To be eligible for an award, the individual must have been an SES career appointee as of the end of the performance appraisal period; and the individual's most recent performance rating of record under part 430, subpart C, of this chapter for the appraisal period must have been "Fully Successful" or higher.

(2) Individuals eligible for a performance award include:

(i) A former SES career appointee who elected to retain award eligibility under 5 CFR part 317, subpart H. If the salary of the individual is above the ES–6 pay rate, the ES–6 rate is used for crediting the agency award pool under paragraph (b) of this section and the amount the individual may receive under paragraph (c) of this section.

(ii) A reemployed annuitant with an SES career appointment.

(iii) An SES career appointee who is on detail. If the detail is to another agency, eligibility is in the individual's official employing agency, i.e., the agency from which detailed. If the appointee is on a reimbursable detail, the agency to which the appointee is detailed may reimburse the employing agency for some or all of any award, as agreed upon by the two agencies; but the reimbursement does not affect the award pool for either agency as calculated under paragraph (b) of this section.

* * * * *

(4) The agency head must consider the recommendations of the Performance Review Board (PRB), but the agency head has the final authority as to who is to receive a performance award and the amount of the award.

* * * * *

(c) * * * The rate of basic pay does not include locality-based comparability payments under 5 U.S.C. 5304 and 5 CFR part 531, subpart F, or special law enforcement adjustments under section 404 of the Federal Employees Pay Comparability Act of 1990 and 5 CFR part 531, subpart C.

* * * * *

(f) * * * The full performance award, however, is charged against the agency bonus pool under paragraph (b) of this section for the fiscal year in which the initial payment was made.

31. Section 534.405 is added to read as follows:

§ 534.405 Restrictions on premium pay and compensatory time.

(a) Under 5 U.S.C. 5541(2)(xvi) and 5 CFR 550.101(b)(18), members of the Senior Executive Service (SES) are excluded from premium pay, including overtime pay.

(b) Since SES members are not eligible for overtime pay, they also are not eligible for compensatory time in lieu of overtime pay for work performed as an SES member. SES members are eligible, however, for compensatory time earned for religious purposes under 5 U.S.C. 5550a and 5 CFR part 550, subpart J.

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5 CFR Part 531

RIN 3206–AG39

Pay Under the General Schedule; Locality-Based Comparability Payments

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing proposed regulations to remove six metropolitan areas from the "Rest of U.S." locality pay area and establish six new locality pay areas corresponding to these metropolitan areas. These proposed changes are based on a recommendation of the Federal Salary Council and are subject to certain conditions set forth by the Council for the purpose of applying locality-based comparability payments in January 1995 under the Federal Employees Pay Comparability Act of 1990. The purpose of this notice is to solicit public comments on the boundaries of locality pay areas recommended by the Federal Salary Council before the President's Pay Agent makes a final determination on this matter.

DATES: Comments must be received on or before November 17, 1994.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Acting Assistant Director for Compensation Policy, Personnel Systems and Oversight Group, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, (202) 606–2880.

SUPPLEMENTARY INFORMATION: Section 5304(a)(1) of title 5, United States Code, provides that comparability payments shall be payable within each locality determined to have a pay disparity greater than 5 percent. Section 5304(f)(1) authorizes the President's Pay Agent (consisting of the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to provide for such pay localities as the Pay Agent considers appropriate. In so doing, the Pay Agent

must give thorough consideration to the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay and representatives of Federal employee organizations. Members of the Federal Salary Council are appointed by the President and meet regularly to consider issues related to the locality pay system for General Schedule employees.

For the 1994 locality payments, the Federal Salary Council recommended establishing a total of 28 locality pay areas. These consisted of 27 areas corresponding to Metropolitan Statistical Areas (MSA's) or Consolidated Metropolitan Statistical Areas (CMSA's), including "areas of application" contiguous to 2 CMSA's, plus 1 area composed of the "Rest of U.S." (i.e., those portions of the 48 contiguous States not located within another locality pay area). MSA's and CMSA's are defined by OMB. After reviewing public comments on this proposal, the Pay Agent adopted the Federal Salary Council's recommendations on locality pay areas in their entirety. (See 58 FR 69169, December 30, 1993, and 5 CFR 531.603(b).)

On September 20, 1994, the Federal Salary Council presented its recommendations to the Pay Agent concerning the areas in which locality-based comparability payments should be paid beginning in January 1995. The Council recommended the removal of six metropolitan areas from the "Rest of U.S." locality pay area and the establishment of six new locality pay areas corresponding to these metropolitan areas. The MSA's and CMSA's affected by this recommendation are the following: (1) Albuquerque, NM; (2) Columbus, OH; (3) Miami-Fort Lauderdale, FL; (4) New Orleans, LA; (5) Portland-Salem, OR–WA; and (6) Richmond-Petersburg, VA. As noted in the Council's memorandum to the Pay Agent, these six metropolitan areas are those in which the Bureau of Labor Statistics conducted additional local salary surveys in 1993–94 at the direction of the Pay Agent. These 6 new locality pay areas would be in addition to the 28 locality pay areas established for the 1994 locality payments.

In its memorandum to the Pay Agent, the Federal Salary Council noted that the pay disparities (between Federal and non-Federal pay rates for the same levels of work) in the 6 recommended new areas and the 27 previously established locality pay areas corresponding to MSA's/CMSA's cannot be determined at this time because some of the data needed to make this determination are not yet available. The Council further stated its belief that any area in which the pay disparity is 2/10ths of a percentage point or more below the pay disparity for "Rest of U.S." should be dropped as a separate pay locality and combined with "Rest of U.S." Thus, it is possible that once all of the data needed to make this determination become available, one or more of the areas listed in § 531.603(b) of this proposed rule may not meet the test recommended by the Federal Salary Council.

The Federal Salary Council's memorandum to the Pay Agent also noted that the identification of "areas of application"—i.e., areas contiguous to an MSA or CMSA that are included in the corresponding pay locality for locality pay purposes—has received considerable attention by the Council. During the past year, the Council has received requests covering 10 separate geographic areas for removal from the "Rest of U.S." locality pay area and inclusion in one of the remaining 27 locality pay areas with higher rates.

After carefully considering the application of the criteria developed for the 1994 locality payments and the possibility of revising these criteria, the Council has determined that it continues to be in the best interest of the locality pay program to use the same criteria applied by the Council last year for "areas of application." Although the criteria applied by the Council for the January 1994 locality payments remain the same in substance, the Council's memorandum to the Pay Agent included a clarification of the criterion that makes use of Census Bureau data on commuting patterns for the purpose of determining "economic linkage" with a pay locality. (See item A.4., below.) The criteria applied by the Federal Salary Council in making its recommendations on "areas of application" for the January 1995 locality payments, as stated in an attachment to the Council's memorandum of September 20, 1994, are as follows:

Criteria for Recommendation as Areas of Application to Pay Localities

A. County-wide areas of application. To be considered, the affected county must,

1. Be contiguous to a pay locality
2. Contain at least 2,000 GS–GM employees
3. Have a significant level of urbanization, based on 1990 Census data. A "significant level of urbanization" is defined as a population density of more than 200 per square mile or at least 90 percent of the population in urbanized areas.
4. Demonstrate some economic linkage with the pay locality, defined as commuting at a level of 5 percent or more into or from the areas in question. The areas in question are the contiguous county under consideration and the central counties (or in the case of New England, the central cores) identified by the Census Bureau for the process of defining the CMSA's or MSA's involved.

B. Federal facilities crossing pay locality boundaries. To be included in the pay locality the portion of a federal facility which crosses pay locality boundaries and which is not in the pay locality must,

- Have at least 1,000 GS–GM employees,
- Have the duty station(s) of the majority of GS–GM employees within 10 miles of the prime critical survey boundary area, and
- Have a significant number of its employees commuting from the pay locality.

Based on the criteria developed by the Federal Salary Council for the January 1994 locality-based comparability payments, the Council recommended in August 1993 that Santa Barbara County, CA, be considered as an "area of application" within the Los Angeles-Riverside-Orange County, CA, locality pay area and that St. Mary's County, MD, be considered as an "area of application" within the Washington-Baltimore, DC-MD-VA-WV, locality pay area under the criteria for county-wide areas of application. In addition, the Council recommended that the portion of Edwards Air Force Base, CA, which lies outside the Los Angeles-Riverside-Orange County, CA CMSA be considered as an "area of application" within the Los Angeles-Riverside-Orange County, CA, locality pay area under the criteria for Federal facilities crossing pay locality boundaries. As noted above, the Pay Agent accepted these recommendations in their entirety.

The Federal Salary Council's recommendation to the Pay Agent for the January 1995 locality payments relies on the same criteria applied by the Council for the previous year, as clarified above. The Council has determined that no additional counties or Federal facilities meet these criteria. Based on the Council's recommendation, the proposed regulations do not include any new "areas of application" within the locality pay areas listed in § 531.603(b).

After the 30-day public comment period on these proposed regulations, the Pay Agent will consider the comments received from Federal employees, agencies, employee

organizations, and other interested parties before making its determination on the establishment of pay localities. The Pay Agent also will consider any additional views and recommendations expressed directly to the Pay Agent by any member of the Federal Salary Council or by employee organizations not represented on the Council. The final regulations issued by OPM will reflect the Pay Agent's final determination on this matter.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is proposing to amend part 531 of title 5, Code of Federal Regulations, as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, February 4, 1991, 3 CFR 1991 Comp., p. 316;

Subpart A also issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; 5 U.S.C. 5304, 5305, and 5553; and E.O. 12786, 56 FR 67453, December 30, 1991, 3 CFR 1991 Comp., p. 376;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378 (October 2, 1992), 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, November 29, 1993, 3 CFR 1993 Comp., p. 682.

Subpart F—Locality-Based Comparability Payments

2. In § 531.603, paragraph (b) is revised to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) The following are locality pay areas for the purpose of this subpart:

(1) Albuquerque, NM—consisting of the Albuquerque, NM MSA;

(2) Atlanta, GA—consisting of the Atlanta, GA MSA;

(3) Boston-Worcester-Lawrence, MA–NH–ME–CT—consisting of the Boston-Worcester-Lawrence, MA–NH–ME–CT CMSA;

(4) Chicago-Gary-Kenosha, IL–IN–WI—consisting of the Chicago-Gary-Kenosha, IL–IN–WI CMSA;

(5) Cincinnati-Hamilton, OH–KY–IN—consisting of the Cincinnati-Hamilton, OH–KY–IN CMSA;

(6) Cleveland-Akron, OH—consisting of the Cleveland-Akron, OH CMSA;

(7) Columbus, OH—consisting of the Columbus, OH MSA;

(8) Dallas-Fort Worth, TX—consisting of the Dallas-Fort Worth, TX CMSA;

(9) Dayton-Springfield, OH—consisting of the Dayton-Springfield, OH MSA;

(10) Denver-Boulder-Greeley, CO—consisting of the Denver-Boulder-Greeley, CO CMSA;

(11) Detroit-Ann Arbor-Flint, MI—consisting of the Detroit-Ann Arbor-Flint, MI CMSA;

(12) Houston-Galveston-Brazoria, TX—consisting of the Houston-Galveston-Brazoria, TX CMSA;

(13) Huntsville, AL—consisting of the Huntsville, AL MSA;

(14) Indianapolis, IN—consisting of the Indianapolis, IN MSA;

(15) Kansas City, MO–KS—consisting of the Kansas City, MO–KS MSA;

(16) Los Angeles-Riverside-Orange County, CA—consisting of the Los Angeles-Riverside-Orange County, CA CMSA, plus Santa Barbara County, CA, and that portion of Edwards Air Force Base, CA, not located within the Los Angeles-Riverside-Orange County, CA CMSA;

(17) Memphis, TN–AR–MS MSA—consisting of the Memphis, TN–AR–MS MSA;

(18) Miami-Fort Lauderdale, FL—consisting of the Miami-Fort Lauderdale, FL CMSA;

(19) New Orleans, LA—consisting of the New Orleans, LA MSA;

(20) New York-Northern New Jersey-Long Island, NY–NJ–CT–PA—consisting of the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA;

(21) Norfolk-Virginia Beach-Newport News, VA–NC—consisting of the Norfolk-Virginia Beach-Newport News, VA–NC MSA;

(22) Oklahoma City, OK—consisting of the Oklahoma City, OK MSA;

(23) Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD—consisting of the Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD CMSA;

(24) Portland-Salem, OR–WA—consisting of the Portland-Salem, OR–WA CMSA;

(25) Richmond-Petersburg, VA—consisting of the Richmond-Petersburg, VA MSA;

(26) Sacramento-Yolo, CA—consisting of the Sacramento-Yolo, CA CMSA;

(27) St. Louis, MO–IL—consisting of the St. Louis, MO–IL MSA;

(28) Salt Lake City-Ogden, UT—consisting of the Salt Lake City-Ogden, UT MSA;

(29) San Antonio, TX—consisting of the San Antonio, TX MSA;

(30) San Diego, CA—consisting of the San Diego, CA MSA;

(31) San Francisco-Oakland-San Jose, CA—consisting of the San Francisco-Oakland-San Jose, CA CMSA;

(32) Seattle-Tacoma-Bremerton, WA—consisting of the Seattle-Tacoma-Bremerton, WA CMSA;

(33) Washington-Baltimore, DC–MD–VA–WV—consisting of the Washington-Baltimore, DC–MD–VA–WV CMSA, plus St. Mary's County, MD; and

(34) Rest of U.S.—consisting of those portions of the continental United States not located within another locality pay area.

[FR Doc. 94–25697 Filed 10–17–94; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 70

[Docket No. PY–92–003]

RIN 0581–AA61

Voluntary Poultry Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to update the voluntary poultry grade standards in response to advancements within the poultry industry and changes in consumer preferences. The proposed revisions would amend existing regulations with regard to discolorations, the definition of exposed flesh, and the procurement grades in order to simplify interpretation, improve uniformity, and strengthen effectiveness. The revisions would also establish new grading criteria for large poultry parts to fulfill industry's request for voluntary grading standards for new products.

DATES: Comments must be received on or before November 17, 1994.

ADDRESSES: Send written comments, in duplicate, to Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 3944–South, P.O. Box 96456, Washington, D.C. 20090–6456. Comments received may be inspected at this location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY–92–003.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, 202–720–3271.

SUPPLEMENTARY INFORMATION: This rule has been determined not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. Prior to any judicial challenges to the application of the provisions of this rule, appropriate administrative procedures as set forth in 7 CFR 70.100 through 70.106 must be exhausted.

The AMS Administrator has determined that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirement that appears in section 70.210(e) to be amended by the proposed rule has been previously approved by the Office of Management and Budget and assigned OMB Control No. 0581–0127, under the Paperwork Reduction Act of 1980.

Background

Poultry grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended, and is offered on a fee-for-service basis. It is designed to assist the orderly marketing of poultry products. Quality in practical terms refers to the usability, desirability, and value of a product; as well as its marketability. Grade standards identify and measure degrees of quality, and permit important quality attributes to be evaluated uniformly and accurately. In order to continue equity among all persons affected by grade standards, from the producer to the consumer, the standards must keep abreast of changes in consumer preferences as well as advancements and trends in industry production and marketing practices.

The poultry grade standards were last amended effective June 9, 1986. Those changes included establishing a standard for quality of raw, boneless, skinless poultry products and clarifying the tolerance for exposed flesh and discoloration in ready-to-cook poultry carcasses.

Since 1986, there has been even greater consumer utilization of convenience foods and demand for low-fat, skinless products. Constant innovations and accomplishments have also occurred within the poultry industry: (1) Improved quality and uniformity (conformation and fleshing through technological advances and efficient production practices); (2) new processing techniques; (3) effective automation; (4) new products; and (5) new marketing trends. The Agency is proposing to amend the U.S. standards and grades in 7 CFR Part 70 to reflect these innovations.

Proposed Changes

The proposal would revise the existing standard for discolorations on skin and flesh in grade A and B quality poultry products and reclassify skin bruises as a discoloration. For A quality carcasses and parts (§ 70.220), slight discolorations on skin and flesh would be allowed provided the discoloration does not detract from the appearance of the product. Clarification would further be made to define discolorations and to include intensity levels allowed and the total aggregate area of permitted discolorations.

For B quality poultry products (§ 70.221), the limit for discolorations would be moderately shaded areas and the carcass or part would be free of serious defects. This proposed revision is necessary to accurately classify discolorations considered normal for the kind and class of poultry being graded.

Out-dated terms, such as "blue back" (§ 70.220), that refer to conditions presently not found, would be removed. Technological advancements in poultry production practices have improved uniformity among poultry products. "Blue back" has become a rare finding thereby making it insignificant for present poultry marketing.

The descriptions of grade criteria for discolorations in poultry roasts (§ 70.230) would also be clarified. The proposed revision would allow slight discolorations or other skin discolorations which do not detract from the appearance of the roast. The aggregate area of all discolorations will be defined and tolerances will be based on minimum and maximum weight. In addition, the amount of skin covering poultry roasts will be reduced and it will be permitted to overlap without limit, provided fat has been removed from specific areas of the carcass. Current grade criteria for poultry roasts do not provide a margin for accepting product with slight discolorations or indicate tolerances based on the weight of the product, nor do they permit the overlapping of skin on roasts.

In addition, the grade criteria for discolorations in boneless breast and thigh meat (§ 70.231) would also be clarified. The current regulation provides no margin for accepting product with slight discolorations even though they may not detract from the appearance of the product.

The proposal would amend the grade factors for exposed flesh in A quality poultry products (§ 70.220). Current grade factors were developed when the primary method for disjointing whole carcasses was by hand. They do not provide for insignificant cuts and tears on the breast and legs of whole carcasses, or on poultry parts, that may be the result of the newer processing technologies and equipment used today. Data from the Agency's 1991 Poultry Defect Survey indicates that the proposed changes would not significantly affect the overall acceptable quality levels of the product. These cuts and tears frequently do not detract from the appearance or acceptability of the product. The entire paragraph has been rewritten to more clearly incorporate these changes. Because newer methods for disjointing whole birds also affect the thigh portion of poultry parts, the grade criteria for this portion would be clarified in § 70.220(f) "Disjointed and broken bones, missing parts, and trimming."

In B quality poultry products, trimming has been removed from § 70.221(e) "Exposed flesh" and has been more fully addressed in § 70.221(f) "Disjointed and broken bones, missing parts, and trimming."

The proposal would delete Procurement Grades I and II (§§ 70.270 and 70.271). These grades were established in 1960, for poultry suitable for institutional adaptation and further processing. Today, the use of procurement grades and the need to provide grade standards below Grade C are virtually non-existent.

The proposal includes definitions for front poultry halves and rear poultry halves (§ 70.210), products that are newer retail packs; adds tenderloins to the regulations for boneless poultry breast and thigh meat (§ 70.231); and

adds a new standard for skinless carcasses and parts (§ 70.232). Industry had requested that the Agency broaden the types of products to which the standards apply. This proposal would give industry flexibility in marketing additional types of graded poultry products. Consumer preferences for a leaner, tender cut of poultry has caused the demand for tenderloin meat to grow and a standard is needed to ensure a quality product. And consumers wanting less fat in the diet would have a larger variety of skinless USDA graded poultry products from which to choose. The Agency has been working with industry, through test applications, to determine possible changes and agrees that the proposed changes are feasible.

The proposal would also revise the definition for "Free from protruding pinfeathers" (§ 70.1) by adding the terms "diminutive feathers" and "hairs". In addition, the grade criteria for this factor in A quality (§ 70.220) and B quality (§ 70.221) would be clarified.

Another proposed change would require that all scales provided for the graders' use be graduated uniformly whether used for individual products or quantities of product (§ 70.15). This will enable a more accurate application of tolerances during test-weighing procedures, especially as the use of digital scales increases.

The amendments would update the regulations to comply with current statutory requirements regarding providing grading services and licensing graders without discrimination due to age or disabilities (§ 70.5).

Other miscellaneous changes are proposed to remove obsolete material, correct erroneous wording, and otherwise clarify, update, and simplify the regulations. These changes are editorial or housekeeping in nature and impose no new requirements.

List of Subjects in 7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR Part 70 be amended as follows:

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

1. The authority citation for Part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In § 70.1, the definition for "Free from protruding pinfeathers" is revised and new definitions for "Lightly shaded discolorations," "Moderately shaded discolorations," and "Slight discolorations" are added to read as follows:

§ 70.1 Definitions.

* * * * *

Free from protruding pinfeathers, diminutive feathers, or hairs means that a poultry carcass, part, or poultry product with the skin on is free from protruding pinfeathers, diminutive feathers, or hairs which are visible to a grader during an examination at normal grading speeds. However, a poultry carcass, part, or poultry product may be considered as being free from protruding pinfeathers, diminutive feathers, or hairs if it has a generally clean appearance and if not more than an occasional protruding pinfeather, diminutive feather, or hair is evidenced during a more careful examination.

* * * * *

Lightly shaded discolorations on poultry are generally reddish in color and are usually confined to areas of the skin or the surface of the flesh.

Moderately shaded discolorations on poultry skin or flesh are areas that are generally dark red or bluish, or are areas of flesh bruising. Moderately shaded discolorations are free from blood clots that are visible to a grader during an examination of the carcass, part, or poultry product at normal grading speeds.

* * * * *

Slight discolorations on poultry skin or flesh are areas of discoloration that are generally pinkish in color and do not detract from the appearance of the carcass, part, or poultry product.

* * * * *

3. Section 70.5 is revised to read as follows:

§ 70.5 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without regard to race, color, national origin, religion, age, sex, or disability.

4. In § 70.15, paragraph (c) is revised to read as follows:

§ 70.15 Equipment and facilities to be furnished for use of graders in performing service on a resident basis.

* * * * *

(c) Scales graduated in tenths of a pound or less for weighing carcasses, parts, or products individually or in containers up to 100 pounds, and test weights for such scales.

* * * * *

5. In § 70.210, paragraphs (a), (b), and (e) introductory text are revised; paragraphs (e)(10) through (e)(16) are redesignated as paragraphs (e)(12) through (e)(18) respectively; and new paragraphs (e)(10) and (e)(11) are added to read as follows:

§ 70.210 General.

(a) The United States standards for quality contained in this subpart are applicable to individual carcasses of ready-to-cook poultry, to parts of ready-to-cook poultry as described in paragraph (e) of this section, and to individual units of specified poultry food products.

(b) Carcasses, parts, or poultry food products found to be unsound, unwholesome, or otherwise unfit for human food in whole or in part, shall not be given any of the quality designations specified in the United States standards for quality contained in this subpart.

* * * * *

(e) The standards of quality are applicable to poultry parts cut in the manner described in this section. Similar parts cut in a manner other than described in this section may be grade identified only when approved by the Administrator upon a determination that the labeling for such parts accurately describes the product. Requests for such approval shall be made to the national supervisor.

* * * * *

(10) "Front poultry halves" shall include the full breast with corresponding back portion, and may or may not include wings, wing meat, or portions of wing.

(11) "Rear poultry halves" shall include both legs and adjoining portion of the back attached.

* * * * *

6. In § 70.220, paragraphs (d), (e), (f), (g), and (h)(3) are revised and a new paragraph (h)(4) is added to read as follows:

§ 70.220 A Quality.

* * * * *

(d) *Defeathering.* The carcass or part has a clean appearance, especially on the breast. The carcass or part is free of protruding pinfeathers, diminutive feathers, and hairs.

(e) *Exposed flesh.* The requirements contained in this section are applicable to exposed flesh resulting from cuts, tears, and missing skin.

(1) The carcass may have exposed flesh due to cuts, tears, and missing skin, provided the aggregate area of all exposed flesh does not exceed an area equivalent to the area of a circle of the

diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	¼ in	1 in.
Over 2 lb	6 lb	¼ in	1½ in.
Over 6 lb	16 lb	½ in	2 in.
Over 16 lb	None	½ in	3 in.

(2) Large carcass parts, specifically halves, front halves, or rear halves, may have exposed flesh due to cuts, tears, and missing skin, provided the aggregate area of all exposed flesh does not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	¼ in	½ in.
Over 2 lb	6 lb	¼ in	¾ in.
Over 6 lb	16 lb	½ in	1 in.
Over 16 lb	None	½ in	1½ in.

(3) Other parts may have exposed flesh due to cuts, tears, and missing skin, provided the aggregate area of all exposed flesh does not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted (parts)
Minimum	Maximum	
None	2 lb	¼ in.
Over 2 lb	6 lb	¼ in.
Over 6 lb	16 lb	½ in.
Over 16 lb	None	½ in.

(4) For all parts, trimming of the skin along the edge is allowed, provided that at least 75 percent of the normal skin cover associated with the part remains attached, and further provided that the remaining skin uniformly covers the outer surface in a manner that does not detract from the appearance of the part.

(5) In addition, the carcass or part may have cuts or tears that do not expand or significantly expose flesh, provided the aggregate length of all such cuts and tears does not exceed a length tolerance using the dimensions listed in the following table:

Carcass weight		Maximum aggregate length permitted	
Minimum	Maximum	Breast, legs, and parts	Elsewhere on carcass
None	2 lb	¼ in	1 in.
Over 2 lb	6 lb	¼ in	1½ in.
Over 6 lb	16 lb	½ in	2 in.
Over 16 lb	None	½ in	3 in.

(f) *Disjointed and broken bones and missing parts.* (1) Parts are free of broken bones. Parts are free of disjointed bones except that thighs with back portions, legs, or leg quarters may have the femur disjointed from the hip joint. The carcass is free of broken bones and has not more than one disjointed bone.

(2) The wing tips may be removed at the joint, and in the case of ducks and geese, the parts of the wing beyond the second joint may be removed, if removed at the joint and both wings are so treated. The tail may be removed at the base.

(3) Cartilage separated from the breastbone is not considered as a disjointed or broken bone.

(g) *Discoloration.* The requirements contained in this section are applicable to discolorations of the skin and flesh of poultry, and the flesh of skinless poultry, as defined in the definitions in § 70.1.

(1) The carcass, parts derived from the carcass, or large carcass parts may have slight discolorations, provided the discolorations do not detract from the appearance of the product.

(2) The carcass may have lightly shaded areas of discoloration, provided the aggregate area of all discolorations does not exceed an area equivalent to the area of a circle of the diameter specified in the following table. Evidence of incomplete bleeding, such as more than an occasional slightly reddened feather follicle, is not permitted.

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere on carcass
None	2 lb	¾ in	1¼ in.
Over 2 lb	6 lb	1 in	2 in.
Over 6 lb	16 lb	1½ in	2½ in.
Over 16 lb	None	2 in	3 in.

(3) The carcass may have moderately shaded areas of discoloration and discolorations due to flesh bruising, provided:

(i) They are not on the breast or legs, except for the area adjacent to the hock joint;

(ii) They are free of clots; and

(iii) They may not exceed an aggregate area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Hock area of legs	Elsewhere on carcass
None	2 lb	¼ in	⅝ in.
Over 2 lb	6 lb	½ in	1 in.
Over 6 lb	16 lb	¾ in	1¼ in.
Over 16 lb	None	1 in	1½ in.

(4) Parts, other than large carcass parts, may have lightly shaded areas of discoloration, provided the aggregate area of all discolorations does not exceed an area equivalent to the area of a circle of the diameter specified in the following table. Evidence of incomplete bleeding, such as more than an occasional slightly reddened feather follicle, is not permitted.

Carcass weight		Maximum aggregate area permitted (parts)
Minimum	Maximum	
None	2 lb	½ in.
Over 2 lb	6 lb	¾ in.
Over 6 lb	16 lb	1 in.
Over 16 lb	None	1¼ in.

(5) Parts, other than large carcass parts, may have moderately shaded areas of discoloration and discolorations due to flesh bruising, provided:

(i) They are not on the breast or legs, except for the area adjacent to the hock joint;

(ii) They are free of clots; and

(iii) They may not exceed an aggregate area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted (parts)
Minimum	Maximum	
None	2 lb	¼ in.
Over 2 lb	6 lb	⅜ in.
Over 6 lb	16 lb	½ in.
Over 16 lb	None	⅝ in.

(6) Large carcass parts, specifically halves, front halves, or rear halves, may have lightly shaded areas of discoloration, provided the aggregate area of all discolorations does not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	½ in	1 in.
Over 2 lb	6 lb	¾ in	1½ in.
Over 6 lb	16 lb	1 in	2 in.
Over 16 lb	None	1¼ in	2½ in.

(7) Large carcass parts, specifically halves, front halves, or rear halves, may have moderately shaded areas of discoloration and discolorations due to flesh bruising, provided:

(i) They are not on the breast or legs, except for the area adjacent to the hock joint;

(ii) They are free of clots; and

(iii) They may not exceed an aggregate area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Hock area of legs	Elsewhere
None	2 lb	¼ in	½ in.
Over 2 lb	6 lb	⅜ in	¾ in.
Over 6 lb	16 lb	½ in	1 in.
Over 16 lb	None	⅝ in	1¼ in.

(h) * * *

(3) Occasional small areas of clear, pinkish, or reddish colored ice.

(4) Occasional small areas of dehydration, white to light grey in color, on the flesh of skinless carcasses, parts, or specified poultry food products not to exceed the permitted aggregate area for discolorations as provided in § 70.220(g).

* * * * *

7. In § 70.221, paragraphs (d), (e), (f), and (g) are revised to read as follows:

§ 70.221 B Quality.

* * * * *

(d) *Defeathering.* The carcass or part may have a few protruding pinfeathers, diminutive feathers, or hairs which are scattered sufficiently so as not to appear numerous.

(e) *Exposed flesh.* A carcass may have exposed flesh provided that no part on the carcass has more than one-third of the flesh exposed. A part may have no

more than one-third of the flesh normally covered by skin exposed.

(f) *Disjointed and broken bones, missing parts, and trimming.* (1) Parts may be disjointed, but are free of broken bones. The carcass may have two disjointed bones, or one disjointed bone and one nonprotruding broken bone.

(2) Parts of the wing beyond the second joint may be removed at a joint. The tail may be removed at the base.

(3) Slight trimming of the carcass is permitted provided the meat yield of any part on the carcass is not appreciably affected. A moderate amount of meat may be trimmed around the edge of a part to remove defects. The back may be trimmed in an area not wider than the base of the tail to the area halfway between the base of the tail and the hip joints.

(g) *Discolorations of the skin and flesh.* (1) Discolorations are limited to moderately shaded areas and the carcass or part is free of serious defects. Evidence of incomplete bleeding shall be no more than slight. Discolorations due to flesh bruising shall be free of clots and may not exceed one-half the total aggregate area of permitted discoloration.

(2) For a carcass, the aggregate area of all discolorations shall not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	1¼ in	2¼ in.
Over 2 lb	6 lb	2 in	3 in.
Over 6 lb	6 lb	2½ in	4 in.
Over 16 lb	None	3 in	5 in.

(3) For a part, the aggregate area of all discolorations for a part shall not exceed an area equivalent to the area of a circle having a diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted Breast, legs, and parts
Minimum	Maximum	
None	2 lb	1¾ in.
Over 2 lb	6 lb	1 in.
Over 6 lb	16 lb	1½ in.
Over 16 lb	None	1¾ in.

(4) Large carcass parts, specifically halves, front halves, or rear halves, may have areas of discoloration, provided the aggregate area does not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	1 in	1¾ in.
Over 2 lb	6 lb	1½ in	1¾ in.
Over 6 lb	16 lb	2 in	2½ in.
Over 16 lb	None	2½ in	3 in.

* * * * *

8. In § 70.230, paragraph (c) is removed; paragraphs (d) through (j) are redesignated as paragraphs (f) through (l) respectively; new paragraphs (c), (d), and (e) are added; and paragraph (b) and newly designated paragraphs (f), and (l) are revised to read as follows:

§ 70.230 Poultry roast—A Quality.

* * * * *

(b) Bones, tendons, cartilage, bruises, and blood clots shall be removed from the meat.

(c) The roast has a clean appearance and is free of protruding pinfeathers, diminutive feathers, and hair.

(d) Skin for covering a roast may include the skin covering the crop area and the neck skin up to the whisker if the fatty blubber, spongy fat, and membranes have been removed from these areas.

(e)(1) Slight discolorations are permitted on the skin or flesh provided the discoloration does not detract from the appearance of the product. Other discolorations are limited to lightly shaded areas of discolorations that do not exceed the total aggregate area of permitted discoloration as described in this section.

(2) The aggregate area of all lightly shaded discolorations for a poultry roast shall not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Roast weight		Maximum aggregate
Minimum	Maximum	
None	2 lb	¾ inch.
Over 2 lb	6 lb	1incn
Over 6 lb	16 lb	1½ inches.
Over 16 lb	None	2 inches.

(f) Fifty percent or more of the outer surface of the product shall be covered with skin, whether attached to the meat or used as a wrap. Skin covering may overlap without limit in all areas provided the fatty tissue has been removed from the sternal and pectoral feather tracts. The combined weight of the skin and fat used to cover the outer surface and used as a binder shall not exceed 15 percent of the total net weight of the product.

* * * * *

(l) Product packaged in an oven-ready container shall meet all the requirements of the paragraphs in this section, except that with respect to skin covering, the exposed surface of the roast need not be covered with skin. If skin is used to cover the exposed surface, it may be whole or emulsified. Additionally, for roasts packaged in oven-ready containers, comminuted (mechanically deboned) meat may be substituted in part for skin, but may not exceed 8 percent of the total weight of the product.

9. In § 70.231, the section heading, the introductory text, and paragraphs (d) and (e) are revised to read as follows:

§ 70.231 Boneless poultry breast, thigh, and tenderloin—A Quality.

The standards of quality contained in this section are applicable to raw poultry products labeled as ready-to-cook boneless poultry breasts, thighs, or tenderloins, or as ready-to-cook boneless poultry breast fillets or thigh fillets, or with words of similar import.

* * * * *

(d) Skinless breasts, thighs, or tenderloins shall be free of cartilage, blood clots, bruises, tendons (except for tenderloins), and discolorations other than slight discolorations, provided they do not detract from the appearance of the product. Minor flesh abrasions due to preparation techniques are permitted.

(e) Trimming is permitted around the outer edges of whole breasts, half breasts, and thighs provided the trimming results in at least one-fourth of the breast or one-half of the thigh remaining intact and further, must result in a portion that approximates the same symmetrical appearance of the original part. Trimming must result in a smooth outer surface with no angular cuts, tears, or holes in the meat portion of the product. Trimming of the inner muscle surface is permitted provided it results in a relatively smooth appearance.

10. In subpart B, a new § 70.232 is added to read as follows:

§ 70.232 Skinless carcasses and parts—A Quality

The standards of quality contained in this section are applicable to raw ready-to-cook whole poultry carcasses and parts.

(a) The parts shall be cut as specified in § 70.210.

(b) The skin shall be removed in a manner without undue mutilation of adjacent muscle. Minor flesh abrasions due to preparation techniques are permitted.

(c) Skinless carcasses or parts shall meet A quality ready-to-cook requirements as outlined in § 70.220(a), (b), (f), and (g).

11. In section 70.240, paragraph (a) is revised and paragraph (d) is removed to read as follows:

§ 70.240 General

(a) All terms in the United States standards for quality set forth in §§ 70.210 through 70.232 shall, when used in §§ 70.240 through 70.252, have the same meaning as when used in said standards.

* * * * *

12. Sections 70.270 and 70.271 are removed, as well as the undesignated center heading preceding § 70.270.

Dated: October 12, 1994

Eric M. Forman,

Acting Administrator.

[FR Doc. 94–25760 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1220

[No. LS–94–006]

RIN 0581–AB30

Soybean Promotion and Research Program: Procedures for the Conduct of a Producer Poll

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Soybean Promotion, Research, and Consumer Information Act (Act), a poll must be conducted among eligible soybean producers to determine if they support the conduct of a referendum on the continuance of the payment of refunds under the Soybean Promotion and Research Order (Order). This proposed rule sets forth the procedures for conducting the required producer poll.

DATES: Written comments must be received by November 17, 1994.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA; P.O. Box 96456, room 2624–S; Washington, D.C. 20090–6456. Comments will be available for public inspection during regular business hours at the above office in room 2624 South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C. Comments on the information collection requirements contained in this proposed rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for AMS, USDA.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the 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 an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing the Secretary will rule on the petition. The statute provides that the district court of the United States in any district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision if a complaint for that purpose is filed not later than 20 days after the date of the entry of the Secretary's decision.

Further, § 1974 of the Act provides, with certain exceptions, that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State. One exception in the Act concerns assessments collected by the Qualified State Soybean Boards (QSSBs). The exception provides that to ensure adequate funding of the operations of QSSBs under the Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a QSSB in that State may collect, and which is authorized to be credited under the Act. Another exception concerns certain referendums conducted during specified periods by a State relating to the continuation or termination of a QSSB or State soybean assessment.

This proposed rule would establish procedures for the conduct of a producer poll. It provides to all eligible soybean producers the opportunity to request that the Secretary conduct a refund referendum on the continuance of the payment of refunds under the Order. Participation in the producer poll would be voluntary. The Administrator of AMS has determined that this proposed rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, the information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB). They have been assigned OMB control number 0581–0093. The information collection requirements in

this proposed rule include the following:

(a) In-person requests to conduct a refund referendum: Each person who wishes to request that the Secretary conduct a refund referendum must ask the appropriate county Agricultural Stabilization and Conservation Service (ASCS) office to enter his/her name and address on Form LS–51, "Producer Poll on Refund Referendum Request List." Each person must read the Certification Statement at the top of the form and sign his/her name certifying that he/she meets the eligibility requirements. The estimated average time burden for completing the procedure is 5 minutes per person.

(b) Absentee requests to conduct a refund referendum: Each person who wishes to request that the Secretary conduct a refund referendum must complete Form LS–53, "Producer Poll on Refund Referendum—Absentee Request." Form LS–53 is a self-mailer, the person making a request must read and sign the form, fold the form so that the ASCS office address is showing, and tape the form closed. The form may be returned by mail by affixing a stamp or it may be returned in person. The estimated average time burden for completing the procedure is 5 minutes per person.

(c) The proposed rule contains a requirement that the county ASCS office list the names and addresses of each person or entity requesting Form LS–53 (Absentee Request), the date the form was requested, and the date it was received back by the ASCS office. This information is necessary for the Department to list the identities of each person making a request in the producer poll and to allow interested parties to see the identity of each person making a request to the Secretary to conduct a refund referendum. This information can be used to validate requests and to challenge potentially ineligible persons. Each county ASCS office will fill out one or more of the Form LS–52 "Absentee Request List." The estimated average reporting burden will vary depending on the number of requests. The estimated number of producers, including in-person and absentee, who will request that the Secretary conduct a refund referendum is 75,000–100,000 with each producer making one request.

Please send comments concerning the information collection requirements contained in this proposed rule to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for AMS, USDA.

Background

The Act (7 U.S.C. 6301–6311) provides for the establishment of a coordinated program of promotion and research designed to strengthen the soybean industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for soybeans and soybean products. The program is financed by an assessment of 0.5 of one percent of the net market price of soybeans sold by producers. Pursuant to the Act, an Order was made effective July 9, 1991, and the collection of assessments began September 1, 1991.

The Act requires that a referendum be conducted no earlier than 18 months and no later than 36 months after the issuance of the Order to determine whether the Order should be continued.

The required initial referendum was conducted on February 9, 1994. Of the 85,606 valid ballots cast, 46,060 (53.8 percent) were in favor of continuing the Order and the remaining 39,546 votes (46.2 percent) were against continuing the Order. The Act requires approval by a simple majority for the Order to continue.

The Act also requires that within 18 months after the Secretary announces the results of the referendum, the Secretary conduct a poll of producers to determine if producers support the conducting of a referendum on the continuance of the payment of refunds under the Order. The Secretary announced the results of the referendum on April 1, 1994. Therefore, the producer poll must be held before October 1, 1995.

If, based on the poll, the Secretary determines that at least 20 percent of the approximately 400,000 producers nationwide (not in excess of one-fifth of which may be producers in any one State) support the conducting of a refund referendum, the Secretary must conduct a refund referendum within 1 year of that determination.

If, based on the poll, the Secretary determines that at least 20 percent of the approximately 400,000 producers nationwide (not in excess of one-fifth of which may be producers in any one State) do not support the conducting of a refund referendum, no refund referendum will be conducted and refunds will be discontinued.

The Act specifies that the producer poll shall be conducted for a period established by the Secretary. Eligible persons must both certify that they were engaged in the production of soybeans during a representative period specified by the Secretary, and indicate that they support the conducting of a refund referendum. The Act also provides that the producer poll may be conducted in person at county Extension offices or county ASCS offices or by mail-in requests. Conducting the poll at county ASCS offices and providing for mail-in requests will provide the greatest opportunity for those producers who wish to indicate that they support the conducting of a refund referendum.

The proposed rule sets forth procedures to be followed in conducting the producer poll under the Act. The proposed rule includes provisions concerning definitions, supervision of the producer poll, certification and request procedures, reporting poll results, and disposition of records. We propose that ASCS of the Department coordinate State and County ASCS roles in conducting the poll.

List of Subjects in 7 CFR Part 1220

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Soybeans and soybean products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that title 7 of the CFR part 1220 be amended as follows:

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for part 1220 continues to read as follows:

Authority: Title XIX, Pub. L. 101–624, 104 Stat. 3359, 3881 (7 U.S.C. 6301–6311).

2. Subpart F is added to read as follows:

Subpart F—Procedures for the Conduct of a Producer Poll

Sec.

Definitions

1220.701 Act.
1220.702 Administrator.
1220.703 Agricultural Stabilization and Conservation County Committee.
1220.704 Agricultural Stabilization and Conservation Service.
1220.705 Agricultural Stabilization and Conservation Service County Executive Director.
1220.706 Department.
1220.707 Deputy Administrator.
1220.708 Order.
1220.709 Person.
1220.710 Producer.
1220.711 Public notice.
1220.712 Refund referendum.
1220.713 Representative period.
1220.714 Secretary.
1220.715 Soybeans.
1220.716 State and United States.

Producer Poll

1220.717 General.
1220.718 Supervision of producer poll.
1220.719 Eligibility.
1220.720 Time and place for requesting a refund referendum.
1220.721 Facilities for conducting poll.
1220.722 Certification and request forms.
1220.723 Certification and request procedure.
1220.724 Lists of registered producers.
1220.725 Challenge of eligibility.
1220.726 Canvassing request lists.
1220.727 ASCS county office report.
1220.728 ASCS State office report.
1220.729 Results of the poll.
1220.730 Disposition of records.
1220.731 Instructions and forms.

Subpart F—Procedures for the Conduct of a Producer Poll

Definitions

§ 1220.701 Act.

The term *Act* means the Soybean, Promotion, Research, and Consumer Information Act set forth in title XIX, subtitle E of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624), and any amendments thereto.

§ 1220.702 Administrator.

The term *Administrator* means the Administrator of AMS, or any officer or employee of the Department to whom there has been delegated or may be delegated the authority to act in the Administrator's stead.

§ 1220.703 Agricultural Stabilization and Conservation County Committee.

The term *Agricultural Stabilization and Conservation County Committee*, also referred to as "ASC County Committee," means the group of persons within a county who are elected to act as the County Agricultural Stabilization and Conservation Committee.

§ 1220.704 Agricultural Stabilization and Conservation Service.

The term Agricultural Stabilization and Conservation Service, also referred to as "ASCS," means the Agricultural Stabilization and Conservation Service of the Department.

§ 1220.705 Agricultural Stabilization and Conservation Service County Executive Director.

The term *Agricultural Stabilization and Conservation Service County Executive Director*, also referred to as "CED," means the person employed by the ASC County Committee to execute the policies of the ASC County Committee and to be responsible for the day-to-day operation of the ASCS county office, or the person acting in such capacity.

§ 1220.706 Department.

The term *Department* means the United States Department of Agriculture.

§ 1220.707 Deputy Administrator.

The term *Deputy Administrator* means the Deputy or Acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

§ 1220.708 Order.

The term *Order* means the Soybean Promotion and Research Order.

§ 1220.709 Person.

The term *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1220.710 Producer.

The term *Producer* means any person engaged in the growing of soybeans in the United States who owns, or shares the ownership and risk of loss of, such soybeans.

§ 1220.711 Public notice.

The term *Public notice* means information regarding a producer poll that the Secretary shall provide, without advertising expenses, through press releases by State and county ASCS offices and other appropriate government offices, by means of newspapers, electronic media, county newsletters, and the like. Such notice shall contain the dates during which the producer poll will be conducted, where it will be conducted, eligibility requirements, and other pertinent information.

§ 1220.712 Refund referendum.

The term *Refund referendum* means a referendum conducted pursuant to § 1969(1)(2)(F)(iv) of the Act relating to continuance of authority for producers to receive refunds of assessments.

§ 1220.713 Representative period.

The term *Representative period* means the period designated by the Secretary pursuant to § 1970 of the Act.

§ 1220.714 Secretary.

The term *Secretary* means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has been delegated or to whom there may be delegated the authority to act in the Secretary's stead.

§ 1220.715 Soybeans.

The term *Soybeans* means all varieties of Glycine max or Glycine soja.

§ 1220.716 State and United States.

The terms *State* and *United States* include the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

Producer Poll

§ 1220.717 General.

(a) A poll to determine whether eligible producers favor the conduct of a refund referendum on the continuance of the payment of refunds under the Order shall be conducted in accordance with this subpart.

(b) The poll shall be conducted at the county offices of ASCS.

(c) If the Secretary determines, based on the poll results, that at least 20 percent of all producers (not in excess of one-fifth of which may be producers in any one State) support the conducting of a refund referendum to determine whether such producers favor the continuation of the payment of refunds under the Order, a refund referendum will be held within 1 year from that determination.

(d) If the Secretary determines, based on the poll results, that less than 20 percent of all producers (not in excess of one-fifth of which may be producers in any one State) favor the conduct of a refund referendum, a refund referendum will not be held and refunds will be discontinued.

§ 1220.718 Supervision of poll.

The Administrator shall be responsible for conducting the poll in accordance with this subpart.

§ 1220.719 Eligibility.

(a) Eligible producers. Each person who was a producer during the representative period is entitled to request a refund referendum. Each producer entity is entitled to only one request.

(b) Proxy registration and voting. Proxy registration and voting is not authorized.

(c) An officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any eligible producer entity (other than an individual producer), such as a corporation or partnership, may register and request a refund referendum on behalf of that entity. Such individual must certify that he/she is authorized by such entity to take such action.

(d) Joint and group interest. A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation engaged in the production of soybeans as a producer entity will be entitled to make only one request; provided, however, that any individual member of a group who is an eligible producer separate from the group may register and make a request as a producer.

§ 1220.720 Time and place for requesting a refund referendum.

A poll will be conducted for one day on a date to be determined by the Secretary. Eligible persons shall make their requests following the procedures in § 1220.723. Except for absentee requests, the polling will take place during the business hours of each county ASCS office.

§ 1220.721 Facilities for conducting poll.

Each county ASCS office shall provide adequate facilities and space to permit producers to register and to sign Form LS–50 indicating that they are requesting that a refund referendum be conducted.

§ 1220.722 Certification and request forms.

A single sheet (Form LS–51) shall be used for certifying eligibility and for requesting a refund referendum. The county ASCS office, at the request of the producer, will fill out the form, including the producer's name and address. The county ASCS office will require the producer to read the certification statement and to sign his/her name. The form does not require a "yes" or "no." Completing and signing the Form LS–51 will be considered a request to the Secretary to conduct a refund referendum. A combined registration, certification, and request form (Form LS–53) shall be used for absentee requests. The producer must read and sign the form simultaneously registering, certifying eligibility, and requesting that a refund referendum be conducted.

§ 1220.723 Certification and request procedure.

(a) *In-person.* Each producer who wants to request that a refund referendum be conducted shall, during the period to be specified by the Secretary, request that the county ASCS office in, or serving, the county in which the producer resides, enter his/her name and address on Form LS–51. Each producer entity shall make its request at the county ASCS office in the county in which its headquarters office or business is located or at the county office serving the county in which the entity's headquarters office or business is located. Producers will be required to provide their names and addresses to the county ASCS office and to read the certification statement before signing the form. By signing the form, producers certify that they or the entity they represent were producers during the specified representative period. A producer who is requesting a refund referendum on behalf of an entity referred to in § 1220.719 certifies by signing the form that he is authorized to do so.

(b) *Absentee requests.* Individual eligible producers may request and obtain a combined registration, certification, and request form (Form LS–53) from the county ASCS office of the county in which they reside. Eligible producer entities may request Form LS–53 from the county in which their main office is located. Only one Form LS–53 shall be provided to each eligible producer. Form LS–53 may be requested in person or in writing during a specified period which will be announced by the Secretary. The county ASCS office shall enter on Form LS–52, "Absentee Request List," the name and address of each person or entity requesting Form LS–53 and the date the form was provided.

(2) To register, eligible producers must complete and sign Form LS–53, and certify that:

(i) They or the entity they represent were producers during the specified representative period; and

(ii) If voting on behalf of an entity referred to in § 1220.719 they are authorized to do so.

(3) After completing Form LS–53, a producer must fold the self-mailer so that the ASCS county office address is properly displayed, and mail or deliver the form to the address shown.

(4) Absentee requests must be received at the appropriate county ASCS office during the period to be established. A request shall be considered to have been received during the period if it was received in the office before the close of business on the final day of the established period.

§ 1220.724 Lists of registered producers.

Maintaining security of Forms LS–51 and LS–52. County ASCS offices shall at all times maintain control of the master (original) Forms LS–51 and LS–52. A copy will be posted and available for public inspection each day during the polling period and for 2 business days thereafter. The form will be posted during regular office hours in a conspicuous public location.

§ 1220.725 Challenge of eligibility.

(a) *Who may challenge.* A person's eligibility to request a refund referendum may be challenged by any person.

(b) *Challenge period.* A challenge of a person's eligibility to request a refund referendum may be made at any time during the polling period, but no later than the close of business on the 2nd day after the polling period ends.

(c) *Determination of challenges.* The ASC County Committee or its designee shall make a determination concerning the eligibility of a producer who has been challenged and notify challenged producers as soon as practicable, but not later than 5 business days after the last day of the polling period.

(d) *Challenged names.* The names of producers whose eligibility is challenged shall be so noted. The notation "challenged" shall be made next to the name on the Form LS–51 or Form LS–52. After the challenge has been resolved, the county ASCS office shall write either "eligible" or "ineligible" next to the name on the Form LS–51 or Form LS–52. A challenge shall be determined to have been resolved if the determination of the ASC County Committee or its designee is not appealed within the time allowed for appeal or there has been a determination by the ASC County Committee after an appeal.

(e) *Appeal.* A person declared to be ineligible to request a refund referendum by the ASC County Committee or its designee may file an appeal at the county ASCS office within 3 business days after notification of such decision. Such person may be required to provide documentation such as sales documents or similar documents in order to demonstrate his or her eligibility. An appeal shall be determined by the ASC County Committee or its designee as soon as practicable, but in all cases not later than the 9th business day after the last day of the polling period. The ASC County Committee or its designee's determination on an appeal is final.

§ 1220.726 Canvassing request lists.

(a) *Canvassing procedure.* Canvassing of Forms LS–51, LS–52, and LS–53 shall take place as soon as possible after the opening of county ASCS offices on the 10th business day following the last day of the polling period. Such canvassing shall be in the presence of at least two ASCS employees. CED or designee shall supervise the canvassing process and make a determination as to:

(1) The number of producers signing Forms LS–51 and LS–53 and found to

be eligible to request a refund referendum, and

(2) The number of producers signing Forms LS–51 and LS–53 found to be ineligible to request a refund referendum.

(b) The public may witness the review and tabulation of Forms LS–51, LS–52, and LS–53, but may not interfere with the process.

§ 1220.727 ASCS county office report.

The ASCS county report shall be certified as complete by the CED or designee. ASCS county office shall notify ASCS State office of the results of the poll. Each ASCS county office shall transmit the results of the poll in its county to the ASCS State office. Such report shall include, but not be limited to, the number of producers registering to request a refund referendum, the number of requests declared invalid, and the total number of valid requests to conduct a referendum. The results of the poll in each county may be made available to the public after the county has reported to the State office. A copy of the report of results shall be posted for 30 days in ASCS county office in a conspicuous place accessible to the public, and a copy shall be kept on file in ASCS county office for a period of at least 12 months.

§ 1220.728 ASCS State office report.

Each ASCS State office shall transmit to the Deputy Administrator, ASCS, a written summary of the results of the poll received from all ASCS county offices within the State. The summary shall include the information on the poll results contained in the reports from all county offices within each State and be certified by the ASCS State Executive Director. The State ASCS office shall maintain a copy of the summary where it shall be available for public inspection for a period of not less than 12 months.

§ 1220.729 Results of the poll.

(a) The Deputy Administrator, ASCS, shall submit to the Administrator, AMS, the results of the poll. The Administrator, AMS, shall prepare and submit to the Secretary a report of the results of the poll. The results of the poll shall be issued by the Department in an official press release and published in the **Federal Register**. State reports and related papers shall be available for public inspection in the office of the Marketing Programs Branch, Livestock and Seed Division, AMS, USDA, room 2624 South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C.

(b) If the Secretary deems it necessary, the report of any State or county will be re-examined and checked by such persons who may be designated by the Deputy Administrator, ASCS, or the Secretary.

§ 1220.730 Disposition of records.

Each ASCS county executive director shall place in sealed containers marked with the identification of the soybean producer poll, the request lists and county summaries. Such records shall be secured in the custody of the ASCS county executive director for a period of not less than 12 months after the poll. If no notice to the contrary is received from the Deputy Administrator, ASCS, by the end of such time, the records shall be destroyed.

§ 1220.731 Instructions and forms.

The Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart to govern the conduct of the producer poll.

Dated: October 11, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–25665 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–128–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Fokker Model F28 Mark 0100 series airplanes. This proposal would require inspecting the teleflex cable of the landing gear to detect corrosion, moisture, or improper greasing; and replacing discrepant teleflex cables with serviceable parts. This proposal is prompted by reports of difficulties with the operation of the selector handle of the landing gear when "gear down" is selected, due to improper greasing of the teleflex cable of the landing gear during production. The actions specified by the proposed AD are intended to prevent moisture from accumulating on the teleflex cable, which could result in corrosion of the teleflex cable that could inhibit operation of the selector handle of the landing gear.

DATES: Comments must be received by November 29, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–128–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1100.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–128–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–128–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on all Fokker Model F28 Mark 0100 series airplanes. The RLD advises that reports have been received of in-service difficulties experienced with the operation of the selector handle of the landing gear when the pilot has selected "gear down." Investigation revealed that the teleflex cable was improperly greased during production; this cable runs from the selector handle to the selector valve of the landing gear. In one case, the teleflex cable was found to be corroded. Improper greasing allowed moisture to accumulate on the teleflex cable and subsequently freeze at high altitude and in cold weather conditions; this caused the stiff operation of the selector handle of the landing gear. Improper greasing of the teleflex cable of the landing gear, if not corrected, could result in moisture accumulating on the teleflex cable. Such moisture subsequently could corrode the teleflex cable, which could then inhibit operation of the selector handle of the landing gear.

Fokker has issued Service Bulletin SBF100–32–071, dated June 22, 1993, which describes procedures for removing the teleflex cable of the landing gear, part number D76351–001, and inspecting it to detect corrosion, moisture, or improper greasing on the cable. If no discrepancies are detected, the cable is to be cleaned, greased, and reassembled. If any discrepancy is detected, the cable must be replaced with a serviceable part. The RLD classified this service bulletin as mandatory and issued Airworthiness Directive BLA 93–089 (A), dated July 12, 1993, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands 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 RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, 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, the proposed AD would require removing the teleflex cable of the landing gear, part number D76351–001, and inspecting it to detect corrosion, moisture, or improper greasing. If no discrepancies are detected, the cable would be cleaned, greased, and reassembled. If any discrepancy is detected, the cable would be replaced with a serviceable part. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 119 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10.9 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $71,340.50, or $599.50 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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:

Fokker: Docket 94–NM–128–AD.

Applicability: All Model F28 Mark 0100 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent moisture from accumulating on the teleflex cable, which could result in corrosion of the teleflex cable that could inhibit operation of the selector handle of the landing gear, accomplish the following:

(a) Within 4 months after the effective date of this AD, remove the teleflex cable of the landing gear, part number D76351–001, and perform an inspection of it to detect corrosion, moisture, or improper greasing, in accordance with Fokker Service Bulletin SBF100–32–071, dated June 22, 1993.

(1) If no discrepancies are found, prior to further flight, clean, grease, and reinstall the teleflex cable, in accordance with the service bulletin.

(2) If any discrepancy is found, prior to further flight, replace the teleflex cable with a serviceable part in accordance with the service bulletin.

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

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR

21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 12, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-25692 Filed 10-17-94; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 39

[Docket No. 94-NM-118-AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require an inspection to detect cracks in the cleats at certain rib stations of the wing, and replacement of the cracked cleats with new cleats. This proposal is prompted by a report that, during manufacture of the wings of these airplanes, cracks were discovered in the cleats at the left- and right-hand rib station 8200 of the wing due to improper installation of certain bolts. The actions specified by the proposed AD are intended to prevent cracking of the cleats, which could result in reduced structural integrity of the wing.

DATES: Comments must be received by November 29, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-118-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, ANM-113, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1100.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-118-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-118-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that, during manufacture of the wings for the Model F28 Mark 0100 series airplanes, cracks were discovered in the cleats at the left- and right-hand rib station 8200 of the wing. The cause of such cracking has been attributed to the improper installation of certain Hi-lok bolts in the bottom wing skin. This condition, if not corrected, could result in reduced structural integrity of the wing.

Fokker has issued Service Bulletin SBF100-57-018, dated Septemer 23, 1993, which describes procedures for a high-frequency eddy current inspection to detect cracks in the cleats at the left and right rib station 8200 of the wing, and replacement of the cracked cleats with new cleats. The RLD classified this service bulletin as mandatory and issued Netherlands Airworthiness Directive BLA 93-142 (A), dated November 1, 1993, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, 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, the proposed AD would require a one-time high-frequency eddy current inspection to detect cracks of the cleats at the left- and right-hand rib station 8200 of the wing, and replacement of the cracked cleats with new cleats.

The FAA estimates that 12 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 55 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $36,300, or $3,025 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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:

Fokker: Docket 94–NM–118–AD.

Applicability: Model F28 Mark 0100 series airplanes; as listed in Fokker Service Bulletin SBF100–57–018, dated September 23, 1993; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing, accomplish the following:

(a) Prior to the accumulation of 16,000 total flight cycles or within 3 months after the effective date of this AD, whichever occurs later, perform a one-time high-frequency eddy current inspection to detect cracks in the cleats at the left- and right-hand rib station 8200 of the wing, in accordance with Fokker Service Bulletin SBF100–57–018, dated September 23, 1993. If any cracked cleat is detected, prior to further flight, replace it with a new cleat, in accordance with the service bulletin.

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

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

Issued in Renton, Washington, on October 12, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25693 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–149–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–9–80 series airplanes. This proposal would require the replacement of certain suspect horizontal stabilizer primary trim motors. This proposal is prompted by an analysis which revealed that certain incorrectly manufactured motor shafts could fail prematurely and, in turn, cause the primary trim motor to fail. The actions specified by the proposed AD are intended to prevent such failures of the primary trim motor, which could ultimately result in reduced controllability of the airplane.

DATES: Comments must be received by December 13, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5336; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–149–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–149–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

McDonnell Douglas Corporation and a supplier of horizontal stabilizer primary trim motors recently conducted an analysis of the horizontal stabilizer primary trim motors installed on Model DC–9–80 series airplanes. Results of this analysis have revealed a condition in the motor that could lead to its premature failure. This condition has been attributed to the omission of a hardening process (heat treatment) during the manufacture of a specific lot of motor output shafts. Without this hardening process, the defective output shafts may experience excessive wear, which could lead to failure of the shaft and, consequently, failure of the trim motor. A shaft failure in the primary trim motor could also result in the inability of the trim gearbox to transmit the input from the alternate trim motor. This condition, if not corrected, could result in the loss of all stabilizer trim and subsequent reduced controllability of the airplane. No failures have actually occurred in service, however.

The FAA has reviewed and approved McDonnell Douglas MD–80 Alert Service Bulletin A27–342, dated August 4, 1994, which describes procedures for inspecting the horizontal stabilizer primary trim motor to determine if the motor is one having a suspect serial number, and replacing the suspect motors.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require inspecting the horizontal stabilizer primary trim motor to determine if the motor is one having a suspect serial number, and replacing the suspect motors. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 26 Model DC–9–80 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 13 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately .5 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed inspection requirements of this AD on U.S. operators is estimated to be $357.50, or $27.50 per airplane.

Replacement of suspect motors would require 4.5 work hours to accomplish, at an average labor charge of $55 per work hour. Required replacement parts would be provided by Sundstrand Electric Power Systems (the manufacturer of the horizontal stabilizer primary trim motors) at no charge to operators. Based on these figures, the total cost impact of the proposed replacement requirements of this AD on U.S. operators is estimated to be $3,217.50, or $247.50 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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:

McDonnell Douglas: Docket 94–NM–149–AD.

Applicability: Model DC–9–80 series airplanes; as listed in McDonnell Douglas MD–80 Alert Service Bulletin A27–342, dated August 4, 1994; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the horizontal stabilizer primary trim motor, accomplish the following:

(a) Within 6 months after the effective date of this AD, conduct a visual inspection of the horizontal stabilizer primary trim motor to determine if the motor is identified with one of the suspect serial numbers listed in McDonnell Douglas MD–80 Alert Service Bulletin A27–342, dated August 4, 1994. Conduct this inspection in accordance with the procedures specified in that service bulletin.

(1) If the horizontal stabilizer primary trim motor is not identified with a suspect serial number, no further action is required by this AD.

(2) If the horizontal stabilizer primary trim motor is identified with a suspect serial number, prior to further flight, replace the motor in accordance with the service bulletin.

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

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

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

Issued in Renton, Washington, on October 12, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25691 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–144–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes, and Model C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness

directive (AD) that is applicable to certain McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 series airplanes, and Model C-9 (military) airplanes. This proposal would require replacement of the engine nose cowl attaching bolts and the installation of bearing plates on the nose cowl attach ring. This proposal is prompted by incidents in which the nose cowl separated from the airplane due to the elongation and/or breakout of the nose cowl's attachment ring holes, and failure of the attaching bolts. The actions specified by the proposed AD are intended to prevent separation of the engine nose cowl from the airplane, which could result in damage to the airplane structure or could present a hazard to persons or property on the ground.

DATES: Comments must be received by December 13, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-144-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801-1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2-98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch ANM-140L, FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5245; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94-NM-144-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-144-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports of five incidents, involving McDonnell Douglas Model DC-9 series airplanes, in which the engine nose cowl separated from the airplane. Investigation revealed that these incidents of separation of the nose cowls have occurred following severe engine vibration that was caused by failures of the first stage or second stage fan blades. The cause of the separations has been attributed to elongation and/or breakout of the engine nose cowl's attachment ring holes. Additionally, in some cases, the attach bolts had failed. This condition, if not corrected, could lead to separation of the engine nose cowl from the airplane, which could result in damage to the airplane fuselage or other structure, or could present a hazard to persons or property on the ground.

The FAA has reviewed and approved McDonnell Douglas DC-9 Alert Service Bulletin A71-63, dated July 21, 1994, which describes procedures for replacement of the left and right engine nose cowl attaching bolts with new bolts of increased strength. It also describes procedures for adding bearing plates on the nose cowl attach ring. These actions will minimize the possibility of the engine nose cowl separating from the airplane.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacement of the nose cowl attaching bolts and the installation of bearing plates on the nose cowl attach ring. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 892 Model DC-9-10, -20, -30, -40, and -50 series airplanes, and Model C-9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 557 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $1,200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $852,210, or $1,530 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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:

McDonnell Douglas: Docket 94–NM–144–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and Model C–9 (military) airplanes; as listed in McDonnell Douglas DC–9 Alert Service Bulletin A71–63, dated July 21, 1994; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine nose cowl from the airplane, accomplish the following:

(a) Within 12 months after the effective date of this AD, replace the left and right engine nose cowl attaching bolts and install bearing plates, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A71–63, dated July 21, 1994.

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

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

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

Issued in Renton, Washington, on October 12, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–25694 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–100–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and Model C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and Model C–9 (military) airplanes. This proposal would require inspection of the tailcone release locking cable fitting assembly, and replacement or modification of the assembly, if necessary. This proposal is prompted by reports of the inability of the tailcone to deploy because the swaged ball on the cable had jammed after passing into the release handle hole. The actions specified by the proposed AD are intended to prevent the inability of the tailcone to deploy, which could impede the egress of passengers from the airplane during an emergency evacuation.

DATES: Comments must be received by December 13, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5336; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–100–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

One operator of McDonnell Douglas Model DC–9 series airplanes has reported that, while performing a functional drop test of the tailcone, the locking cable connected to the internal handle jammed inside the handle fitting assembly. This prevented the tailcone from deploying. Investigation revealed that the swaged ball on the cable had jammed after passing into the handle hole. This condition, if not corrected, could prevent the tailcone from deploying, which could impede the egress of passengers from the airplane during an emergency evacuation.

The FAA has reviewed and approved McDonnell Douglas DC–9 Service Bulletin 53–269, dated August 11, 1994,

which describes procedures for inspecting the tailcone release locking cable fitting assembly to determine if the swaged ball can enter the handle hole from the locking cable. It also describes procedures for replacing or modifying the fitting to ensure the proper operation of the assembly.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require inspecting the tailcone release locking cable fitting assembly, and replacing or modifying fittings that do not operate properly. This proposed AD would also require the eventual replacement or modification of the fitting on all airplanes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 1,986 Model DC-9 and DC-9-80 series airplanes, Model MD-88 airplanes, and Model C-9 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,170 airplanes of U.S. registry would be affected by this proposed AD.

The proposed inspection would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of this proposed action on U.S. operators is estimated to be $128,700, or $110 per airplane.

The proposed replacement or modification would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Required parts would cost approximately $2,388 per airplane. Based on these figures, the total cost impact of this proposed action on U.S. operators is estimated to be $3,115,710, or $2,663 per airplane.

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

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, most prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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:

McDonnell Douglas: Docket 94-NM-100-AD.

Applicability: Model DC-9 series airplanes, Model DC-9-80 (MD-80) series airplanes, Model MD-88 airplanes, and Model C-9 (military) airplanes; as listed in McDonnell Douglas DC-9 Service Bulletin 53-269, dated August 11, 1994; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the inability of the tailcone to deploy, which could impede the egress of passengers from the airplane during an emergency evacuation, accomplish the following:

(a) Within 18 months after the effective date of this AD, inspect the tailcone release locking cable fitting assembly for proper operation in accordance with the procedures specified in McDonnell Douglas DC-9 Service Bulletin 53-269, dated August 11, 1994. If the swaged ball on the cable can pass into the handle hole, prior to further flight, replace or modify the fitting assembly in accordance with the service bulletin.

(b) Within 36 months after the effective date of this AD, replace or modify the fitting assembly in accordance with McDonnell Douglas DC-9 Service Bulletin 53-269, dated August 11, 1994. Such replacement or modification constitutes terminating action for the requirements of this AD.

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

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

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on October 12, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94-25695 Filed 10-17-94; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Illinois Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois regulatory program (hereinafter the "Illinois program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to 23 parts of Title 62 of the Illinois Administrative Code (IAC) pertaining to permit fees, definitions, financial interests, coal exploration, permitting, environmental resources, reclamation plans, special categories of mining, small operator assistance, bonding, performance standards, inspection, enforcement, civil penalties, administrative and judicial review, and certification of blasters. The amendment is intended to revise the Illinois program to be consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the recently revised Federal regulations, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

DATES: Written comment must be received by 4:00 p.m., [C.S.T.], November 17, 1994. If requested, a public hearing on the proposed amendment will be held on November 14, 1994. Requests to speak at the hearing must be received by 4:00 p.m., [C.S.T.], on November 2, 1994.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. James F. Fulton, Director, Springfield Field Office, at the address listed below.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under FOR FURTHER INFORMATION CONTACT.

Copies of the Illinois program, the proposed amendment, a listing of any scheduled public hearings, 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 Springfield Field Office.

James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 511 West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492–4495.

Illinois Department of Mines and Minerals, 300 West Jefferson Street, Suite 300, Springfield Illinois 62791, Telephone (217) 782–4970.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

II. Description of the Proposed Amendment

By letter dated September 23, 1994, (Administrative Record No. IL–1600) Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment in response to an August 5, 1993, letter (Administrative Record No. IL–1400) that OSM sent to Illinois in accordance with 30 CFR 732.17(c), in response to required program amendments at 30 CFR 913.16 (s), (t), (u), and (v), and at its own initiative. The provisions of the 23 parts of Title 62 of the Illinois Administrative Code (IAC) that Illinois proposes to amend are discussed below.

A. 62 IAC 1700.16. Fees and Forfeitures

Illinois is amending subsection (a) by requiring that fees collected under the provision of the State Act be deposited in the Coal Mining Regulatory Fund, rather than the general revenue fund. This proposed amendment reflects recent statutory changes to the Surface Coal Mining Land Conservation and Reclamation Act (State Act) at 225 ILCS 720/9/07.

B. 62 IAC 1701. Appendix A Definitions

The definition of "coal exploration" is revised by adding the following specific exclusions. Coal exploration does not include scientific research which is not related to specific plans to locate and/or describe coal deposits, or activities the Department determines do not substantially disturb the land involved. Coal exploration also does not include exploration for minerals other than coal.

The definition of "historic lands" is revised by adding a reference to Illinois' regulations at 62 IAC 1762 and 1764.

The following new definition pertaining to remining is added. "Land eligible for remining" means those lands that would otherwise be eligible for expenditures under Section 402(g)(4) or Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(4), 1234).

The definition of "substantially disturb," for purposes of coal exploration, is revised to exclude impact to air by blasting.

C. 62 IAC 1705. Restriction on Financial Interests of State Employees

Illinois is proposing to revise the following sections of part 1705.

1. Section 1705.2 Objectives

Illinois revised subsection (a) by updating the state statute citation.

2. Section 1705.15 Where to File

Section 1705.15 is proposed to be amended by requiring employees to file their financial interest statements with the Department's internal auditor, instead of the legal counsel.

3. Section 1705.17 What to Report

Subsection (c)(3) is proposed to be amended by giving the Department's internal auditor the responsibility of determining whether a direct or indirect financial interest exists, rather than having the legal counsel make this determination.

D. 62 IAC 1772. Requirements for Coal Exploration

Illinois is proposing to revise the following sections of part 1772.

1. Section 1772.11 Notice of Requirements for Exploration Removing 250 Tons of Coal or Less

Subsection (b)(5) is proposed to be amended in order to clarify that the referenced forms are required to be submitted with a coal exploration notice only if such forms are required by the Department's Oil and Gas Division.

2. Section 1772.12 Permit Requirements for Exploration Removing More than 250 Tons of Coal

Subsection (d)(2) is proposed to be amended by replacing the word "operation" with the word "permit."

At subsection (e)(2), the administrative and judicial review regulation citation is updated.

E. 62 IAC 1773.15. Review of Permit Applications

Illinois revised subsection (a)(1) by removing reference to its informal conference at section 1773.13(c) and adding a reference to its public hearing at section 1773.14.

F. 62 IAC 1774.13. Permit Revisions

At subsection (b)(2)(E), a significant revision shall be required for land use changes involving greater than 5% of the "total permit acreage" instead of the "original total permit acreage."

Exceptions to the 5% cumulative total limit were added at new subsections (b)(2)(E) (i) and (ii). The proposed addition of subsection (b)(2)(E)(i) would allow the accumulation of the 5% limit to restart upon issuance of a significant revision that addresses all previous land use changes approved via insignificant revisions. The proposed addition of subsection (b)(2)(E)(ii) would allow acreage added by incidental boundary revisions to be included in the total permit acreage used to determine the 5% limit if the acreage has been addressed previously in a significant revision.

New subsection (d)(6) provides for public notice of and a ten-day comment period for incidental boundary revision applications which propose new surface acreage or planned subsidence shadow area to the original permit.

G. 62 IAC 1778.15. Right of Entry Information

At subsection (a), Illinois is proposing to eliminate the requirement for underground coal mine operators to document their legal right to enter and mine in the shadow area, including the right to subside within the shadow area.

At subsection (e), Illinois is adding the phrase "including planned subsidence operations.

Illinois added new subsection (f) to require applications for additions to the shadow area to contain a notarized statement by a responsible office of the applicant attesting that all necessary mining rights, including the right to subside, will be obtained prior to mining.

H. 62 IAC 1779. Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Illinois is proposing to revise the following sections of part 1779.

1. Section 1779.22 Land Use Information

Section 1779.22 pertains to surface mining permit application requirements for pre-mining land use information. Illinois is proposing to delete section 1779.22 and to reorganize and repealed provisions at subsection (a) into 62 IAC 1780.23(a).

2. Section 1779.25 Cross Sections, Maps and Plans

Subsections (a)(11) (A), (B) and (C) are proposed to be deleted. Subsection (a)(11)(D) is proposed to be deleted from this section and relocated to 62 IAC 1780.23(a)(3).

Statutory citations in subsections (b) are updated.

I. 62 IAC 1780.23. Reclamation Plan: Pre-Mining and Post-Mining Information

The section title is changed from "Reclamation Plan: Post-mining Land Uses" to "Reclamation Plan: Pre-Mining and Post-Mining Information." New subsections (a), (a)(1), and (a)(2) contain the pre-mining land use information provisions of existing 62 IAC 1779.22(a) with one addition. At new subsection (a)(1), one new provisions was added which requires that in the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available. New subsection (a)(3) contains the soil map provision of existing 62 IAC 1779.25(a)(11)(D). The substantive provisions of existing subsections (a), (a)(1), (a)(3), and (a)(4) are redesignated new subsections (b), (b)(1), (b)(2) and (b)(3). Existing subsection (a)(2) pertaining to detailed management plans for a post-mining use of grazing is deleted.

Existing subsection (b) is redesignated new subsection (c).

J. 62 IAC 1783. Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Illinois is proposing to revise the following sections of part 1783.

1. Section 1783.22 Land Use Information.

Section 1783.22 pertains to underground mining permit application requirements for pre-mining land use information. Illinois is proposing to delete Section 1783.22 and to reorganize the repealed provisions at subsection (a) into 62 IAC 1784.15(a).

2. Section 1783.25 Cross Sections, Maps and Plans

Subsections (a)(11)(A), (B), and (C) are proposed to be deleted. Subsection (a)(11)(D) is proposed to be deleted from this section and relocated to 62 IAC 1784.15(a)(3).

Statutory citations in subsection (b) are updated.

K. 62 IAC 1784.15. Reclamation Plan: Pre-Mining and Post-Mining Information

The section title is changed from "Reclamation Plan: Post-mining Land Uses" to "Reclamation Plan: Pre-Mining and Post Mining Information." New subsections (a), (a)(1), and (a)(2) contain the substantive pre-mining land use information provisions of existing 62 IAC 1783.22(a) with one addition. At new subsection (a)(1), one new provision was added which requires that in the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available. New subsection (a)(3) contains the soil map provisions of existing 62 IAC 1783.25(a)(11)(D). The substantive provisions of existing subsections (a), (a)(1), (a)(2), and (a)(3) are redesignated new subsections (b), (b)(1), (b)(2), and (b)(3).

Existing subsection (b) is redesignated new subsection (c).

L. 62 IAC 1785. Requirements for Permits for Special Categories of Mining

Illinois is proposing to revise the following sections of part 1785.

1. Section 1785.17 Prime Farmlands

At subsection (a), Illinois is proposing to delete the following language: Nothing in this Section shall apply to any permit issued prior to the date of enactment of the Federal Act, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued prior to the date of enactment of the Federal Act, as determined by the Department prior to September 29, 1981. For lands for which a request for exemption was initially made or pending on or after September 29, 1981.

Existing subsections (a)(5) and (6) pertaining to an acreage limitation on the amount of exempted prime farmland are deleted. Existing subsection (a)(7)(A) was redesignated subsection (a)(5). Existing subsection (a)(7)(B) pertaining to a preliminary exemption review is deleted.

At subsection (d)(1), the sentence "The State recognizes that the permit cannot be issued without the required consultation with USDA" is deleted.

2. Section 1785.23 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

Illinois proposes to revise subsection (d)(3) by requiring written comments be filed within the public comment period.

The revision to subsection (e)(1) requires the Department to make its final decision to approve, deny, or modify the complete application for a permit within 20 days following the close of the public comment period.

Subsection (g)(1) is proposed to be amended to require the Department to notify persons who filed comments or objections to the application of its final decision, to replace the word "disapprove" with the word "deny" for consistency with other sections of the regulations dealing with approval and denial of application, and to delete the requirement that it publish a public notice of its final action. The regulatory citation in subsection (g)(2) is corrected.

M. 62 IAC 1795. Small Operator Assistance

Illinois is proposing to revise the following sections of part 1795.

1. Section 1795.1 Scope and Purpose

Illinois proposes to amend the purpose statement at subsection (b) to read as follows. The purpose of the program is to provide for eligible operators a determination of probable hydrologic consequences including the engineering analysis and designs necessary for the determination; cross-sections, maps and plans; geologic drilling and statement of results of test borings and samplings; archaeological and historical information collection and relevant plan preparation; pre-blast surveys and pre-blast survey reports; and site specific resource information collection and relevant plan preparation which are required components of the permit application under 62 Ill. Adm. Code 1772 through 1785.

2. Section 1795.4 Definitions

At subsection (b) the definition of qualified laboratory is revised by deleting the language "statement of results of test borings or core samples" and adding the language "or other studies and/or reports or plans." The regulatory section citation was corrected to 1795.1.

3. Section 1779.6 Eligibility for Assistance

At subsection (a), the statute citation is updated.

At subsection (b), the criteria for eligibility for assistance is revised to read as follows. Establishes that his or her probable total actual and attributed production from all locations during the twelve (12) months immediately following the date on which the operator is issued the surface coal mining and reclamation permit will not exceed 300,000 tons.

At subsection (b)(1) and (b)(2), Illinois proposes changing the percentage of ownership of applicant from five percent to ten percent with respect to the baseline above which ownership will play a role in determining attributed coal production.

4. Section 1795.7 Filing for Assistance

Illinois proposes to amend subsection (c)(4) by requiring that an application for assistance contain a schedule of estimated coal production and attributed production during the 12 months immediately following the date of permit issuance.

5. Section 1795.9 Program Services and Data Requirements

Illinois proposes to revise subsection (a) by adding "studies, reports, and plans" to the types of services referenced in subsection (b) that are available to eligible operators.

Subsection (b) lists the specific technical services authorized for the SOAP. At subsection (b)(2), Illinois proposes to add drilling as an authorized SOAP service. Illinois proposes to add new subsection (b)(3) which provides for cross-sections, maps and plans required by 62 IAC 1779.25 and 1783.25. New subsection (b)(4) provides for collection of archaeological and historical information and related plans required by 62 IAC 1779.12(b), 1780.31, 1783.12(b) and 1784.17, and any other archaeological and historical information required by the Department. New subsection (b)(5) provides for pre-blast survey and reports pursuant to the provisions of 62 IAC 1816.62. New subsection (b)(6) provides for site specific resource information and protection and enhancement plans for fish and wildlife habitats and other environmental values required by the Department under 62 IAC 1779.19, 1780.16, 1783.19, and 1784.21, and information and plans for any other environmental values required by the Department under the State Act.

6. Section 1795.12 Applicant Liability

At subsection (a)(1), the word "report" is replaced by the word "reports." At subsection (a)(2), the applicant shall reimburse the Department if the program administrator finds that the applicant's actual and attributed production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit. At subsection (a)(3), the applicant and its successor shall reimburse the Department if the permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds 300,000 tons during the twelve (12) months immediately following the date on which the permit was issued. If the permit is transferred during the 12 months period immediately following the permit issuance date, the determination of adherence to the 12 month-300,000 tons limit shall be performed by combining the actual and attributed production of both parties for the 12 month period.

N. 62 IAC 1800. Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

The State Act at 225 ILCS 720/6.01 was amended to allow Illinois to accept an applicant's bond, without separate surety, when the applicant has a history of solvency and designates a suitable agent for service of process. The proposed amendments to §§ 1800.4, 1800.5, 1800.11, 1800.12, and proposed new §§ 1800.23 implement the statutory self-bonding provision.

1. Section 1800.4 Department Responsibilities

New subsection (c) allows the Department to accept a self-bond if the permittee meets the requirements of § 1800.23. Existing subsections (c), (d), and (e) are redesignated as subsections (d), (e), and (f), respectively.

2. Section 1800.5 Definitions

Subsection (b)(1) is revised to allow Illinois to accept letters of credit from banks organized or authorized in other states that are not authorized to operate in Illinois and from banks organized or authorized in the United States by national charter provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate, and pay the letter upon presentment in Illinois.

Ne subsection (c) defines "self-bonding" as an indemnity agreement in a sum certain executed by the applicant or by the applicant and any corporate guarantor and made payable to the Department with or without separate surety.

3. Section 1800.11 Requirement to File a Bond

New subsection (e) requires the Department to administer self-bonding for eligible permittees consistent with all applicable provisions of §§ 1800.1 through 1800.50.

4. Section 1800.12 Form of the Performance Bond

New subsection (c) allows for a self-bond. Existing subsection (c) is redesignated as subsection (d)

5. Section 1800.20 Surety Bonds

Subsections (b)(2) through (b)(5), which contained surety bond conditions, are deleted.

6. Section 1800.21 Collateral Bonds

Subsection (b)(1) is revised to allow Illinois to accept letters of credit from banks organized or authorized in other states that are not authorized to operate in Illinois and from banks organized or authorized in the United States by national charter provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois.

7. Section 1800.23 Self-Bonding

Subsection (a) contains the following definitions. "Current assets" means cash or other assets or resources which are reasonably expected to be converted to cash or sold or consumed within one (1) year or within the normal operating cycle of the business. "Current liabilities" means obligations which are reasonably expected to be paid or liquidated within one (1) year or within the normal operating cycle of the business. "Existing self-bonding liabilities" means the cumulative total dollar amount of self-bonding for which the applicant or parent corporation guarantor is already liable in connection with coal mining regulatory program permits in the United States, as of the date of relevant financial statement. "Fixed assets" means plants and equipment, but does not include land or coal in place. "Liabilities" means obligations to transfer assets or provide services to other entities in the future as a result of past transactions. "Net worth" means total assets minus total liabilities and is equivalent to owners' equity. Parent corporation means a corporation which owns or controls the applicant. "Tangible net worth" means net worth minus intangible such as goodwill and rights to patents or royalties.

Subsection (b) specifies that the Department may accept a self-bond from an applicant for a permit if all of the conditions at subsections (b)(1) through (b)(4) are met by the applicant or its parent corporation guarantor.

At subsection (b)(1), if the applicant designates a suitable agent to receive service of process in the State of Illinois.

At subsection (b)(2), if the applicant has been in continuous operation as a business entity for a period of not less than five (5) years. Continuous operation shall mean that business was conducted over a period of five (5) years immediately preceding the time of application. At paragraph (A), the Department may allow a joint venture or syndicate with less than five (5) years of continuous operation to qualify under subsection (2) above, if each member of the joint venture or syndicate has been in continuous operation for at least five (5) years immediately preceding the time of application. At paragraph (B), when calculating the period of continuous operation, the Department may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed surface coal mining and reclamation operations.

At subsection (b)(3), if the applicant submits financial information in sufficient detail to show that the applicant meets one of the criteria in paragraphs (A) through (C). At paragraph (A), if the applicant has a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporation. At paragraph (B), if the applicant has a tangible net worth of at least $10 million, a ratio of total liabilities to net worth of 2.5 times or less, and a ration of current assets to current liabilities of 1.2 times or greater. At paragraph (C), if the applicant's fixed assets in the United States total at least $20 million, and the applicant has a ratio of total liabilities to net worth of 2.5 times or less, and ratio of current assets to current liabilities of 1.2 times or greater.

At subsection (b)(4) if the applicant submits the information required by paragraphs (A) through (C). Paragraph (A) requires financial statements for the most recently completed fiscal year accompanied by a report prepared by an independent certified public account in conformity with generally accepted accounting principles and containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion. Paragraph (B) requires unaudited financial statements for completed quarters in the current fiscal year. Paragraph (C) requires additional unaudited information as requested by the Department.

At subsection (c) a written guarantee is required. At subsection (c)(1), the Department may accept a written guarantee for an applicant's self-bond from a parent corporation guarantor, if the guarantor meets the conditions of subsections (b) (1) through (4), above, as if it were the applicant. Such a written guarantee shall be referred to as a "corporate guarantee." The terms of the corporate guarantee shall provide for the criteria in paragraphs (A) through (C). At paragraph (A), if the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide funds to the Department sufficient to complete the reclamation plan, but not to exceed the bond amount. At paragraph (B), the corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the Department at least 90 days in advance of the cancellation date, and the Department accepts the cancellation. At paragraph (C), the cancellation may be accepted by the Department if the applicant obtains suitable replacement bond before the cancellation date or if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed.

At subsection (c)(2), the Department may accept a written guarantee for an applicant's self-bond from any corporate guarantor, whenever the applicant meets the conditions of subsection (b) (1), (2) and (4) above, and the guarantor meets the conditions of subsections (b) (1) through (4) above. Such a written guarantee shall be referred to as a "non-parent corporate guarantee." The terms of this guarantee shall provide for compliance with the conditions of subsections (c)(1) (A) through (C) above. The Department may require the applicant to submit any information specified in paragraph (b)(3) above in order to determine the financial capabilities of the applicant.

Subsection (d) specifies that in order for the Department to accept an applicant's self-bond, the total amount of the outstanding and proposed self-bonds of the applicant for surface coal mining and reclamation operations shall not exceed 25 percent of the applicant's tangible net worth in the United States. In order for the Department to accept a corporate guarantee, the total amount of the parent corporation guarantor's present and proposed self-bonds and guaranteed self-bonds for surface coal mining and reclamation operations shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

In order for the Department to accept a non-parent corporate guarantee, the total amount of the non-parent corporate guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed 25 percent of the guarantor's tangible net worth in the United States.

Subsection (e) specifies that if the Department accepts an applicant's self-bond, an indemnity agreement shall be submitted subject to the requirements in subsections (e)(1) through (e)(4). Subsection (e)(1) requires that the indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the parent corporation guarantor, and shall bind each jointly and severally. Subsection (e)(2) requires that corporations applying for a self-bond, and parent and non-parent corporations guaranteeing an applicant's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the Department along with an affidavit certifying that such an agreement is valid under all applicable federal and state laws. In addition, the guarantor shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement. Subsection (e)(3) requires that if the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest, directly or indirectly, in the applicant. Subsection (e)(4) requires that pursuant to § 1800.50, the applicant, parent or non-parent corporate guarantor shall be required to complete the approved reclamation plan for the lands in default or to pay to the Department an amount necessary to complete the approved reclamation plan, not to exceed the bond amount. Under Illinois law, the indemnity agreement when under forfeiture shall operate as a judgment against those parties liable under the indemnity agreement.

At subsection (f), the Department shall require self-bonded applicants and parent and non-parent corporate guarantors to submit an update of the information required under subsections (b) (3) and (4) above within 90 days after the close of fiscal year following the issuance of the self-bond or corporate guarantee.

At subsection (g), if at any time during the period when a self-bond is posted, the financial conditions of the applicant, parent or non-parent corporate guarantor change so that the criteria of subsections (b)(3) and (d) above are not satisfied, the permittee shall notify the Department immediately and shall within 90 days post an alternate form of bond in the same amount as the self-bond. Should the pemittee fail to post an adequate substitute bond, the provisions of § 1800.16(e)(2) shall apply.

O. 62 IAC 1816. Permanent Program. Performance Standards—Surface Mining Activities

Proposed revisions to the performance standards which 62 IAC 1816 and 1817 have in common are discussed in "Q."

Proposed revisions of the surface mining performance standards unique to the following sections of part 1816 are discussed below.

1. Section 1816.79 Protection of Underground Mining

Section 1816.79 is reorganized. The word "coal" is proposed to be removed from existing subsection (a), and the subsection reference is removed. Existing subsection (a)(1) is redesignated subsection (b), and existing subsection (a)(2) is redesignated subsection (a).

2. Section 1816.116 Revegetation: Standards for Success

Subsection (a)(4)(A)(ii) is proposed to be amended to allow the Department to approve a field to represent small isolated areas of the same capability if it determines that the field is representative of reclamation of such areas. The small isolated areas shall maintain a successful ground cover as determined by subsection (a)(3)(E). Productivity results on the field shall be applicable to the small isolated areas.

3. Section 1816 Appendix A—Agricultural Lands Productivity Formula (ALPF)

Illinois proposed several changes for the "Permit Specifics Yield Standard" section. The two existing paragraphs are amended and reorganized into subsections (a) and (b), respectively, and new provisions were added at subsections (c) through (f).

Language is added at subsection (a) to clarify that ALPF target calculation procedures are applicable to limited capability lands and that targets are to be based on the soils which are disturbed within the permit area.

The existing provisions in subsection (b) are now subject to the provisions of subsection (c) through (f). New subsection (c) specifies that the Department shall provide for establishment of specific yield standards for the individual capability groups to be weighted for an individual pit, (geographically distinct mining area), if multiple permits are adjacent and confined to a single continuous pit; or multiple pits are not adjacent but are within an individual permit.

New subsection (d) specifies that if an individual mining pit is present in more than one county, annual target yield adjustments shall be based on the county with the greater permit acreage.

New subsection (e) specifies that after mining operations have ceased and at the request of the permittee, the Department shall recalculate the yield standards for the permit (pit) based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for productivity, including past results on areas under bond at the time of the request. Approved significant revisions which alter the soils to be disturbed shall cause the targets to be recalculated.

New subsection (f) specifies that at the request of the permittee, the Department shall consolidate prime farmland and high capability targets, provided the Department determines that the soil reconstruction of the high capability land is equal to or better than the prime farmland.

P. 62 IAC 1817. Permanent Program Performance Standards—Underground Mining Activities

Proposed revisions to the performance standards which 62 IAC 1816 and 1817 have in common are discussed in "Q."

Proposed revisions to the underground mining performance standards unique to the following sections of part 1817 are discussed below.

1. Section 1817.101 Backfilling and Grading: General Requirements

Illinois is proposing to amend subsection (a) by removing the existing provision and adding the requirement that all surface areas disturbed incident to underground mining activities shall be backfilled, graded and revegetated, in accordance with the approved reclamation plan, not later than 36 calendar months after cessation of active use, as determined by the Department.

2. Section 1817.121 Subsidence Control

Illinois proposes to add new subsection (c)(3) to require operators to promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation operations permit, which has been affected by contamination, diminution, or

interruption resulting from underground coal mining operations.

3. Section 1817.131 Cessation of Operations: Temporary

At subsection (b), two typographical errors were corrected by adding the words "affected" and "area" and deleting the word "are."

4. Section 1817.182 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

At subsection (a), Illinois corrected a typographical error by replacing the work "is" with the word "if."

At subsection (d)(4), Illinois corrected a typographical error by replacing the word "existing" with the word "restore."

At subsection (l), Illinois corrected the regulatory citation by replacing "1817.103" with "1817.102."

Q. 62 IAC 1816. Permanent Program Performance Standards—

Surface Mining Activities and 62 IAC 1817 Permanent Program Performance Standards—Underground Mining Activities

Proposed revisions to the performance standards which 62 IAC 1816 and 1817 have in common are discussed below.

1. Sections 1816.22/1817.22 Topsoil and Subsoil

Illinois proposes to add the phrase "except on prime farmland" to existing subsection (b)(1). Illinois is also proposing to delete subsection (b)(2) in order to eliminate the acreage restriction on topsoil substitutes. Therefore, existing subsection (b)(1) is redesignated subsection (b).

2. Sections 1816.41/1817.41 Hydrologic Balance Protection

Illinois proposes to revise subsection (c)(2) by specifying that ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule.

Illinois proposes to revise subsection (e)(2) by removing the requirement to send NPDES reports to the Department concurrently with those sent into the Illinois EPA and adding the requirement that NPDES reports are to be sent to the Department by the first day of the second month following the reporting period.

3. Sections 1816.46/1817.46 Hydrologic Balance: Siltation Structures

At subsection (a)(1), the definition for siltation structure is proposed to be amended by adding a reference to sediment control measures as described at § 1816.45.

New subsection (e) is proposed to provide an alternative to sedimentation ponds. Subsection (e)(1) specifies that sediment control measures as described in section 1816.45(b) may be used in lieu of sedimentation ponds if the disturbed drainage area within the total disturbed area is ten (10) acres or less. Subsection (e)(2) requires the permittee to demonstrate that a sedimentation pond is not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in § 1816.42.

Existing subsection (e) was redesignated (f). The reference to alternative sediment control measures is proposed to be deleted from redesignated subsection (f)(2).

4. Sections 1816.97/1817.97 Protection of Fish, Wildlife, and Related Environmental Values

Illinois is proposing to delete the reference to the Illinois Endangered Species Protection Act at subsection (b).

5. Sections 1816.116/1817.116 Revegetation: Standards for Success

The State Act was amended at 225 ILCS 720/3.15 to change the responsibility period from five years to two years for areas eligible for remining. Subsection (a)(2)(B) is proposed to be amended to implement this statute by adding the phrase "except that on lands eligible for remining, the period of responsibility (until September 30, 2004) shall be two (2) full years."

Existing subsection (a)(2)(F), concerning augmentation requirements for high capability cropland areas, is proposed to be deleted and replaced with new provisions pertaining to wetlands augmentation. New subsection (a)(2)(F) specifies that wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area. Water level management using permanent water control structures is considered a normal husbandry practice.

Subsection (a)(3)(E) is proposed to be amended to clarify that pasture and/or hayland or grazing land on non-previously disturbed areas are subject to a 90 percent ground cover standard for a minimum of any two years of a ten (10) year period prior to the release of the performance bond, except the first year of the five (5) year extended responsibility period. The one year attempt limit for substituting corn productivity for one year of hay productivity is proposed to be removed from subsection (a)(3)(E). Subsection (a)(3)(E) is also being revised to allow one year substitution of crops in lieu of hay on limited capability land, provided the Department determines that the practice is proper management.

New subsection (a)(3)(F) specifies that small isolated areas which were disturbed from activities such as, but not limited to, signs, boreholes and power poles, shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

New subsection (a)(5)(A) specifies that wetland revegetation criteria shall be deemed successful when the wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual have been achieved following sampling procedures specified in that manual. New subsection (a)(5)(B) further specifies that areas designated to support vegetation in the approved plan shall have a minimum aerial coverage of 30 percent. The testing procedure in § 1816.117(d)(1) through (3) shall be used to evaluate the extent of cover. Aerial cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of aerial cover shall be established for the area tested by taking the total number of measurements where aerial cover was determined to be present.

New subsection (c) is proposed to be added to provide for the use of reference areas to establish target yields in lieu of the ALPF. Other requirements and procedures of 62 IAC 1816.116(a)(4) shall be applicable. Reference areas used to establish success standards must meet the requirements in paragraphs (1) through (8). Paragraph (1) requires that if the fields to be represented contain in total 800 acres or more, the reference area shall contain at least 40 acres. If the field(s) to be represented is smaller than 800 acres, the reference area shall be the greater of five percent of the field(s) to be represented or one acre. Paragraph (2) requires that each reference area be representative of the soils of the field(s) to be represented. The permittee shall provide adequate documentation of the soils and soil quality present in the reference area. Paragraph (3) requires the permittee each year provide a certification by a qualified agronomist that the management of the reference

area is equivalent to the field(s) to be represented. The permittee shall describe the proposed management of the reference area in a proposal. Paragraph (4) requires that reference areas be located within six miles of the field(s) to be represented. Paragraph (5) requires right-of-entry on the reference area for authorized representatives of the Department be secured by written agreement or consent for the entire time period in which the reference area will be used. Paragraph (6) requires that proposed reference areas be submitted for Department approval no later than January 1 of the year in which they are proposed to be used. Paragraph (7) requires that the reference areas have yields established by whole field harvest. Paragraph (8) requires that yields determined for the reference area be those used for determination of success of revegetation unless the Department determines that management practices have not been equivalent during the course of the year or the Department determines that growing conditions have not been representative of the fields to be tested.

6. Sections 1816.117/1817.117 Revegetation: Tree and Shrub Vegetation

The State Act was amended at 225 ILCS 720/3.15 to change the responsibility period from five years to two years for areas eligible for remining. Sections 1816.117(a)(1) and 1817.117(a)(1) are proposed to be amended to implement this statute by requiring that on lands eligible for remining, the period of responsibility (until September 30, 2004) shall be two full years for trees an shrubs. Also, until September 30, 2004, on lands eligible for remining, trees and shrubs need not have been in place for three years; however, such trees an shrubs shall not be counted in determining success during the same calendar year in which they were planted.

Subsection (a)(3) is proposed to be amended to clarify that erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.

Subsection (b) is proposed to be amended to clarify that planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous area which increase diversity and edge effect within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas.

Subsection (c)(1) is proposed to be revised by replacing the word "area" with the word "field." Subsection (c)(1) is also revised by adding a requirement that once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in accordance with 62 IAC 1774.13.

7. Sections 1816.133/1817.133 Post-Mining Land Capability

At subsection (a)(2)(C) a typographical error was corrected by replacing the word "bound" by the word "found."

8. Sections 1816.151/1817.151 Primary Roads

At subsection (a), Illinois proposes to specify that the certification shall be submitted within 30 days after completion of construction. Illinois also defines completion of construction to mean that the road is being used for its intended purpose as determined by the Department.

9. Sections 1816.190/1817.190 Affected Acreage Map

At subsection (a), Illinois is proposing to delete the phrase "and to the county clerk."

At subsection (b), Illinois is requiring the permittee to submit an additional copy of the affected acreage report, which the Department will then forward to the county clerk. Illinois is also requiring that one of the copies contain the original signature of a company official. Also, statutory citations are being updated in subsection (b).

R. 62 IAC 1825.14. High Capability Lands: Soil Replacement

At subsection (e), Illinois proposes adding the title of "Compaction."

Subsection (e)(1) is revised by adding the word "above" after the regulatory citation "Section 2825.14(a). Illinois added new subsection (e)(1)(E) to specify that excessive compaction is also indicated by other diagnostic methods approved by the Department.

At subsection (e)(2), Illinois is proposing an additional method for the Department to evaluate excessive compaction. The permittee will have a choice between the existing provision and the new provision which specifies that compaction alleviation is required unless the permittee can demonstrate that the requirements of 62 IAC 1816.116 or 1816.117, as applicable, have been met without compaction alleviation on areas reclaimed in a similar manner. A second new provision in subsection (e)(2) requires the Department to retain sufficient bond at the time of Phase II bond release if it determines that compaction alleviation may be needed to achieve the revegetation success requirements.

S. 62 IAC 1840.17. Review of Decision Not to Inspect or Enforce

Subsection (a) is proposed to be revised by establishing a 30 day time period within which to request review of the Department's decision not to inspect or enforce. Failure to file a request for informal review within this time period shall result in a waiver of the right to such review.

Subsection (c) is proposed to be amended to reference 62 IAC 1847.3 of the regulations for formal review of the Department's decision not to inspect or enforce, rather than Section 8.07 of the State Act.

T. 62 IAC 1843. State Enforcement

Illinois proposed revisions to the following sections of part 1843.

1. Section 1843.13 Suspension or Revocation of Permits

At subsection (a)(1), the phrase "Except as provided in subsection (b) below" is deleted.

At subsection (a)(3), the existing provisions are deleted. New provisions were added which specify that the Department shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the Federal Act, the State Act, 62 IAC 1700 through 1850 or the permit during three or more State inspections of the permit area within any twelve month period. If after such review, the Department determines that a pattern of violations exists or has existed, an order to show cause as provided in subsection (a)(1) shall be issued.

Existing subsection (b) was deleted, and existing subsections (c), (d), (e), and (f) were redesignated as (b), (c), (d), and (e), respectively.

2. Section 1843.19 Decision Not to Pursue Enforcement Action

Illinois is proposing a new section which would allow termination of enforcement action on a mine site if specific criteria are met.

Subsection (a) specifies that the Department may elect not to proceed with state enforcement action on a mine site when the Department has revoked the permit(s) pursuant to Section 1843.13; when the Department has forfeited the performance bond pursuant to § 1800.50, or is diligently pursuing forfeiture; when the Department has reason to believe the permittee is financially unable to complete abatement work; when the Department is diligently pursuing collection of all unpaid civil penalties; when the Department has established, or assisted OSM in establishing, an ownership and

control link for the entity in question under the violations review criteria of the regulatory program for purposes of blocking issuance of future mining permits; and when the Department determines there is no likelihood of improving existing environmental site conditions if state enforcement action is taken.

Subsection (b) specifies that the Department shall document in writing its decision not to pursue enforcement action based upon the criteria in subsection (a). A copy of the Department's written decision shall be forwarded to the local OSM office.

U. 62 IAC 1845.12. When Penalty Will Be Assessed

Illinois is proposing to amend subsection (d) by adding a requirement that the Department take into account the factors set forth in § 1845.13 when determining the actual amount of the assessment.

V. 62 IAC 1847.3. Hearings

The section heading is changed from "Permit Hearings" to "Hearings."

At subsection (a), Illinois is specifying that administrative review under this section also applies to decisions not to inspect or enforce under 62 IAC 1840.17 and permit decisions issued pursuant to 62 IAC 1785.23.

At subsection (1)(2), Illinois is adding the provision that judicial review may be requested if the Department failed to act within specified time limits.

W. 62 IAC 1848.5. Notice of Hearing

Proposed new subsection (f) implements a July 7, 1993, amendment to Section 2.11 of the State Act pertaining to permit hearing notices. If the hearing concerns review of a permit decision under 62 IAC 1847.3, a notice containing the information set forth in subsections (a) and (b) shall be published in a newspaper of general circulation published in each county in which any part of the area of the affected land is located. The notice shall appear no more than 14 days nor less than 7 days prior to the date of the hearing. The notice shall be no less than one eighth page in size, and the smallest type used shall be twelve point and shall be enclosed in a black border no less than ¼ inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. Any deviations from the requirements of this subsection attributable to the publishing newspaper shall not be grounds for postponement or continuance of the hearing, nor will such errors necessitate that the notice be republished.

X. 62 IAC 1850. Training, Examination and Certification of Blasters

Illinois proposed revisions to the following sections of part 1850.

1. Section 1850.13 Training

At subsection (a), a typographical error was corrected by replacing the word "person" with the word "persons."

At subsection (b)(14), various regulation and statute citations were corrected.

2. Section 1850.14 Examination

Illinois proposed to amend subsection (a) by removing the requirement that notification of a scheduled examination be made in writing.

Illinois proposed to amend subsection (b) by removing the requirement that notification of a scheduled reexamination be made by letter.

3. Section 1850.15 Application and Certification

Subsection (a) is proposed to be amended by shortening the deadline for receipt of applications from 45 days to 30 days and by shortening the deadline for review of applications from 30 to 15 days.

4. Section 1850.16 Denial, Issuance of Notice of Infraction, Suspension, Revocation, and Other Administrative Actions

Subsection (b) is proposed to be entitled "Notice of Infraction." At subsections (b)(1)(A) and (b)(1)(D), various regulatory and statute citations are corrected. Subsection (b)(3) is revised by requiring the blaster to file a request for review with the Department and removing the existing forwarding provision. The requirement to include specified information in the request was removed. The hearing regulation reference was corrected. The hearing is proposed to be held at one of the Department's offices, and the existing location provision is removed.

Subsection (c) is proposed to be entitled "Notice of Show Cause." At subsection (c)(2) the word "public" was deleted, and the hearing regulation citation was corrected. At subsection (c)(3), the hearing regulation citation was corrected.

5. Section 1850.17 Judicial Review

This section is proposed to be repealed as the provision for judicial review is contained elsewhere in Illinois' regulations.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Illinois program.

Written Comments

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 Springfield Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., [C.S.T.] on November 2, 1994. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

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).

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, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on 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.

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 (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon 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 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 11, 1994.

Ronald C. Recker,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–2569 Filed 10–17–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–44–1- 6641b; FRL–5091–4]

Approval and Promulgation of Sulfur Dioxide State Implementation Plan, North Carolina: Approval of Texasgulf, Incorporated, Air Permit No. 2331R10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the state implementation plan (SIP) revision submitted by the State of North Carolina for the purpose of establishing the issuance of air permit number 2331R10 to Texasgulf, Incorporated, located in Aurora, Beaufort County, North Carolina. This permit set the sulfur dioxide emission limit at 2.3 pounds per million British Thermal Units. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by November 17, 1994.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street, SW., Washington DC 20460.

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**

Dated: September 22, 1994.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 94–25680 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[KS–4–1–6508b; FRL–5079–3]

Approval and Promulgation of Implementation Plans;State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Kansas. This revision revises the state's sulfur dioxide (SO_2) rules and surface coating rule, and approves operating permits for two major SO_2 sources. In the final rules section of the **Federal Register**, the EPA is approving the state's SIP revision as a direct-final rule without prior proposal because the Agency views this as a noncontroversial

revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct-final rule. No further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct-final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received on or before November 17, 1994.

ADDRESSES: Comments may be mailed to Wayne A. Kaiser, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Kansas Department of Health and Environment, Division of Environment, Bureau of Air and Radiation, Forbes Field, Building 283, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: September 16, 1994.

William Rice,

Acting Regional Administrator.

[FR Doc. 94-25676 Filed 10-17-94; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Parts 52 and 81

[MN25-1-6002b, MN27-1-6093b; FRL-5083-3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the Lead State Implementation Plan (SIP) revision and redesignation request submitted by the State of Minnesota for the area of Dakota County near the Gopher Smelting and Refining Company, located in Eagan, Minnesota. The submittal was in response to a designation to nonattainment, effective on January 6, 1992, and consists primarily of an administrative order and associated technical support, along with ambient monitoring data, for the Gopher facility. In the final rules section of this **Federal Register**, USEPA is approving the State's SIP revision and redesignation request, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The USEPA will not institute a second comment period on this notice.

DATES: Comments on this proposed rule must be received on or before November 17, 1994.

ADDRESSES: Written comments should be mailed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 50504.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353-6713.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of the **Federal Register**.

Dated: September 20, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94-25682 Filed 10-17-94; 8:45 am]

BILLING CODE 6560-50-P

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40 CFR Part 131

[OW-FRL-5091-8]

Proposed Federal Water Quality Standards for Surface Waters of the United States in New Mexico

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: The Environmental Protection Agency is proposing a federal regulation that would supersede an EPA disapproved provision in New Mexico's water quality standards to ensure that the State's water quality standards are implemented in a manner that is consistent with the requirements of the Clean Water Act and its implementing regulations. EPA solicits written comments on this proposal.

DATES: Written comments on this proposal must be submitted on or before the close of business on December 2, 1994. In addition, oral and/or written comments may be submitted at a public hearing on November 22, 1994 at 7 p.m.

ADDRESSES: Written comments should be submitted to: Myron O. Knudson, P.E., Director, Water Management Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202. The public hearing will be held at the State Capitol Building, Old Santa Fe Trail and Paseo de Paralta, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Russell Nelson (6W-QT), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665-6646.

SUPPLEMENTARY INFORMATION:

A. Legal Authority

Under section 303(c) (33 U.S.C. 1313(c)) of the Clean Water Act (CWA), States are required to develop water quality standards for the surface waters of the State. At a minimum, water quality standards consist of beneficial use designations, numeric or narrative water quality criteria that support those designated uses, and an antidegradation policy that protects existing water quality. States are required to review, and if appropriate, revise their water quality standards at least once every three years. States are required to submit the results of their review of water quality standards to EPA for review and approval or disapproval.

Whenever a State reviews its water quality standards or revises or adopts new standards, CWA section 303(c)(2)(B) requires States to adopt numeric criteria for all CWA section 307(a) priority toxic pollutants for which criteria guidance has been published under CWA section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with designated uses adopted by the State. The criteria must be specific numerical limitations for priority toxic pollutants. If numerical criteria are not available, the CWA requires the State to adopt criteria based on biological assessment or monitoring methods.

The State may, at its discretion, include policies affecting the application and implementation of mixing zones, low flows and variances

(40 CFR 131.13). These discretionary policies are subject to EPA review and approval and, therefore, must also be submitted to EPA pursuant to 40 CFR 131.6(f).

Section 303(c)(4) of the CWA (33 U.S.C. 1313(c)(4)) authorizes the EPA Administrator to promulgate water quality standards that supersede disapproved State water quality standards, or in any case where the Administrator determines that a new or revised water quality standard is needed to meet the requirements of the CWA.

B. Background

1. Basis for Disapproval of the New Mexico Standards

In the National Toxics Rule (NTR) (see 57 FR 60848, December 22, 1992, codified at 40 CFR 131.36.), EPA promulgated numeric criteria for priority toxic pollutants for those 14 States that had failed to adopt such criteria on their own as required by CWA section 303(c)(2)(B). At the time of proposal of the NTR, New Mexico was determined to be in compliance with the toxics provisions of the CWA. However, on October 8, 1991, New Mexico adopted revisions to its water quality standards that affected its compliance status.

In accordance with the provisions of section 303(c) of the Act and the Federal Water Quality Standards Regulation (40 CFR 131), Part 1–105.E.4 of the New Mexico water quality standards was disapproved on January 13, 1992. This regulatory section was determined to be inconsistent with requirements set forth under section 303(c)(2)(B) of the Act. In the NTR, EPA noted it's disapproval action for New Mexico, and the potential for a separate rulemaking if the State did not adopt acceptable water quality standards (57 FR 60848 @ page 60856, Note (2) to Table 1).

Following disapproval of the New Mexico standards, EPA and State staff discussed the modifications that were required to bring New Mexico into compliance with section 303(c)(2)(B) of the CWA. It was EPA's judgment that the New Mexico Environment Department was attempting to appropriately revise its water quality standards through the State's administrative procedures which includes final adoption by the New Mexico Water Quality Control Commission (WQCC). As a result of that effort, EPA allowed adequate time for the State to make appropriate modifications to its water quality standards. With its January 12, 1993 letter, EPA outlined the specific actions necessary for New Mexico to take in order to revise the deficiency in its water quality standards.

2. New Mexico's Response

In a February 25, 1993 letter to EPA, New Mexico committed to correcting the deficiency in its standards by removing the disapproved language. The State formally proposed deletion of the disapproved language from its water quality standards and held hearings on its proposal on October 13–15, 1993, and on January 12, 1994. To date, however, the State has not taken final action on the proposal and has thus failed to correct the disapproved standards.

3. Why New Mexico's Water Quality Standards Are Inadequate

The Water Quality Standards Regulation allows for application and implementation of general discretionary policies in State water quality standards, including provisions for mixing zones (40 CFR 131.13). Section 1–105.E.4 of the New Mexico standards provides a specific limitation for a general mixing zone policy that requires mixing zones to be free from substances in concentrations that are acutely toxic to aquatic organisms. The current State provision also allows a "no-acute toxicity" provision to be determined by the performance of biomonitoring procedures or by demonstration of compliance with acute numeric water quality criteria. Determining compliance in this manner essentially allows acute numerical criteria to be superseded by biomonitoring.

For EPA to approve New Mexico's mixing zone policy, the policy must protect against acute toxicity. Therefore, the policy must ensure that the numeric criteria adopted pursuant to section 303(c)(2)(B) of the CWA are not exceeded in the mixing zone. Biomonitoring cannot supersede the State's acute numeric criteria for cadmium, chlordane, chromium, copper, cyanide, lead, mercury, nickel, selenium, silver, and zinc.

EPA's Water Quality Standards Regulation provides that in establishing criteria for toxic pollutants, States "should * * * establish narrative criteria or criteria based upon biomonitoring methods where numerical criteria cannot be established or to supplement numerical criteria," (40 CFR 131.11.(b)(2)). Clearly, narrative criteria and criteria based on biomonitoring are to supplement numerical criteria, not supersede them. Section 1–105.E.4 then, does not comply with this requirement, thus resulting in this provision being disapproved by EPA.

C. Description of the Proposed Rule

Today's proposed rule would supersede Section 1–105.E.4. of the New Mexico water quality standards, and would establish a Federal regulation which will ensure the application of acute numeric criteria. The proposed rule would not allow the use of biomonitoring provisions *in lieu of*, or as a surrogate for, chemical specific limits for pollutants for which the State has numeric criteria in determining and preventing acutely toxic conditions within mixing zones.

The proposed rule would maintain the State's narrative criteria requiring that mixing zones be free of substances in concentrations that are acutely toxic to aquatic organisms. Implementation of this proposed rule will be determined by performance of the biomonitoring procedures set out in section 1–103.D, and by demonstration of compliance with acute numeric criteria set out in section 3–101.J and applicable un-ionized ammonia and total chlorine residual standards in sections 3–101.A, 3–101.C, 3–101.E, 3–101.F, and 3–101.H of the New Mexico water quality standards.

These provisions provide for application of the State's numeric criteria at the appropriate locations within the mixing zone, or otherwise apply throughout the waterbody at the end of any discharge pipe, canal or other discharge point.

D. Endangered Species Act

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1656 *et seq.*), federal agencies must assure that their actions are unlikely to jeopardize the continued existence of listed threatened or endangered species or adversely affect designated critical habitat of such species. Today's proposal would assure the application of numeric criteria, narrative criteria, and biomonitoring, and would result in the protection of aquatic life from specific pollutants that could reasonably be expected to interfere with the health and survival of the most sensitive species, including threatened and endangered aquatic species. In addition, this proposed rule would allow more protection for endangered and threatened species in that both biomonitoring and criteria requirements for waterbodies are necessary.

EPA has requested and received concurrence from the United States Fish and Wildlife Service that this proposed rule is unlikely to adversely affect threatened or endangered species.

E. Executive Order 12866

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

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

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs of 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.

Because the annualized cost of this proposed rule would be significantly less than $100 million and would meet none of the other criteria specified in the Executive Order, it has been determined that this is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires EPA to assess whether its regulations create a disproportionate effect on small entities. Among its provisions, the Act directs EPA to prepare and publish an initial regulatory flexibility analysis (IRFA) for any proposed rule which may have a significant impact on a substantial number of small entities. For purposes of this proposed rulemaking, small entities are small dischargers, whether industrial or municipal.

The Agency concludes that this proposed rule would not have significant impact on a substantial number of small entities. This proposed rule is specific to New Mexico, and therefore limited in scope. This proposed rule would not establish any new substantive ambient water quality criteria that dischargers would need to meet. The requirements affect monitoring requirements that most likely will be included in future renewals of National Pollutant Discharge Elimination System (NPDES) permits and in new NPDES permits. There may be treatment process changes required in individual cases where the pollutant specific monitoring requirements identify non-compliance. EPA expects these to be rare.

G. Paperwork Reduction Act

This proposed rule places no information collection activities on the State of New Mexico, and therefore no information collection requirement (ICR) will be submitted to the Office of Management and Budget (OMB) for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

H. Availability of the Record

The entire administrative record concerning the New Mexico Water Quality Standards discussed in this preamble is available for public inspection and copying at the EPA, Region 6 Office, Library Services, 1445 Ross Avenue, Dallas, Texas 75202, on weekdays during the Agency's normal business hours of 8 a.m. to 4:30 p.m.

List of Subjects in 40 CFR Part 131

Water pollution control, Water quality standards, Toxic pollutants.

Dated: October 11, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 131 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.

Subpart D—[Amended]

2. Section 131.38 is added to subpart D to read as follows:

§ 131.38 New Mexico.

The following provision is intended to supersede Section 1–105.E.4. of the "Water Quality Standards for Interstate and Intrastate Streams in New Mexico," adopted by the Water Quality Control Commission under authority of Paragraph C, Section 74–6–4 of the New Mexico Water Quality Act (NMSA 1978):

(a) Mixing zones shall be free of substances in concentrations which are acutely toxic to aquatic organisms passing through the zone of mixing. Compliance with this provision shall be determined by:

(1) Performance of the biomonitoring procedures set out in Section 1–103.D; and

(2) By demonstration of compliance with acute standards set out in Section 3–101.J, and applicable un-ionized ammonia and total chlorine residual standards set out in Sections 3–101.A, 3–101.C, 3–101.E, 3–101.F, and 3–101.H.

(b) (Reserved)

[FR Doc. 94–25746 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 258

[FRL–5092–8]

Financial Assurance Effective Date for Owners and Operators of Municipal Solid Waste Landfill Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend the Federal criteria for Municipal Solid Waste Landfills (MSWLFs) under subtitle D of the Resource Conservation and Recovery Act (RCRA) by delaying the effective date of subpart G, Financial Assurance, until April 9, 1996 for all MSWLFs.

DATES: Comments on this proposed rule must be received on or postmarked on or before December 19, 1994.

ADDRESSES: Written comments on this proposal should be addressed to the docket clerk at the following address: U.S. Environmental Protection Agency, RCRA Docket (5305), 401 M Street SW., Washington, DC 20460. Commenters should send one original and two copies and place the docket number (F–94–FADP–FFFFF]) in the comments. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. Docket materials may be reviewed by appointment by calling (202) 260–9327. Copies of docket material may be made at no cost, with a maximum of 100 pages of material from any one regulatory docket. Additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline at 1–800–424–9346 (in Washington, D.C., call (703) 920–9810), or Dale Ruhter at (703) 308–8192, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background
III. Today's Action
IV. Economic and Regulatory Impacts
A. Executive Order 12866

B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Authority

These amendments to part 258 are proposed under the authority of sections 1008, 2002, 4004, and 4010 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6907(a)(3), 6912(a), 6944(a), and 6949a(c).

Please note that EPA has identified a typographical error in its recent final rule delaying the effective dater for certain subtitle D requirements, issued October 3, 1993 (58 FR 51546). That rule, which amended the authority citation to Part 258, incorrectly cited 42 U.S.C. 6949(c) in the list of authorities for part 258. The correct citation is 42 U.S.C. 6949a(c). The Agency intends to issue a separate technical correction notice to correct this misprint.

II. Background

On October 9, 1991, the Agency promulgated revised criteria for municipal solid waste landfills (MSWLFs), which established minimum Federal standards to assure that MSWLFs are designed and managed in a manner that is protective of human health and the environment, considering the practical capability of the MSWLFs (see 56 FR 50978). The minimum Federal standards include location restrictions, facility design and operating criteria, groundwater monitoring, corrective action, closure and post-closure care, and financial assurance requirements.

The Agency proposed the MSWLF criteria, including financial assurance requirements, on August 30, 1988 (see 53 FR 33314). The purpose of the financial assurance requirements is to assure that adequate funds will be readily available to cover the costs of closure, post-closure care, and corrective action associated with MSWLFs. The Agency believes that these financial assurance requirements are an important part of the MSWLF criteria for two reasons. First, when an owner or operator does not have funds readily available to address the environmental needs at a facility, delays in addressing those needs can result. Second, if the owner or operator does not have funds to address environmental needs at its facilities, those needs would have to be addressed under federal or state programs, rather than by the party responsible for the facility. Such programs typically have limited funds available to address MSWLF environmental needs.

In the August 30, 1988 proposal, rather than proposing specific financial assurance mechanisms, the Agency proposed a financial assurance performance standard. The Agency solicited public comment on this performance standard approach and, at the same time, requested comment on whether the Agency should develop financial test mechanisms for use by local governments and corporations.

Commenters on the proposed rule argued that the proposed performance standard lacked sufficient detail to guide States in the development and implementation of requirements with any consistency among States, and that the Agency should develop specific mechanisms that could be used to demonstrate financial assurance. Commenters also supported the development of a local government financial test and a corporate financial test.

In response to comment, the Agency promulgated several specific financial mechanisms in the October 9, 1991, final rule. Those mechanisms include trust funds, surety bonds, letters of credit, insurance, and State assumptions of responsibility (section 258.74). In addition, to retain States' flexibility in implementing the Subtitle D program, the Agency promulgated the financial assurance performance standard of section 258.74, which allows approved States to use any State-approved mechanism that meets that performance standard.

Commenters on the August 30, 1988, proposal also supported the development of financial tests for local governments and for corporations. The financial tests would allow owners and operators to demonstrate that they can satisfy the goals of financial assurance on their own, and that they do not need to produce a third-party instrument to assure that the obligations associated with their landfill will be met. Because an owner or operator using a financial test would not have to secure a third-party instrument, the cost of financial assurance to the regulated community would decrease. The Agency agreed with commenters but, at the time the final MSWLF criteria were promulgated, the Agency had not completed the analyses necessary to propose those financial tests. Thus, in the October 9, 1991, preamble, the Agency announced its intention to develop both a local government and corporate financial test in advance of the effective date of the financial assurance provisions.

In the final MSWLF criteria rule, the Agency promulgated an effective date of October 9, 1993 for most of the provisions of the rule. The Agency delayed the effective date of the financial responsibility provisions until April 9, 1994, in order to provide adequate time to promulgate a financial test for local governments and another for corporations before the effective date of the financial assurance provisions. The delayed effective date also was intended to provide owners and operators sufficient time to determine whether they satisfy the applicable financial test criteria for all of the obligations associated with their facilities, and obtain a guarantor or an alternate instrument, if necessary. The Agency also recognized that local governments, in particular, require notice of the requirements in order to plan their budgets for the upcoming year.

The Agency then proceeded to conduct the necessary analysis, and develop a local government and corporate financial test for MSWLF owners and operators. However, the analysis needed to develop those financial tests took longer than anticipated. As a result, for most MSWLFs, the Agency extended the effective date of the financial assurance provisions to April 9, 1995 (*see* 58 FR 51536) to allow additional time to develop the financial tests.

The financial tests will allow MSWLF owners and operators to demonstrate financial assurance for their closure, post-closure, and corrective action obligations. Owners and operators who meet the requirements of the financial tests will not be required to obtain a third-party financial assurance instrument [1] for these obligations. A financial test for local governments was proposed on December 27, 1993 (*see* 58 FR 68353). At the time of today's proposal the Agency is conducting analysis of comments submitted on the proposed local government test. The corporate test was proposed on October 12, 1994 (see 59 FR 51523). The comment period for the corporate test expires on December 12, 1994. EPA will not be able to finalize these rules until some time after April 9, 1995.

III. Today's Action

Although the Agency had anticipated that an extension to April 9, 1995 would provide sufficient time to develop the financial tests, further delays have necessitated an additional extension. Therefore, this proposed rule would delay the current April 9, 1995 effective date for subtitle D financial assurance requirements by one year. EPA is not proposing any changes to the substantive requirements of the current

[1] For a description of the third-party instruments available to MSWLF owners and operators see 56 FR 50978.

subtitle D financial assurance provisions. The new effective date for the financial assurance requirements would be April, 9 1996.

The Agency is proposing this extension for several reasons. First, the large volume of comments received on the December 27, 1993 proposed local government financial test proposal has required significant time to review and analyze. Therefore, the test will not be promulgated before the April 9, 1995 effective date. The corporate financial test was proposed on October 12, 1994 at 59 FR 51523. Promulgation of the corporate financial test will require at least one year.

Second, commenters[2] on the local government proposal expressed concern that there would not be adequate time between the promulgation dates of the financial tests and the April 9, 1995 effective date of the subtitle D financial assurance provisions. Commenters were concerned that the short period of time between the expected promulgation of the financial tests and the effective date would not be adequate for local governments to plan and budget for use of the financial test. Third, commenters are concerned that states would not have adequate time to adopt the financial tests into their state programs and, therefore, the financial test would not be available to qualified local governments.

As a general matter, the Agency notes that approved states/Tribes have the flexibility to develop alternative financial mechanisms that meet the criteria specified in § 258.74(1) for use by their owners and operators. However, the Agency believes that it is important to have these financial tests in place before the financial responsibility provisions become effective. EPA currently estimates that the additional year should enable EPA to finish promulgation of these tests and should ensure that owners and operators will have the opportunity to evaluate their needs based on these financial tests.

[2] Please see comments LGFP–00004 and LGFP–00005 on the December 27, 1993 proposed local government financial test (58 FR 68353) and the August 1, 1994 letter from the Virginia Association of Counties to Michael Shapiro located in the docket of this rulemaking. As a general matter, the Agency notes that approved states/Tribes have the flexibility to develop alternative financial mechanisms that meet the criteria specified in § 258.74(1) for use by their owners and operators. However, the Agency believes that it is important to have these financial tests in place before the financial responsibility provisions become effective. EPA currently estimates that the additional year should enable EPA to finish promulgation of these tests and should ensure that owners and operators will have the opportunity to evaluate their needs based on these financial tests.

IV. Economic and Regulatory Impacts

A. Executive Order 12866

Under Executive Order 12866, which was published in the **Federal Register** on October 4, 1993 (see 58 FR 51735), the Agency must determine whether a 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 result in a rule that may:

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

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

(3) Materially alter the budgetary impact of 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.

This action will not trigger any of the events described above and, therefore, the Agency has determined that this is not a significant action.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* at the time an Agency publishes a proposed or final rule, it generally must prepare a Regulatory Flexibility Analysis that describes the impact of the rule on small entities, unless the Administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities. As a result of this action, small entities will not be required to meet the cost of compliance with subtitle D financial assurance for an additional year. Therefore, pursuant to 5 U.S.C. 605b, we believe that this regulation will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Agency has determined that there are no new reporting, notification, or recordkeeping provisions associated with today's proposed rule.

List of Subjects in 40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: October 6, 1994.

Carol M. Browner,

Administrator.

40 CFR part 258 is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS

1. The authority citation for part 258 continues to read as follows:

Authority: 42 U.S.C. 6907(a)(3), 6912(a), 6944(a), and 6949(c); 33 U.S.C. 1345(d) and 1345(e).

2. Section 258.70 is amended by revising paragraph (b) to read as follows:

§ 258.70 Applicability and effective date.

* * * * *

(b) The requirements of this section are effective April 9, 1996.

3. Section 258.74 is amended by revising paragraph (a)(5) to read as follows:

§ 258.74 Allowable mechanisms.

* * * * *

(a) * * *

(5) The initial payment into the trust fund must be made before the initial receipt of waste or before the effective date of the requirements of this section (April 9, 1996), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58.

* * * * *

4. Section 258.74 is amended by revising the third sentence of paragraph (b)(1); by revising the second sentence of paragraph (c)(1); and by revising the second sentence of paragraph (d)(1) to read as follows:

§ 258.74 Allowable mechanisms.

* * * * *

(b) * * *

(1) * * * The Bond must be effective before the initial receipt of waste or before the effective date of the requirements of this section (April 9, 1996), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58.* * *

* * * * *

(c) * * *

(1) * * * The letter of credit must be effective before the initial receipt of waste or before the effective date of the requirements of this section (April 9, 1996), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action

remedy has been selected in accordance with the requirements of § 258.58.* * *

* * * * *

(d) * * *

(1) * * * The insurance must be effective before the initial receipt of waste or before the effective date of the requirements of this section (April 9, 1996), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the corrective action remedy has been selected in accordance with the requirements of § 258.58.* * *

* * * * *

[FR Doc. 94–25787 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7114]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base (100-year) flood elevation modifications for the communities listed below. The base (100-year) flood elevations and modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

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

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Iowa	Dubuque County (Unincorporated Areas) ..	North Fork Maquoketa River.	Approximately 1.8 miles downstream of U.S. Highway 151.	*813	*810
			Approximately 1 mile upstream of Tributary J.	*833	*833
			Approximately 1.5 miles downstream of Tributary A.	*928	*926
			At the confluence of Tributary B.	*949	*948

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 2.5 miles upstream of State Highway 136.	*1,012	*1,011
		North Fork Maquoketa River Tributary.	Approximately 500 feet upstream of the confluence with North Fork Maquoketa River.	*939	*936
			Approximately 1.2 miles above the confluence with North Fork Maquoketa River, at an unnamed road.	*967	*966
			Approximately 1.8 miles upstream of the confluence with North Fork Maquoketa River.	*977	*979

Maps are available for inspection at the Dubuque County Courthouse, 720 Central Avenue, Dubuque, Iowa.

Send comments to The Honorable Alan Manternach, Chairman, Dubuque County Board of Supervisors, 720 Central Avenue, Dubuque, Iowa 52001.

	Dyersville (City) (Delaware and Dubuque Counties).	North Fork Maquoketa River.	Approximately 1,400 feet downstream of U.S. Highway 20.	*937	*935
			At the confluence of Bear Creek.	*939	*937
			Just upstream of First Avenue East.	*941	*939
			At the confluence of Hewitt Creek.	*947	*945
			Approximately 2,900 feet upstream of the confluence of Hewitt Creek.	*949	*947
		North Fork Maquoketa River Tributary.	At the confluence with North Fork Maquoketa River.	*939	*936
			Approximately 300 feet downstream of State Highway 136.	*942	*940
			Approximately 1,000 feet upstream of U.S. Highway 20.	*957	*950
			Approximately 4,900 feet upstream of U.S. Highway 20.	*973	*973

Maps are available for inspection at City Hall, City of Dyersville, 340 First Avenue East, Dyersville, Iowa.

Send comments to The Honorable Robert H. Kramer, Mayor, City of Dyersville, 340 First Avenue East, Dyersville, Iowa 52040.

Louisiana	Leesville (City) (Vernon Parish)	Bayou Castor	Approximately 900 feet south and 1,000 feet east of the intersection of Smart and El Pam Streets, at the southern corporate limits.	None	*225
			Approximately 250 feet downstream of Highway 46B.	None	*230
			At the confluence of Stream No. 1.	None	*231
			Approximately 800 feet upstream of the confluence of Stream No. 1, at the eastern corporate limits.	None	*232
		Stream No. 1	At the confluence with Bayou Castor.	None	*231
			Just upstream of Bellview Boulevard.	None	*236
			Approximately 1,300 feet upstream of Bellview Boulevard.	None	*238

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Stream No. 2	At the confluence with Stream No. 1.	None	*231
			Just upstream of North First Street.	None	*238
			Approximately 1,200 feet upstream of North First Street.	None	*245
		Stream No. 3	Approximately 1,300 feet upstream of Highway 1212.	None	*224
			Approximately 3,500 feet upstream of Highway 1212, at the confluence of an unnamed tributary.	None	*231
			Approximately 4,700 feet upstream of Highway 1212, just upstream of an unnamed city street.	None	*237
			Approximately 7,800 feet upstream of Highway 1212, and approximately 50 feet downstream of West Texas Street.	None	*253

Maps are available for inspection at City Hall, City of Leesville, 101 West Lee Street, Leesville, Louisiana.

Send comments to The Honorable Jim Shapkoff, Mayor, City of Leesville, P.O. Drawer 350, Leesville, Louisiana 71446.

Oklahoma.	McClain County (Unincorporated Areas)	Canadian River	At the downstream Limit of Detailed Study located approximately 7,000 feet downstream of the confluence of Walnut Creek.	N/A	*1,020
			Just upstream of U.S. Highway 77.	*1,034	*1,035
			Approximately 1,800 feet downstream of Atchison, Topeka & Santa Fe Railroad.	*1,058	*1,059
			Just downstream of Interstate Highway 35.	*1,105	*1,107
			Approximately 8,000 feet northeast of Ninth Avenue intersection with unnamed road.	N/A	#2 (Shallow Flooding Depth)
		Canadian River Overflow	Just upstream of Atchison, Topeka & Santa Fe Relief Bridge.	N/A	*1,057
			Just upstream of Atchison, Topeka & Santa Fe Railroad, on the south side of bridge.	N/A	*1,062
		Walnut Creek	Just downstream of Atchison, Topeka & Santa Fe Railroad.	*1,026	*1,028
			At the downstream corporate limits of the City of Purcell.	*1,031	*1,035
			At the upstream corporate limits of the City of Purcell.	*1,043	*1,049
			At the upstream Limit of Detailed Study located approximately 6,100 feet upstream of Interstate Highway 35.	*1,044	*1,051

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for review at McClain County Clerk's Office, Court House, Second and Washington Streets, Purcell, Oklahoma. Send comments to The Honorable W.C. Shofner, Jr., Chairman, McClain County Board of Commissioners, County Court House, Second and Washington Streets, Purcell, Oklahoma 73080.					
	Newcastle (City) (McClain County)	Canadian River	Just upstream of Interstate Highway 35.	*1,105	*1,107
			Approximately 300 feet upstream of confluence with Tributary B of Canadian River.	*1,127	*1,126
			Approximately 200 feet downstream of East Kelly Road Extended.	*1,136	*1,137
			At confluence of Tributary D of Canadian River.	*1,168	*1,169
			At the McClain County-Grady County Boundary.	None	*1,180
Maps are available for inspection at the Department of Planning, City of Newcastle, City Hall, 5 North Main Street, Newcastle, Oklahoma. Send comments to The Honorable Lloyd Gremblin, Mayor, City of Newcastle, P.O. Box 179, Newcastle, Oklahoma 73065.					
	Pawnee (City) (Pawnee County)	Black Bear Creek	Harrison Street	None	*832
			At St. Louis & San Francisco Railroad.	None	*832
			At Kansas Street	None	*835
Maps are available for inspection at City Hall, City of Pawnee, 510 Illinois Street, Pawnee, Oklahoma. Send comments to The Honorable Alford Majors, Mayor, City of Pawnee, P.O. Box 130, Pawnee, Oklahoma 74058.					
Oregon	Fairview (City) (Multnomah County)	Fairview Creek	Just upstream of Fairview Lake.	N/A	*17
			Just upstream of Sandy Boulevard.	N/A	*42
			Just upstream of Bridge Street.	*125	*125
Maps are available for inspection at City Hall, City of Fairview, Planning Department, 300 Harrison Street, Fairview, Oregon. Send comments to The Honorable Ted Hockaday, Mayor, City of Fairview, 300 Harrison Street, Fairview, Oregon 97024.					
Texas	Cherokee County (Unincorporated Areas)	Keys Creek	At Pine Crest Lake	None	*342
			At County Road 1401	None	*346
			Approximately 2,750 feet downstream of U.S. Highway 79.	None	*357
			Approximately 800 feet upstream of U.S. Highway 79.	None	*371
			At Myrtle Drive	None	*378
			Approximately 1,400 feet upstream of Myrtle Drive.	None	*382
Maps are available for inspection at County Extension Office, 201 East Sixth Street, Room 104, Rusk, Texas. Send comments to The Honorable Craig Caldwell, Cherokee County Judge, Cherokee County Courthouse, Rusk, Texas 75785.					
	Cibolo (City) (Bexar and Guadalupe Counties)	Cibolo Creek	Approximately 8,000 feet downstream of Schaefer Road.	*665	*664
			Just downstream of Schaefer Road.	*674	*672
			At confluence with Dietz Creek.	*686	*686
Maps are available for inspection at City Hall, City of Cibolo, 109 South Main, Cibolo, Texas. Send comments to The Honorable Sam Bauder, Mayor, City of Cibolo, 109 South Main, Cibolo, Texas 78108.					
	Mineral Wells (City)	Pollard Creek	Approximately 3,000 feet downstream of Southwest 22nd Street.	*837	*835
	(Palo Pinto County)		Southwest 1st Street	*874	*869
			Just upstream of Pollard Creek Dam No. 1–A.	*898	*916

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Pollard Creek	Confluence with Pollard Creek.	*844	*842
		Tributary No. 1	At corporate limits	*863	*863
		Pollard Creek	At Park Road	*877	*872
		Tributary No. 2	At Northwest 2nd Street	*883	*879
			Just upstream of Pollard Creek Dam No. 2.	*893	*910
Maps are available for inspection at City Hall, City of Mineral Wells, 211 Southwest First Avenue, Mineral Wells, Texas. Send comments to The Honorable Jim Buzbee, Mayor, City of Mineral Wells, P.O. Box 339, Mineral Wells, Texas 76068.					
Utah	Joseph (Town) (Sevier County)	Indian Creek	At the intersection of Third Street and A Street.	None	#1
			At the intersection of Third Street and C Street.	None	#2
			At the intersection of Fifth Street and D Street.	None	#3
Maps are available for inspection at Town Hall, Town of Joseph, 95 North State Street, Joseph, Utah. Send comments to The Honorable Earl Utley, Mayor, Town of Joseph, 95 North State Street, Joseph, Utah 84739.					

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

Dated: October 5, 1994.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 94-25737 Filed 10-17-94; 8:45 am]

BILLING CODE 6718-03-P-M

DEPARTMENT OF ENERGY

48 CFR Part 970

RIN 1991-AB08

Acquisition Regulation; Legislative Lobbying Cost Prohibition

AGENCY: Department of Energy (DOE).

ACTION: Proposed Rule.

SUMMARY: The Department is proposing to amend the Department of Energy Acquisition Regulation (DEAR) to clarify its legislative lobbying cost prohibition. To avoid any misunderstandings or disagreements between contractors and the Department, the criteria for cost allowability are being more clearly stated.

DATES: Written comments must be received by November 17, 1994.

ADDRESSES: Comments should be addressed to: Michael L. Righi, Office of Procurement and Assistance Management (HR-521.2), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Michael L. Righi (202-586-8175) at the address above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Detailed Changes
III. Public Comments
IV. Procedural Requirements
A. Regulatory Review
B. Review Under Executive Order 12778
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. National Environmental Policy Act

I. Background

Under 42 U.S.C. 7256a, the Department's national security program contracts for amounts over $100,000 do not permit, as allowable, costs incurred by a contractor to influence legislative action. The only exceptions are costs incurred "in response to a request from Congress or a State legislature" to provide "information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract." The current standard clause, DEAR 970.5204-17, which is applicable to all DOE management and operating (M&O) contracts, permits legislative requests to be "written or oral, prior or contemporaneous" and to come from Members, committees, or their staff. The Department is required to reimburse reasonable costs, including travel, meals, and lodging in connection with providing the information. The clause does not address a contractor's requirements to notify the Department prior to providing the information or expert advice or to provide a disclaimer that the information or expert advice represents the views of the contractor and not the Department. To avoid any misunderstandings or disagreements between the contractor and the Department, the standard clause is being revised.

II. Detailed Changes

The clause in part 970 found at 970.5204-17 and entitled "Legislative Lobbying Cost Prohibition" is proposed to be amended to revise the criteria for allowability of M&O contractor legislative lobbying costs. Oral or written requests from Members of Congress or their staff would continue to suffice to justify reimbursement of reasonable, otherwise allowable costs, except that if a contractor seeks reimbursement for travel, meals, and lodging, the request for information or expert advice must be in advance and must be written and signed by a Member.

Unlike congressional requests, a request for information or expert advice from a State legislator would be required to be written and signed by the legislator (not staff) in advance, in all cases, to justify any reimbursement of costs.

In providing information or expert advice, the contractor must indicate that it is not presenting the views of the Department.

In the case of a written request, the contractor must advise the Department of a request before providing the information or expert advice. In the case of an oral request, the contractor must advise the Department of the request as soon as practicable.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or

arguments with respect to the DEAR amendments set forth in this rule. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. All comments received will be available for public inspection in the DOE Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. All written comments received on or before the date specified in the beginning of this notice and all other relevant information will be considered by DOE before taking final action. Comments received after that date will be considered to the extent that time allows. Any person submitting information which that person believes to be confidential and which may be exempt from public disclosure should submit one complete copy, as well as an additional copy from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. The Department's generally applicable procedures for handling information which has been submitted in a document and may be exempt from public disclosure are set forth in 10 CFR 1004.11.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Public Law 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), the Department does not plan to hold a public hearing on this proposed rule.

IV. Procedural Requirements

A. Review under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 Fed. Reg. 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and 2(b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: Specifies clearly any preemptive effect, any effect on existing Federal law or regulation, and any retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposal meets the requirements of sections 2(a) and 2(b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no Office of Management and Budget clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

E. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This rule will not affect States.

F. National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the Department of Energy has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Pursuant to appendix A of subpart D of 10 CFR part 1021, National Environmental Policy Act Implementing Procedures (57 FR 15122, 15152, April 24, 1992) (Categorical Exclusion A6), the Department of Energy has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

List of Subjects in 48 CFR Part 970

Government procurement.

Issued in Washington, D.C., on October 11, 1994.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Part 970 of Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), section 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254), section 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and section 1534 of the Department of Defense Authorization Act, 1986, Public Law 99–145 (42 U.S.C. 7256a), as amended.

2. Section 970.5204–17 is amended by revising paragraph (b)(1), redesignating paragraphs (b)(2) and (3) as (b)(3) and (4), adding a paragraph (b)(2), and adding paragraph (h) to read as follows:

970.5204–17 Legislative lobbying cost prohibition.

* * * * *

(b) * * *

(1) Providing Members of Congress, their staff members, or staff of cognizant legislative committees, in response to a request (written or oral, prior or contemporaneous) from Members of Congress, their staff members, or staff of cognizant legislative committees, or as otherwise directed by the Contracting Officer, information or expert advice of a factual, technical, or scientific nature, with respect to topics directly related to the performance of the contract or proposed

legislation. In providing this information or expert advice, the contractor shall indicate to the recipient that it is not presenting the views of DOE. Reasonable costs for transportation, lodging, or meals incurred by contractor employees for the purpose of providing such information or advice shall also be reimbursable, provided the request for information or expert advice is a prior written request signed by a Member of Congress, and provided such costs also comply with the allowable cost provisions of the contract.

(2) Providing State legislatures or subdivisions thereof, their staff members, or staff of cognizant legislative committees, in response to a prior written request from a State legislator, or as otherwise directed by the Contracting Officer, information or expert advice of a factual, technical, or scientific nature, with respect to topics directly related to the performance of the contract or proposed legislation. In providing this information or expert advice, the contractor shall indicate to the recipient that it is not presenting the views of DOE. Reasonable costs for transportation, lodging, or meals incurred by contractor employees shall also be reimbursable, provided such costs also comply with the allowable costs provision of the contract.

* * * * *

(h) In providing information or expert advice under paragraphs (b)(1) and (b)(2) of this clause, the contractor shall advise the Contracting Officer in advance, in the case of a written request, or as soon as practicable in the case of an oral request.

[FR Doc. 94–25751 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

[I.D. 092794B]

Stone Crab Fishery of the Gulf of Mexico; Correction

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

ACTION: Notice of availability; correction.

SUMMARY: This announcement corrects the comment date for a notice of availability of Amendment 5 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico, which was published on September 30, 1994.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 813–570–5306.

Correction of Publication

Accordingly, the publication on September 30, 1994 (59 FR 49908) of the announcement of the availability of Amendment 5 [I.D. 092794B], which was the subject of FR Doc. 94–24243 is corrected in the DATES portion of the preamble to read as follows:

DATES: Comments must be submitted by November 25, 1994.

Dated: October 12, 1994.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–25762 Filed 10–17–94; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 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

Forest Service

Draft Strategic Plan for International Cooperation

AGENCY: Forest Service, USDA.

ACTION: Notice of availability; request for comment.

SUMMARY: The Forest Service gives notice of a Draft Strategic Plan for International Cooperation of the Forest Service with other countries and with international organizations. The intent of this cooperation is to develop dialogue with other countries on environmental issues of common concern; to advance the science and practice of sustainable forest management in the United States through international cooperation; and to advance sustainable forest management in other countries that mutually benefits the cooperating countries, the United States, and the world community.

DATES: Comments must be received by December 2, 1994.

ADDRESSES: Send written comments to William Helin, USDA Forest Service, International Forestry, P.O. Box 96538, Washington, D.C. 20090–6538.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain single copies of the Draft Strategic Plan by writing, calling, or faxing William Helin, International Forestry, USDA Forest Service, P.O. Box 96538, Washington, DC 20090–6538. Tel: (202) 273–4695, Fax: (202) 273–4750.

Dated: October 6, 1994.

David G. Unger,

Associate Chief.

[FR Doc. 94–25686 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. 92–463, 86 Stat. 770–776), the U.S. Department of Agriculture (USDA), Science and Education announces the following advisory committee meeting.

Name: Agricultural Biotechnology Research Advisory Committee.

Date: November 17–18, 1994.

Time: 9:00 a.m. to approximately 5:00 p.m. on November 17;

9:00 a.m. to approximately 3:00 p.m. on November 18.

Place: Portola Room, Doubletree Hotel at Fisherman's Wharf, Two Portola Plaza, Monterey, California 93940.

Type of Meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit. Members of the public wishing to speak at the meeting may be given such an opportunity at the discretion of the Chair.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research.

The items to be considered at this meeting include performance standards for research with genetically modified aquatic organisms and the results of a symposium on field tests of genetically modified plants and microorganisms.

Contact Persons: Dr. Alvin L. Young, Director, or Dr. Daniel D. Jones, Deputy Director, Office of Agricultural Biotechnology, Cooperative State Research Service, Department of Agriculture, Room 1001, Rosslyn Plaza E, 14th Street and Independence Avenue SW., Washington, D.C., 20250–2200. Telephone (703) 235–4419.

Done at Washington, D.C., this 3rd day of October, 1994.

R.D. Plowman,

Acting Assistant Secretary, Science and Education.

[FR Doc. 94–25667 Filed 10–17–94; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–401]

Certain Textile Mill Products from Thailand; Notice of Concordance

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Conversion of the Scope of the Suspended Investigation from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On April 15, 1994, the Department of Commerce (the Department) published in the **Federal Register** the proposed conversion of the Tariff Schedules of the United States Annotated (TSUSA) to the Harmonized Tariff Schedule (HTS) for the suspended countervailing duty investigation on certain textile mill products from Thailand (59 FR 18101). Interested parties were invited to comment on the proposed conversion. Based on our analysis of the comments received, the Department is modifying the scope of the suspended countervailing duty investigation on certain textile mill products from Thailand.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230, telephone (202) 482–0162.

SUPPLEMENTARY INFORMATION:

Background

In 1985, the Department suspended the countervailing duty investigation on certain textile mill products from Thailand (C–549–401) (50 FR 9832; March 12, 1985). The scope of the suspended investigation was originally defined solely in terms of the TSUSA item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the HTS, pursuant to section 1211 of the Omnibus Trade and Competitiveness Act of 1988. The suspended investigation was terminated in 1990, and the HTS conversions were never implemented. However, the Court

of International Trade (CIT) ordered that the suspended investigation be reinstated in its decision dated May 7, 1992 (*Belton Industries, Inc.* v. *United States*, slip op. No. 92–64). The CIT ruling was upheld by the Court of Appeals for the Federal Circuit on September 7, 1993 (*Belton Industries, Inc.* v. *United States, 6F.3d 756*). As a result, the suspended investigation was reinstated effective May 18, 1992 (see 58 FR 54552, October 22, 1993 and decision memorandum dated February 25, 1994). Therefore, the Department took action to conform the scope of the investigation with the tariff classification system of the HTS.

The Department, with the assistance of the U.S. Customs Service and the U.S. International Trade Commission, analyzed the TSUSA-defined scope and identified those HTS item numbers that reasonably correspond with the TSUSA-defined scope of the subject suspended investigation. On April 15, 1994, the Department published a proposed conversion (59 FR 18108) and invited interested parties to comment on this proposed conversion. Based on our analysis of the comments received concerning certain textile mill products from Thailand, the Department is clarifying the product coverage of certain HTS item numbers. The HTS item numbers for the suspended countervailing duty investigation are found in the attached Appendix.

Analysis of Comments Received

Comment 1: The American Yarn Spinners Association and certain member companies (collectively referred to as AYSA) contend that the suspended investigation concerning certain textile mill products from Thailand included within its scope all yarn blends under TSUSA item numbers 300.6026 and 300.6028. This included all cotton/man-made fiber yarns that were in chief value of cotton and that, at the same time, were sometimes in chief weight of cotton (either 50/50 cotton/man-made fiber, or in chief weight of man-made fiber). Therefore, AYSA contends that the proper conversion from the original TSUSA item numbers to the HTS must include HTS item numbers for both chief weight cotton blends with man-made fiber and chief weight man-made fiber blends with cotton. AYSA asserts that the following HTS item numbers should be included: 5509.53.00.30, 5509.53.00.60, 5509.62.00.00, 5509.92.00.00, and 5510.30.00.00.

Department's Position: We disagree. TSUSA item numbers 300.6026 and 300.6028 are the parent TSUSA item numbers for HTS item numbers 5206.21, 5206.22, 5206,24, 5206.25, 5206.41, 5206.42, 5206.43, and 5206.44, all of which are covered products. These HTS item numbers refer to cotton yarn (other than sewing threads) containing less than 85 percent cotton by weight. We traced the parent TSUSA item number for HTS item numbers 5509.53, 5509.62, 5509.92, and 5510.30, and found that the parent TSUSA item number is 310.60. This TSUSA item number was not listed in the original scope of the suspended investigation. Since it is not our intention to expand the scope of the suspended investigation but only to cover those products originally intended to be covered, we do not believe it appropriate to include these HTS item numbers.

Comment 2: The Royal Thai Government (RTG) contends that the TSUSA item numbers, which limited the scope of this suspended investigation for cotton yarns, are all defined as "in chief value, but not wholly, of cotton." The corresponding HTS item numbers are defined as "containing less than 85 percent by weight of cotton." Therefore, it is possible that merchandise containing less than 85 percent cotton by weight could be less than chief value of cotton, and thus would fall outside the scope of the suspended investigation as defined by the TSUSA item numbers. In addition, the RTG claims that the HTS item numbers for cotton fabrics are all defined as "containing 85 percent or more by weight of cotton." The corresponding TSUSA item numbers, which defined the scope of the suspended investigation, are all defined as "wholly of cotton." Therefore, some portion of the merchandise containing more than 85 percent cotton by weight could nonetheless be less than wholly cotton, and thus would fall outside the scope of the suspended investigation as defined by TSUSA item numbers. The RTG requests that the Department limit the scope of this suspended investigation by limiting the HTS item numbers so that they do not exceed the original scope.

Department's Position: We agree and have included two footnotes in the attached Appendix, one for cotton yarns which states "not including merchandise with less than chief value of cotton" and one footnote for cotton fabrics which states "not including merchandise less than wholly cotton."

Comment 3: The RTG contends that HTS item numbers 5402.3160 and 5402.3260, which are multiple, folded, or cabled textured nylon yarns, are not products covered by the original suspended investigation. Therefore, these HTS item numbers should not be included.

Department's Position: We agree that these HTS item numbers are not covered products. The parent TSUSA item number 310.1109 printed in the suspended investigation was a typographical error (refer to letter dated May 20, 1991, from the Director, Office of Agreements Compliance, to the American Yarn Spinners Association, Inc.).

Comment 4: The RTG argues that TSUSA item number 366.4200 was not included in the original suspended investigation. Therefore, the corresponding HTS item numbers 6302.5110 should be removed from the concordance.

Department's Position: We agree and have removed the HTS item number from the Appendix.

Dated: October 5, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

APPENDIX: HTS LIST FOR CERTAIN TEXTILE MILL PRODUCTS FROM THAILAND

5204.1100	5208.1260	5210.1180.20	5511.1000	5514.1100.30
5204.1900	5208.1260.20	5210.1180.90	5511.1000.30	5514.1100.50
5204.2000	5208.1260.40	5211.1100	5511.1000.60	5514.1100.90
5206.2100 [1]	5208.1260.60	5211.1100.20	5511.2000	5601.1010
5206.2200	5208.1260.90	5211.1100.30	5511.3000	5601.2100
5206.2300	5208.1280	5211.1100.50	5513.1100	5601.2100.10
5206.2400	5208.1280.20	5211.1100.90	5513.1100.20	5601.2100.90
5206.2500	5208.1280.90	5401.1000	5513.1100.40	5701.9020
5206.4100	5209.1100	5401.2000	5513.1100.60	5701.9020.10
5206.4200	5209.1100.20	5402.3130	5513.1100.90	5701.9020.20
5206.4300	5209.1100.30	5402.3230	5513.1900	5701.9020.30
5206.4400	5209.1100.50	5402.3360	5513.1900.10	5701.9020.90

APPENDIX: HTS LIST FOR CERTAIN TEXTILE MILL PRODUCTS FROM THAILAND—Continued

5206.4500	5209.1100.90	5406.1000	5513.1900.20	5703.1000
5207.1000	5209.1200	5406.1000.20	5513.1900.30	5703.2010
5207.9000	5209.1200.20	5406.1000.40	5513.1900.40	6302.4020
5208.1120[2]	5209.1200.40	5406.1000.90	5513.1900.50	6302.4020.10
5208.1120.20	5209.1900	5406.2000	5513.1900.60	6302.4020.20
5208.1120.40	5209.1900.20	5508.1000	5513.1900.90	6302.5120
5208.1120.90	5209.1900.40	5508.2000	5513.2100	6302.5130
5208.1140	5209.1900.60	5509.2100	5513.2100.20	6302.5140
5208.1140.20	5209.1900.90	5509.2200	5513.2100.40	6307.1020
5208.1140.40	5210.1140	5509.2200.10	5513.2100.60	6307.1020.05
5208.1140.60	5210.1140.20	5509.2200.90	5513.2100.90	6307.1020.15
5208.1140.90	5210.1140.40	5509.3200	5513.2300	6307.1020.20
5208.1180	5210.1140.90	5509.5130	5513.2300.20	6307.1020.27
5208.1180.20	5210.1160	5509.5160	5513.2300.40	6307.1020.28
5208.1180.90	5210.1160.20	5509.6940	5513.2300.90	6307.1020.30
5208.1240	5210.1160.40	5510.1200	5513.3100	.....
5208.1240.20	5210.1160.60	5510.9040	5514.1100	.....
5208.1240.40	5210.1160.90	.....	5514.1100.20	.....
5208.1240.90	5210.1180	.....	.....	.....

[1] For cotton yarns (HTS item numbers 5206, 5210, and 5211) we are limiting the scope coverage for these HTS item numbers by "not including merchandise with less than chief value of cotton."

[2] For cotton fabrics (HTS item numbers 5208 and 5209) we are limiting the scope coverage for these HTS item numbers by "not including merchandise less than wholly cotton."

[FR Doc. 94–25785 Filed 10–17–94; 8:45 am]
BILLING CODE 3510–DS–P

[A–570–804]

Sparklers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioners, the Elkton Sparkler Company and the Diamond Sparkler Company, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on sparklers from the People's Republic of China (PRC). The review covers one manufacturer/exporter of this merchandise to the United States and the period June 1, 1992 through May 31, 1993.

As a result of this review, we have preliminarily determined to assess an antidumping duty of 93.54 percent on the merchandise subject to the review. Interested parties are invited to comment on these preliminary results of the review.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–5831/4114.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1991, the Department published in the **Federal Register** the antidumping duty order on sparklers from the PRC (56 FR 27946). On June 7, 1993, the Department published a notice in the **Federal Register** notifying interested parties of the opportunity to request an administrative review of sparklers from the PRC (58 FR 31941). On June 28, 1993, the petitioners requested, in accordance with 19 CFR 353.22(a), that we conduct an administrative review of exports to the United States by Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch (Guangxi), for the period June 1, 1992, through May 31, 1993. We published a notice of initiation of the antidumping administrative review of Guangxi's exports on July 21, 1993 (58 FR 39007).

The Department is now conducting a review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this administrative review are sparklers from the PRC. Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Sparklers are currently classifiable under subheading 3604.10.00 of the Harmonized Tariff Schedules (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of this proceeding.

Best Information Available

On February 22, 1994, we sent Guangxi a questionnaire and cover letter, explaining the review procedures, by air mail through TNT Skypak International Express (TNT).

The questionnaire, which covered exports to the United States for the period of review, was due by April 14, 1994.We did not receive a response by the due date and, thus, asked TNT to trace the shipment and Guangxi's receipt of the document. On May 4, 1994, TNT's delivery office in Hong Kong confirmed that the questionnaire was accepted by a representative of Guangxi on March 3, 1994. Because we have received no response and have not been contacted by Guangxi, we determine that Guangxi is an uncooperative respondent. Therefore, in accordance with section 776(c) of the Act, we are using the best information available (BIA) as the basis for calculating a dumping margin for Guangxi's United States entries during the period of review. In determining what to use as BIA, the Department follows a two-tiered methodology whereby the Department assigns a lower BIA margin to those respondents who cooperate in a review, and a margin based on more adverse assumptions to those respondents who do not cooperate, or who significantly impede the review. See Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of

Germany (56 FR 31704–05, July 11, 1991).

In the case of uncooperative respondents, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the less-than-fair-value (LTFV) investigation or prior administrative reviews; or (2) the highest calculated rate in this review for any firm. There were no other firms involved in this review. Therefore, we have used as BIA the highest rate established in the remand of the LTFV final determination (58 FR 53708, July 29, 1993), which was 93.54 percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the dumping margin to be the following:

Manufacturer/exporter	Time period	Margin (percent)
Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch	6/1/92–5/31/93	93.54

Interested parties to this proceeding may request disclosure within 5 days of publication of this notice and may request a hearing within 10 days of publication. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs or comments.

Upon completion of this review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of sparklers from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Guangxi will be the rate as stated above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for PRC exporters not covered in this review, a prior review, or the original LTFV investigation, the cash deposit rate will be the PRC country-wide rate of 93.54 percent, the rate established in the remand of the LTFV final determination for exporters not covered in the investigation; and (4) the cash deposit rate for non-PRC exporters will be the rate established for that firm if a separate rate has been established for that firm; if a non-PRC exporter does not have its own separate rate, the deposit rate for that firm's shipments will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 7, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–25786 Filed 10–17–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–813]

Light-Scattering Instruments and Parts Thereof from Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioner, Wyatt Technology Corporation (Wyatt), the Department of Commerce (the Department) is conducting the third administrative review of the antidumping duty order on light-scattering instruments (LSIs) and parts thereof from Japan. The review covers one manufacturer/exporter, Otsuka Electronics Co., Ltd. (Otsuka), and entries of the subject merchandise into the United States during the period November 1, 1992 through October 31, 1993.

We have preliminarily determined, using the best information available (BIA), that dumping margins exist with respect to Otsuka. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Nooshen Amiri, or Maureen Flannery, 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) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1990, the Department published in the Federal Register an antidumping duty order on LSIs and parts thereof from Japan (55 FR 48144). On November 9, 1993, the petitioner, Wyatt, requested that we conduct an administrative review in accordance with section 353.22(a) of the Department's regulations (19 CFR 353.22(a)). We initiated the review covering the period November 1, 1992 through October 31, 1993 (58 FR 65964, December 17, 1993). The Department has now conducted the review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

This review covers imports of LSIs and parts thereof from Japan. The Department defines such merchandise as LSIs and the parts thereof, specified below, that have classical measurement capabilities, whether or not also capable of dynamic measurement. Classical measurement (also known as static measurement) capability usually means the ability to measure absolutely (*i.e.*, without reference to molecular standards) the weight and size of macromolecules and submicron

particles in solution, as well as certain molecular interaction parameters, such as the so-called second viral coefficient. (An instrument that uses single-angle instead of multi-angle measurement can only measure molecular weight and the second viral coefficient.) Dynamic measurement (also known as quasi-elastic measurement) capability refers to the ability to measure the diffusion coefficient of molecules or particles in suspension and deduce therefrom features of their size and size distribution. LSIs subject to this review employ laser light and may use either a single-angle or multi-angle technique.

The following parts are included in the scope of this administrative review when they are manufactured according to specifications and operational requirements for use only in an LSI as defined in the preceding paragraph: scanning photomultiplier assemblies, immersion baths (to provide temperature stability and/or refractive index matching), sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches. LSIs subject to this review may be sold inclusive or exclusive of accessories such as personal computers, cathode ray tube displays, software, or printers. LSIs are currently classifiable under Harmonized Tariff Schedule (HTS) subheading 9027.30.40. LSI parts are currently classifiable under HTS subheading 9027.90.40. HTS subheadings are provided for convenience and customs purposes. The written product description remains dispositive. Different items with the same name as subject parts may enter under subheading 9027.90.40. To avoid the unintended suspension of liquidation of non-subject parts, those items entered under subheading 9027.90.40 and generally known as scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches must be accompanied by an importer's declaration to the Customs Service stating that they are not manufactured for use in a subject LSI.

This review covers entries of the subject merchandise manufactured by Otsuka and entered during the period November 1, 1992 through October 31, 1993.

Preliminary Results of Review

On June 14, 1994, Otsuka informed the Department that it had decided not to respond to the Department's supplemental questionnaire, and not to allow verification of its previously submitted questionnaire response. The Department, therefore, determines that Otsuka is an uncooperative respondent. As a result, in accordance with section 776(c) of the Act, we have determined that the use of BIA is appropriate. Whenever, as here, a company refuses to cooperate with the Department, or otherwise significantly impedes an antidumping proceeding, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the less-than-fair-value (LTFV) investigation or prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise. (See Antifriction Bearings from France, et. al; Final Results of Review, 58 FR 39729 (July 26, 1993).) As BIA, we assigned the rate of 129.71 percent, which is the highest rate for any company from both the prior review and the LTFV investigation. Consequently, we preliminarily determine that the following dumping margin exists for the period November 1, 1992 through October 31, 1993:

Manufacturer/exporter	Period of review	Margin
Otsuka Electronics, Ltd.	11/01/92–10/31/93	129.71

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the result of its analysis of issues raised in any such case briefs or hearing.

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered or withdrawn from warehouse for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review by the Department, the cash deposit rate will be 129.71%, the all other rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement will result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: October 7, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–25784 Filed 10–17–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–029]

Final Results of Antidumping Duty Administrative Review; Fishnetting of Man-Made Fiber From Japan

AGENCY: International Trade Administration/Import Administrative Review.

SUMMARY: On March 14, 1994, the Department of Commerce published in the **Federal Register** the preliminary results of an administrative review of

the antidumping duty finding on fishnetting of man-made fiber from Japan. This review covers one company and the period June 1, 1992, through May 31, 1993. We did not receive any comments on the preliminary results. Therefore, the dumping margin for the company reviewed is unchanged from the margin presented in the preliminary results.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Kim Moore, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–0090.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1994, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty finding of fishnetting of man-made fiber from Japan (59 FR 11770). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of fishnetting of man-made fibers, not including salmon gill netting, from Japan. The merchandise is currently classifiable under item numbers 5608.11.00, 5608.19.10, and 5608.90.10 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive.

The review period is June 1, 1992, through May 31, 1993. This review covers one company Yamaji Fishing Net Co., Ltd.

Analysis

As stated in the preliminary results, although Yamaji attempted to respond to all Department requests for information, the data submitted was unverifiable. In particular, at verification in Japan we discovered that approximately 40 percent of total home market sales had not been reported. Furthermore, because Yamaji did not prepare adequate source documentation, the Department was unable to complete sales traces to its satisfaction. Finally, significant discrepancies and errors in Yamaji's sales listings were identified, thereby making it impossible to verify several of Yamaji's claimed adjustments. For further information on the deficiencies in the respondent's questionnaire response, refer to the verification report dated February 14, 1994.

Therefore, because we had no data upon which we could reliably base our analysis, the Department used the best information available (BIA) for its preliminary results. As outlined in the preliminary results, the second-tier BIA rate was applied, since Yamaji was cooperative.

We gave interested parties an opportunity to comment on the preliminary results and received no comments. Accordingly, we will continue to apply Yamaji's previous rate of 18.30 percent, the highest rate applicable to any firm for the subject merchandise (see Fishnetting of Man-Made Fibers from Japan; Final Results of Administrative Review of Antidumping Finding, 56 FR 49457, September 30, 1991).

Final Results of the Review

As a result of our review, we determine that a margin exists for the period June 1, 1992, through May 31, 1993, as follows:

Manufacturer/exporter	Percent margin
Yamaji Fishing Net Co., Ltd	18.30

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement shall be effective, upon publication of this notice of final results of administrative review, for all shipments of the subject merchandise from Japan that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate established above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, any previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the "new shipper" rate established in the first administrative review, as discussed below.

On May 25, 1993, the Court of International Trade (CIT), and *Federal-Mogul Corporation and the Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993), decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original "all others" rate from the less-than-fair-value (LTFV) investigation (or that rate as amended for correction for clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical error or as result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty finding, and we are unable to ascertain the "all others" rate from the Treasury LTFV investigation, the "all others" rate for the purposes of the review will be 1.94 percent, the "new shipper" rate established in the first final results of administrative review published by the Department (47 FR 28978, July 2, 1982).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 3563.22.

Dated: October 7, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94-25782 Filed 10-17-94; 8:45 am]

BILLING CODE 3510-05-M

[(C-301-003)—Roses and Other Cut Flowers from Colombia; (C-301-601)—Miniature Carnations From Colombia]

Preliminary Results of Countervailing Duty Administrative Reviews of Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Reviews of Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is conducting administrative reviews of the agreements suspending the countervailing duty investigations on roses and other cut flowers from Colombia and on miniature carnations from Colombia. These reviews cover the periods January 1, 1991, through December 31, 1991, and January 1, 1992, through December 31, 1992, and eight programs. We preliminarily determine that the Government of Colombia (GOC) and the signatories/exporters of roses and other cut flowers and miniature carnations have complied with the terms of the suspension agreements. We invite interested parties to comment on these results.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen Jacques, Jeanene Lairo or Derek Parks, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230; telephone: (202) 482-3793.

SUPPLEMENTARY INFORMATION:

Background

On December 26, 1991, and January 13, 1993, the Department published notices of "Opportunity to Request an Administrative Review" for the 1991 and 1992 review periods, respectively (56 FR 66846 and 58 FR 4148). On January 31, 1992, and on January 29, 1993, the Floral Trade Council (FTC) requested administrative reviews of the suspended countervailing duty investigations covering roses and other cut flowers (roses) and miniature carnations (minis) for the 1991 and 1992 periods, respectively. On February 24, 1992, and on March 26, 1993, the Department initiated these reviews (57 FR 6314 and 58 FR 16397). The Department is now conducting these reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 355.22.

Scope of Review

Imports covered by these reviews are shipments of roses and minis from Colombia. During the review periods, such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item numbers 0603.10.60, 0603.10.70, 0603.10.80, and 0603.90.00 for roses, and 0603.10.30 for minis. The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

The review periods are January 1, 1991, through December 31, 1991 and January 1, 1992, through December 31, 1992. These reviews of the suspended investigations involve over 450 producers/exporters of roses, over 100 producers/exporters of minis, as well as the GOC. We verified the responses from four producers/exporters of the subject merchandise: Floramerica, Inc. (roses and minis); Jardines de los Andes S.A. (roses and minis); Agrosuba, Ltda. (roses and minis) and Horticultura de la Sabana (minis) (collectively, the four companies). The suspension agreement for minis covers seven programs: (1) Tax Reimbursement Certificate Program; (2) PROEXPO/BANCOLDEX (funds for the promotion of exports); (3) Plan Vallejo; (4) Free Industrial Zones; (5) Export Credit Insurance; (6) Countertrade; and (7) Research and Development. The suspension agreement for roses covers the seven programs listed above, as well as Air Freight Rates.

Analysis of Programs

For a description of changes to these programs during the review periods, please see "Summary of Changes to Programs Covered by the Suspension Agreements on Roses and Other Cut Flowers and Miniature Carnations from Colombia," Memorandum to Edward C. Yang, Division Director, Office of Agreements Compliance, available in the public file.

We examined the following programs subject to the suspension agreements:

(1) Tax Reimbursement Certificate Program

The "Certificado de Reembolso Tributario" (CERT) or Tax Reimbursement Certificate program allows exporters to receive a full or partial rebate on indirect taxes based on the value of their exports of specific products to specific destinations. The GOC determines the CERT levels based on product and market conditions.

Under the terms of the suspension agreements, producers/exporters will not apply for, or receive, tax reimbursement certificates or other rebates, remissions, or exemptions under the CERT program for exports of the subject merchandise to the United States and Puerto Rico. Since 1987, when the GOC restructured the CERT program, the level of CERT payments for exports of the subject merchandise to the United States and Puerto Rico have been set at zero. Therefore, exporters of the subject merchandise are no longer eligible to receive countervailable benefits.

At verification, we examined documentation at the GOC and found that this program was not used by exporters of the subject merchandise for exports to the United States and Puerto Rico during the period of reviews (PORs). In addition, at verification of the four companies, we examined documentation and confirmed that they did not use the program for exports of the subject merchandise to the United States and Puerto Rico during the PORs. Therefore, we preliminarily determine that the GOC has eliminated the subsidy on the subject merchandise by abolishing this program for exports of the subject merchandise to the United States and Puerto Rico and that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs.

(2) PROEXPO/BANCOLDEX

During 1991, PROEXPO (Fondo de Promocion de Exportaciones) provided funds for the promotion of exports. On January 1, 1992, the 7th Law transferred PROEXPO from a government-administered fund to a commercial bank. The new bank's legal nature, functions, rights, and obligations were outlined in decree 2505 and PROEXPO was renamed Banco de Comercio Exterior de Colombia S.A. (BANCOLDEX). As a result, the same GOC resolutions for export loans that were implemented by PROEXPO, are now implemented by BANCOLDEX.

PROEXPO/BANCOLDEX provides four peso credit lines (short-term

working capital, long-term loans (capitalization), fixed investment, financing for trade promotion); and U.S. dollar credit lines. Most loans provided by PROEXPO/BANCOLDEX are short-term (less than a year).

Under the terms of the suspension agreements, producers/exporters will not apply for, or receive, for exports of the subject merchandise to the United States and Puerto Rico, any short- or long-term export financing from PROEXPO/BANCOLDEX other than that offered on non-preferential terms and at interest rates at or above the established Department benchmark interest rates.

For the roses suspension agreement, the Department established benchmark interest rates for all short- and long-term peso loans when the agreement was signed (51 FR 44930, (December 15, 1986)). The Department's short-term benchmark interest rate was 22.5 percent and the long-term benchmark interest rate was 21.0 percent, for loans to producers/exporters of roses. These same interest rates were in effect during the PORs.

For the minis suspension agreement, the Department also established benchmark rates for all short- and long-term peso loans when the agreement was signed: the short-term benchmark interest rate was 22.5 percent, and the long-term benchmark interest rate was 21 percent. In Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Review, (56 FR 14240, (April 8, 1991)), the Department changed its benchmark rate for minis to nominal DTF (the Colombian Central Bank time deposit rate, the "Depositos a Termino Fijo") plus 1 percentage point for short-term loans, and nominal DTF plus 1 percentage point and 0.25 percentage point for each additional year after the first for long-term loans. This change in the benchmark interest rates became effective on April 8, 1991, the date of publication of the Department's notice.

Colombian Peso Loans

At verification, we examined GOC documents and confirmed that PROEXPO/BANCOLDEX charged interest rates on its short- and long-term peso loans above the established Department benchmark interest rates for the subject merchandise during the PORs. In addition, we found that PROEXPO/BANCOLDEX issued the loans on non-preferential terms. We also examined the four companies' accounting records which confirmed that the companies received PROEXPO/BANCOLDEX peso loans for the subject merchandise on non-preferential terms and at interest rates at or above the established Department benchmark rates for exports of the subject merchandise to the United States and Puerto Rico during the PORs. Therefore, we preliminarily determine that PROEXPO/BANCOLDEX did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs.

In order to update previous benchmark rates determined by the Department, we reviewed interest rates in Colombia to define what interest rate benchmarks were appropriate for future PROEXPO/BANCOLDEX loans. In the case of short- and long-term peso PROEXPO/BANCOLDEX loans, the Department confirmed at verification that the GOC adopted the DTF-based rates because the DTF rates more accurately reflect interest rate fluctuations in the market. While we verified that there is no single predominant source of alternative financing in Colombia, the Department established that a major lender to the agricultural sector is the independent government agency, FINAGRO (Fondo para el financiamiento del Sector Agropecuario). FINAGRO loans are outside BANCOLDEX-controlled credit lines and account for 35 to 40 percent of financing to the agricultural sector. FINAGRO loans are short-term.

The Department found that, in addition to FINAGRO, the Caja Agraria bank finances 35 to 40 percent of the agricultural sector. At verification, we found that the Caja Agraria interest rates are similar to the rates offered by FFA/Finagro. However, information on the record about Caja Agraria rates conflicts with what we found at verification. Therefore, we preliminarily determine that FINAGRO interest rates represent the best alternative source of financing for agricultural entities in Colombia.

The Department, therefore, preliminarily determines that the short-term benchmark interest rate will be the most recent FINAGRO short-term interest rate established in February 1994, nominal DTF plus six percentage points. The Department also preliminarily determines that the long-term benchmark interest rate will be the most recent FINAGRO short-term interest rate in February 1994, nominal DTF plus six percentage points, plus an additional 0.25 percentage points for each year after the first, including any grace period, reflecting the spread between PROEXPO/BANCOLDEX short- and long-term loans. The short- and long-term benchmark interest rates will apply to loans granted on or after the date of publication of the final results of these administrative reviews.

U.S. Dollar Loans

During the PORs, PROEXPO/BANCOLDEX established several new U.S. dollar credit lines. On August 26, 1991, the GOC issued resolution 13/91 and established a new short-term working capital credit line financed by CAF (Corporacion Andina de Fomento) and administered by PROEXPO/BANCOLDEX. The interest rates on CAF loans were set at the London Interbank Offered Rate (LIBOR) plus up to 3.25 percentage points, depending on the terms of the loan. In addition, resolution 4/92 (February 19, 1992) established a U.S. dollar credit line for preshipment operations. These loans are financed by FLAR (Fondo Latinoamericano de Reservas) and BLADEX (Banco Latinoamericano de Exportaciones), both of which are international financial institutions. The interest rates on FLAR and BLADEX loans are LIBOR plus up to three percentage points on 180-day loans, and interest is payable at the end of the term of the loan.

In the case of short-term U.S. dollar loans, the Department had not set any benchmarks prior to these PORs, since these loans had not been introduced until 1991. Therefore, the Department could not examine these loans for compliance with the terms of the suspension agreements during these PORs.

In order to establish new U.S. dollar benchmark rates, we examined alternative sources of dollar loans in Colombia to determine a benchmark interest rate. We confirmed at verification that during the PORs, PROEXPO/BANCOLDEX loan interest rates on U.S. dollar loans charged to Colombian flower growers/exporters were based upon the LIBOR plus a variable spread. At verification, we found no alternative measure of what a firm's cost for debt in dollars would be in Colombia. In the absence of a viable alternative source of dollar financing in Colombia, we preliminarily determine that the U.S. weighted-average effective interest rates, for short-term loans under $100,000 for February 1994, as published in the Federal Reserve Statistical Release is the most representative source of financing. This methodology is consistent with DOC prior practice (See Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Mexico; FR 58 37358, (July 9, 1993)).

The Federal Reserve publishes rates based upon the U.S. Prime Lending Rate and not LIBOR rates. Thus, for short-term U.S. dollar loans, we preliminarily determine setting the Department's benchmark at U.S. Prime plus 1.96

percentage points, which corresponds to the weighted-average effective interest rates for U.S. short-term loans under $100,000 in February 1994.

We preliminarily determine that these new benchmarks will apply to loans granted on or after the date of publication of the final results of these administrative reviews. Any such financing outstanding on that date shall be repaid or refinanced on non-preferential terms and interest rates at or above the most recent benchmark interest rate determined by the Department.

Prospective Benchmarks

The Department invites interested parties to comment on the current procedure for determining revised and new benchmarks for PROEXPO/BANCOLDEX loans or any other loan programs.

There are two main issues that arise out of the current procedure. First, suspension agreements are forward looking, and the Department sets benchmark interest rates prospectively (See Miniature Carnations from Colombia: Final Results of Countervailing Duty Administrative Review; 56 FR 14240 (April 8, 1991) and Miniature Carnations from Colombia; Final Results of Countervailing Duty Administrative Review and Determination Not To Terminate Suspended Investigation; 59 FR 10790, (March 8, 1994.)) Petitioners have argued that this leads to situations where PROEXPO/BANCOLDEX loans at interest rates in compliance with the Department's benchmarks could be at preferential interest rates and thus be countervailable. Second, the Department did not set benchmarks for U.S. dollar loans prior to these PORs because the dollar loan programs were not initiated until August 26, 1991. Therefore, because Department benchmarks in these suspension agreements are set prospectively, during these PORs there was no Department dollar interest rate benchmark in place against which the Department could establish whether or not PROEXPO/BANCOLDEX dollar loans were granted on non-preferential terms.

For these reasons, we invite interested parties to comment on whether it would be in the public interest to amend and/or clarify these suspension agreements with regard to benchmarks and the procedures for establishing benchmarks for loan programs.

(3) Plan Vallejo

Plan Vallejo was established in 1967 under decree 444. Its purpose is to exempt exporters from certain indirect taxes and customs duties assessed on imported capital equipment used to produce finished products for export. The Instituto Colombiano de Comercio Exterior (INCOMEX) administers the Plan Vallejo program.

Under the terms of the suspension agreements, producers/ exporters will not apply for or receive any benefits from duty and tax exemptions for capital equipment under Plan Vallejo for exports of the subject merchandise to the United States and Puerto Rico. At verification, we examined the GOC's documentation and confirmed that this program was not used by the exporters of the subject merchandise for exports to the United States and Puerto Rico during the PORs. Also, GOC officials stated that, during the PORs, no flower producers applied for Plan Vallejo benefits. In addition, we verified that the four companies did not use the program for capital equipment during the PORs. Therefore, we preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs.

We also preliminarily determine that Plan Vallejo has been abolished for the subject merchandise in resolution 1212 since flower growers are ineligible to receive benefits for exports to the United States and Puerto Rico.

(4) Air Freight Rates (Apply Only to the Roses Suspension Agreement)

The Departmento Administrativo de la Aeronautica Civil (DAAC) is the government agency that develops, maintains and regulates air transport and air space activities. Section D(3) of the roses suspension agreement states that the Department may consider rescinding the agreement and reopening the investigation if the air freight rates paid by cut flower exporters approach the government-mandated maximum rates set by the DAAC because such rates might be indicative of government control rather than the result of competitive forces.

At verification, we examined the companies' air freight bills and found that the rates negotiated between the flower producers and air freight carriers were between the minimum and maximum rates permitted and did not approach the maximum. Therefore, we preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs.

Since the Department has never found the air freight rates to be a countervailable subsidy, the GOC is not required to abolish the program for eventual termination of the agreement.

(5) Free Industrial Zones

In December 1985, Law 109 established Free Industrial Zones (FIZs) for industrial and service sector purposes. Certain regions in Colombia are designated as FIZs.

At verification, we examined documentation at the Ministry of Foreign Trade and determined that there were not any flower producers located in FIZs. Therefore, we preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs. We also preliminarily determine that during the PORs the GOC had eliminated the subsidy on this merchandise by abolishing this program for the subject merchandise.

(6) Export Credit Insurance

Decree 444, issued in 1967, established the Export Credit Insurance program. Under the Export Credit Insurance program a company may receive insurance to cover certain commercial expenses (transportation, custom duties, insurance expenses, etc.) that it would have difficulty covering as a result of the insolvency of its foreign client. Several commodities are ineligible for the program: coffee in certain forms, crude leathers, oil and by-products, precious and semi-precious stones, gold, perishable goods, and others. The subject merchandise is classified under the "perishable goods" category which renders all exports of the subject merchandise ineligible for the program.

Under the terms of the suspension agreements, producers/exporters shall notify the Department in writing prior to applying for any benefit from the Export Credit Insurance program for exports of the subject merchandise to the United States and Puerto Rico. At verification of the SEGUREXPO insurance company, we examined a list of all insurance policies outstanding during the PORs issued by the company. We verified that exporters of the subject merchandise did not participate in the Export Credit Insurance Program during the PORs. Therefore, we preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs. We also preliminarily determine that the GOC has eliminated the subsidy on this merchandise by abolishing this program for the subject merchandise.

(7) Countertrade

Law 48 of 1983 established a special system for three types of exchange arrangements: (1) Countertrade; (2) compensation offsets; and (3) three-way trade. During verification, GOC officials stated that in 1986, Decree 1459 terminated the exchange system and there has been no follow-up legislation which would re-establish the exchange system. We reviewed documentation that confirmed that this program had been terminated on that date. Therefore, we preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs. We also preliminarily determine that the GOC has eliminated the subsidy on the subject merchandise.

Other Program

Although not specifically listed in the suspension agreements, we examined the following program:

(8) Research and Development

From January 1983 (the effective date of the original suspension agreement) until November 1985, when the CERT rate for roses and other cut flowers subject to the suspension agreement was reduced to zero, flower exporters, on a voluntary basis, allowed the Central Bank to withhold a certain percentage of the CERTs earned on exports of the subject merchandise to the United States and Puerto Rico and other countries for research and development. In 1985, the GOC issued resolution 10, which established a fund from the CERT payments that were withheld for general and technological research on the cultivation of all flowers. During the PORs, the only source of revenue for the fund was from interest income. The resolution requires that any funds expended under this resolution be disbursed in a manner consistent with the suspension agreements. During the PORs, there was only one disbursement of funds for the payment of legal fees to Arnold & Porter, counsel to GOC and respondents in this proceeding. The resolution 10 account was officially closed in October 1991.

At verification at the four companies, we examined financial documents and found that no funds were received under resolution 10 during the PORs. Therefore, we preliminarily determine that this program did not confer any countervailable benefits upon exports of the subject merchandise to the United States and Puerto Rico during the PORs. We also preliminarily determine that the GOC has eliminated the subsidy on the merchandise by abolishing this program.

Preliminary Results of Review

We preliminarily determine that the GOC and signatory companies have complied with all the terms of the suspension agreements during the periods January 1, 1991, through December 31, 1991, and January 1, 1992, through December 31, 1992. In addition, we preliminarily determine that the new peso and U.S. dollar benchmarks will apply to loans granted on or after the date of publication of the final results of these administrative reviews.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. The Department will publish the final results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 7, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–25783 Filed 10–17–94; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[Docket No. 940972–4272; I.D. 101194A]

RIN 0648-ZA09

Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry

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

ACTION: Notice of availability of Federal assistance.

SUMMARY: NMFS issues this notice describing the conditions under which applications will be accepted under the Saltonstall-Kennedy (S–K) Grant Program and how NMFS will select applications for funding in FY 1995. The S–K Grant Program assists eligible applicants in carrying out research and development projects that address aspects of U.S. fisheries involving the U.S. fishing industry (commercial or recreational) including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

DATES: Applications must be received by December 19, 1994. Applicants must submit one signed original and two copies of the completed application. No facsimile applications will be accepted. Generally, the time required to process applications is 120 days from the closing date of the solicitation.

ADDRESSES: Application packages can be obtained from, and completed applications sent to any office listed below.

Director, Office of Trade and Industry Services, National Marine Fisheries Service, 1315 East-West Highway, Room 12660, Silver Spring, MD 20910, Telephone: (301) 713–2358.

Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, Telephone: (508) 281–9267.

Regional Director, National Marine Fisheries Service, Koger Bldg., 9721 Executive Center Drive, North, St. Petersburg, FL 33702, Telephone: (813) 893–3720.

Regional Director, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, Telephone: (310) 980–4033.

Regional Director, National Marine Fisheries Service, BIN C15700, 7600 Sand Point Way, N.E., Seattle, WA 98115, Telephone: (206) 526–6117.

Regional Director, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or Federal Building, 709 W. 9th Street, 4th Floor, Juneau, AK 99801, Telephone: (907) 586–7425.

FOR FURTHER INFORMATION CONTACT: Elizabeth Lu Cano, S–K Program Office, NMFS, (301) 713–2358.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Saltonstall-Kennedy (S–K) Act, as amended (15 U.S.C. 713c-3), provides that a fund (known as the S–K fund) will be used to provide grants for fisheries research and development projects. The Secretary of Commerce makes such funds, as appropriated, available each year for grants and cooperative agreements to assist persons in carrying out research and development projects that address aspects of U.S. commercial and recreational fisheries, including, but not

limited to harvesting, processing, marketing, and associated infrastructures. U.S. fisheries[1] include any fishery that is or may be engaged in by U.S. citizens or nationals, or citizens of the Northern Mariana Islands, the Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia.

Passage of the Magnuson Fishery Conservation and Management Act in 1976 gave the domestic fishing industry priority access to the fishery resources in the U.S. Exclusive Economic Zone (EEZ) while restricting the direct participation by foreign harvesting and processing vessels. In 1979, a Prospectus for Development of the United States Fisheries was prepared for the Department of Commerce to support its efforts concerning policy for strengthening the Nation's seafood industry. The prospectus concluded that significant benefits would be gained by society from developing underutilized fish and shellfish resources available within the EEZ, and that Federal Government support was needed to realize such benefits.

In May 1979, the Carter Administration adopted a fisheries development policy and program that advocated a government/industry partnership for the accelerated development of U.S. fisheries. In support of that policy, the Congress passed the American Fisheries Promotion Act in December 1980 which authorized the S–K Grant Program.

The initial focus of the S–K Grant Program, consistent with its legislative mandate, was on development of nontraditional species, such as North Pacific groundfish and East Coast squid. In the ensuing years, as most nontraditional species were fully developed and traditional fisheries became overfished, S–K program priorities evolved to include a wide range of resource conservation and management issues and aquaculture.

In 1993, NOAA developed a long-range Strategic Plan that included a focus on rebuilding U.S. fisheries for sustainable use. By addressing such issues as overfishing and wasteful bycatch of nontarget species, optimum utilization, and development of aquaculture, NOAA will assist the fishing industry in remaining competitive while supporting sustainable and healthy fisheries. This Strategic Plan, along with input from the public, has guided the development of the priorities contained in this solicitation notice.

B. Funding

NMFS issues this notice to solicit applications for Federal assistance, pursuant to 15 U.S.C. 713c-3(c), describing the conditions under which applications will be accepted under the S–K Grant Program and how NMFS will select the applications it will fund.

In FY 1995, funding for the S–K Program will be approximately $7.1 million.

C. Catalogue of Federal Domestic Assistance

The S–K Grant Program is listed in the Catalogue of Federal Domestic Assistance under number 11.427, Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements Program.

II. Funding Priorities

The priorities listed below are fewer in number and more general in scope than in previous years. Past solicitations defined priorities with a high degree of precision in an attempt to focus narrowly potential applications. The priorities contained in this solicitation are intended to provide potential applicants with a general sense of program focus and are not intended to limit or further constrain the development of proposals by potential applicants.

If proposals received do not adequately respond to these priorities, NMFS may carry out a national program of research and development addressed to aspects of U.S. fisheries pursuant to section 713c-3(d) of the S–K Act, as amended.

Proposals submitted in response to the priorities must build upon or take into account any past and current work in the area, as well as relevant research in related fields. Information on ongoing and past studies is available from NMFS at addresses listed.

Funding will not be provided for projects primarily involving infrastructure construction, port and harbor development, and start-up or operational costs for private business ventures.

Consideration will be given to applications that address the following priorities, which are listed in no particular order.

A. Optimum Utilization of Harvestable Marine Resources

Develop innovative approaches for deriving optimum value from harvestable marine resources available to the fishing industry while creating sustainable economic development opportunities. These may include new or improved product/byproduct development, value-added processing technology, and processing or marketing strategies and infrastructures.

B. Sustainable Resource Recovery and Conservation

1. Bycatch.

Develop methods for eliminating or reducing the inadvertent take, capture, or destruction of nontargeted, protected, or prohibited species (e.g., juvenile or sublegal-sized fish and shellfish, females of certain crabs, marine turtles, marine mammals) in fishing operations through the technical development, demonstration, or evaluation of fishing gear or harvesting strategies.

2. Fisheries Management

Conduct biological, economic, social, and other studies to improve fisheries management, including but not limited to, assessment of alternative management systems and resolution of user conflicts. Projects primarily involving data collection should be directed to a specific problem or need, and be of a fixed duration, not of a continuing nature.

C. Aquaculture

Develop or demonstrate cost-effective approaches for advancing environmentally sound private aquaculture development, including those associated with culturing systems, disease control, and regulatory requirements.

D. Product Quality and Safety

Develop improved approaches to control seafood processing and environmentally induced hazards associated with fish and shellfish and their products.

III. How To Apply

A. Eligible Applicants

Applications for grants or cooperative agreements for fisheries research and development projects may be made, in accordance with the procedures set forth in this notice, by:

1. Any individual who is a citizen or national of the United States;

2. Any individual who is a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under section 8 of the Schedule on

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna, and shellfish that are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Alaskan groundfish, Pacific whiting, and New England whiting.

Transitional Matters attached to the constitution of the NMI;

3. Any individual who is a citizen of the Republic of the Marshall Islands, Republic of Palau, or the Federated States of Micronesia; or

4. Any corporation, partnership, association, or other entity, non-profit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802).

DOC/NOAA/NMFS are committed to cultural and gender diversity in their programs and encourage women and minority individuals and groups to submit applications. Recognizing the interest of the Secretaries of Commerce and Interior in defining appropriate fisheries policies and programs that meet the needs of the U.S. insular areas, applications that meet such needs are also encouraged.

DOC/NOAA/NMFS employees, including full-time, part-time, and intermittent personnel (or their spouses or blood relatives who are members of their immediate households) are not eligible to submit an application under this solicitation or aid in the preparation of an application, except to provide information on program goals, funding priorities, application procedures, and completion of application forms. Since this is a competitive program, assistance will not be provided in conceptualizing, developing, or structuring competitive proposals.

B. Duration and Terms of Funding.

Generally, grants or cooperative agreements are awarded for a period of 1 year, but no more than 18 months at a time.

If an application for an award is selected for funding, NMFS has no obligation to provide any additional prospective funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the agency.

Publication of this announcement does not obligate NMFS to award any specific grant or cooperative agreement or to obligate any part or the entire amount of funds available.

C. Cost-Sharing.

Although the S–K Act, as amended, does not require that applicants share in the total costs of a project, it is encouraged. Cost-sharing will not be a factor in the technical evaluation of an application. However, the degree of cost-sharing may be taken into account in the final selection of projects to be funded. If applicants choose to cost-share, and if their applications are selected for funding, those applicants will be obligated to account for the amount of cost-share reflected in the award documents.

If project costs are shared, NMFS must provide at least 50 percent of total project costs, as provided by statute. The percentage of the total project costs provided from non-Federal sources may be up to 50 percent of the costs of the project. The non-Federal share may include funds received from private sources or from state or local governments or the value of in-kind contributions. Federal funds may not be used to meet the non-Federal share except as provided by Federal statute. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to the project, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project.

The appropriateness of all cost-sharing proposals, including the valuation of in-kind contributions, will be determined on the basis of guidance provided in the relevant Office of Management and Budget (OMB) Circulars. In general, the value of in-kind services or property used to fulfill the applicant's cost-share will be the fair market value of the services or property. Thus, the value is equivalent to the costs of obtaining such services or property if they had not been donated. Appropriate documentation must exist to support in-kind services or property used to fulfill the applicant's cost-share.

D. Format

Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Project applications must identify the specific priority(ies) contained in section II of this document to which the application responds. If an application does not respond to a priority, it should be so stated. Project applications must be clearly and completely submitted in the format that follows.

1. Cover Sheet

An applicant must use OMB Standard Form 424 (4–92) as the cover sheet for each project. (In completing item 16 of Standard Form 424, see section V.A.5. of this notice.)

2. Project Summary

An applicant must complete NOAA Form 88–204 (10–92), Project Summary, for each project.

3. Project Budget

A budget must be submitted for each project, using NOAA Form 88–205 (10–92), Project Budget. The applicants must submit cost estimates showing total project costs. Cost-sharing is discretionary, but if applicants choose to cost share, both the Federal and non-Federal shares must be shown, divided into cash and in-kind contributions. To support the budget, the applicant must describe briefly the basis for estimating the value of the matching funds derived from in-kind contributions. Estimates of the direct costs must be specified in the categories listed on the Project Budget form. The budget may also include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal Government. Estimated or provisional indirect cost rates may be included pending approval of negotiated Federal indirect cost rates by the applicant's cognizant agency. However, this program limits the indirect cost rate that may be charged to 25 percent of the Federal share of total direct costs or the applicant's negotiated indirect cost rate, whichever is less. Applicants with indirect cost rates above 25 percent of the Federal share may use the amount above the 25 percent level as part of the non-Federal share. A copy of the current, approved, negotiated indirect cost agreement with the Federal Government must be included.

NOAA will not consider fees or profits as allowable costs for applicants.

The total costs of a project consist of all costs incurred in the performance of project tasks, including the value of in-kind contributions, to accomplish the objectives of the project during the period the project is conducted. A project begins on the effective date of an award agreement between the applicant and an authorized representative of the U.S. Government and ends on the date specified in the award. Accordingly, the time expended and costs incurred in either the development of a project or the financial assistance application, or in any subsequent discussions or negotiations prior to award, are neither reimbursable nor recognizable as part of the cost-share.

4. Narrative Project Description

As a guideline, the narrative project description may be up to 15 pages in length. NMFS will make all portions of the project description available to the

public and members of the fishing industry for review and comment; therefore, NMFS will not guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project. Each project must be described as follows:

a. *Identification of Problem(s):* For new projects, identify and completely describe the problem(s) the project addresses. As appropriate, in this description include: (1) The fisheries involved, (2) the specific problem(s) being addressed, (3) the sectors of the fishing industry that are affected, and (4) the specific priority(ies) to which the project responds. If the application is for the continuation of an existing S–K funded project, describe in detail progress to date and explain why continued funding is necessary.

b. *Project Goals and Objectives:* State what the proposed project is expected to accomplish, and describe how this will eliminate or reduce the problem(s) described in 4.a. above.

c. *Need for Government Financial Assistance:* Explain why government financial assistance is needed for the proposed work. List all other sources of funding that are being or have been sought for the project.

d. *Participation by Persons or Groups Other Than the Applicant:* Describe: (1) The participation by government and non-government entities, particularly members of the fishing industry, required in the project(s); and (2) the nature of such participation. In addition, list names and addresses of the members of the fishing industry consulted during the preparation of the project description.

e. *Federal, State, and Local Government Activities and Permits:* List any existing Federal, state, or local government programs or activities that this project would affect, including activities requiring certification under state Coastal Zone Management Programs, those requiring Section 404 or Section 10 permits issued by the Corps of Engineers, those requiring experimental fishing or other permits under fishery management plans, and those requiring scientific permits under the Endangered Species Act and/or the Marine Mammal Protection Act. Describe the relationship between the project and these plans or activities, and list names and addresses of persons providing this information.

f. *Project Statement of Work:* The statement of work is an action plan of activities to be conducted during the period of the project. This section requires the applicant to prepare a detailed narrative, fully describing the work to be performed that will achieve the previously articulated goals and objectives. A milestone chart that outlines major goals, supporting work activities, timeframe, and individuals responsible for various work activities must be included. The narrative should include information that responds to the following questions:

(1) How will the project be designed?

(2) What major products (e.g., research, services, or reports) will result and what are their specific purposes?

(3) What work, activities, procedures, statistical design or analytical methods (be as specific as possible) will be undertaken to produce major products?

(4) Who will be responsible for carrying out the various activities? (Highlight work that will be subcontracted and provisions for competitive subcontracting.)

The milestone chart should graphically illustrate:

(1) Steps to accomplish the major products, research, services and/or activities;

(2) Supporting activities and associated timelines, e.g., month 1, month 2; and

(3) The individual(s) responsible for the various activities.

Because this information is critical to understanding and reviewing the application, NMFS encourages applicants to provide sufficient detail. Applications lacking sufficient detail may be eliminated from further consideration.

g. *Project Management:* Describe how the project will be organized and managed. List all persons directly employed by the applicant who will be involved in the project, their qualifications, experience, and level of involvement in the project. If any portion of the project will be conducted through consultants and/or subcontracts, applicants, as appropriate, must follow procurement guidance in 15 CFR part 24, "Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A–110 for Institutions of Higher Education, Hospitals, and other Non-profit Organizations. Commercial organizations and individuals who apply should use OMB Circular A–110. If a consultant and/or subcontractor is selected prior to application submission, include the name and qualifications of the consultant and/or subcontractor and the process used for selection.

h. *Project Impacts:* Describe the anticipated impacts of the project in terms of landings, production, sales, improvement in product quality or safety, or other measurable factors. Describe how the results of the project will be made available to the public.

i. *Evaluation of Project:* Describe the procedures for evaluating the relative success or failure of a project in achieving its objectives.

5. Supporting Documentation:

This section should include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed. Information presented in this section should be clearly referenced in the project description, where appropriate.

IV. Evaluation Criteria and Selection Procedures

A. Evaluation of Proposed Projects

1. Initial Screening of Applications

Upon receipt NMFS will screen applications for conformance with requirements set forth in this notice. Applications which do not conform to the requirements may not be considered for further evaluation.

2. Consultation With Interested Parties

As appropriate, NMFS will consult with NMFS Offices, the NOAA Grants Management Division, Department and other Federal and state agencies, the Regional Fishery Management Councils, and other interested parties who may be affected by or have knowledge of a specific proposal or its subject matter

3. Public Review and Comment

Applications that are regional in nature may be inspected at the appropriate regional office (see ADDRESSES). All applications will be available for inspection at the NMFS Office of Trade and Industry Services, 1315 East-West Highway, Room 12550, Silver Spring, MD, from December 27, 1994 to January 6, 1995. Written comments will be accepted at the Silver Spring, MD office or at a regional office until January 6, 1995.

4. Technical Evaluation

NMFS will solicit individual written technical evaluations of each project application from three or more appropriate private and public sector experts. Point scores will be given to project applications based on the following evaluation criteria:

a. *Problem Description and Conceptual Approach for Resolution.* Both the applicant's comprehension of the problem(s) and the overall concept proposed to resolve the problem(s) will be evaluated. (25 points).

b. *Soundness of Project Design/ Technical Approach.* Applications will be evaluated to determine whether or not the applicant provided sufficient information to evaluate the project technically and, if so, the strengths and/ or weaknesses of the technical design proposed for problem resolution. (25 points).

c. *Project Management and Experience and Qualifications of Personnel.* The organization and management of the project, and the project's Principal Investigator and other personnel in terms of related experience and qualifications will be evaluated. Those projects that do not identify the Principal Investigator with his or her qualifications will receive a lower point score. (20 points).

d. *Project Evaluation.* The effectiveness of the applicant's proposed methods to evaluate the project in terms of meeting its original objectives will be evaluated. (10 points).

e. *Project Costs.* The justification and allocation of the budget in terms of the work to be performed will be evaluated. Unreasonably high or low project costs will be taken into account. (20 points).

f. In addition to the above criteria, in reviewing applications that include consultants and contracts, NMFS will make a determination regarding the following:

(1) Is the involvement of the primary applicant necessary to the conduct of the project and the accomplishment of its objectives?

(2) Is the proposed allocation of the primary applicant's time reasonable and commensurate with the applicant's involvement in the project?

(3) Are the proposed costs for the primary applicant's involvement in the project reasonable and commensurate with the benefits to be derived from the applicant's participation?

5. Technical Panel

Upon completion of the initial screening of applications, consultations with interested parties, the public review and the written technical evaluations, if deemed necessary, NMFS may convene a panel of three or more technical experts to provide independent advice as to which proposals have sufficient scientific and technical merit to be further considered.

6. Constituent Panel

After the technical evaluation(s), comments will be solicited from a panel of three or more representatives selected by the Assistant Administrator for Fisheries, NOAA (AA), from the fishing industry, state government, and others, as appropriate, to rank the projects. Considered in the rankings, along with the technical evaluation, will be the significance of the problem or opportunities addressed in the project. Each panelist will rank each project in terms of importance or need for funding and provide recommendations on the level of funding NMFS should award to each project and the merits and benefits of funding each project.

B. Selection Procedures and Project Funding

After projects have been evaluated and ranked, the reviewing NMFS offices will develop recommendations for project funding. These recommendations will be submitted to the AA who will determine the projects to be funded, ensuring that there is no duplication with other projects funded by NOAA or other Federal organizations, and that the projects selected for funding are those that best meet the objectives of the S–K Grant Program.

The exact amount of funds awarded to a project will be determined in preaward negotiations between the applicant and NOAA/NMFS program and grants management representatives. The funding instrument (grant or cooperative agreement) will be determined by the NOAA Grants Management Division. Projects should not be initiated in expectation of Federal funding until a notice of award document is received.

V. Administrative Requirements

A. Obligation of the Applicant

An Applicant must:

1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. Primary Applicant Certification. Applicants whose applications are recommended for funding will be required to complete Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

a. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

b. Drug-Free Workplace. Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)," and the related section of the certification form prescribed above applies;

c. Anti-Lobbying. Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

d. Anti-Lobbying Disclosures. Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

4. Lower Tier Certifications. Applicants whose applications are recommended for funding shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF-LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department of Commerce (DOC). SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

All required forms discussed in sections V.A.3. and 4. will be provided to successful applicants.

5. Intergovernmental Review of Federal Programs. This program is covered by E.O. 12372. Any applicant submitting an application for funding is required to complete item 16 on Standard Form 424 (4–92) regarding clearance by the State Point Of Contact (SPOC) established as a result of E.O. 12372. A list of SPOCs may be obtained from any of the NMFS offices listed in this notice (see ADDRESSES).

B. Other Requirements

1. Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and

procedures applicable to Federal financial assistance awards.

2. Name Check Review

All recipients are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

3. Financial Management Certification/ Preaward Accounting Survey

Successful applicants for S-K funding, at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable OMB Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a preaward accounting survey by the DOC prior to execution of the award.

4. Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

5. Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to DOC are made.

6. Buy American-Made Equipment or Products

Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–317, sections 607 (a) and (b).

7. Preaward Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover preaward costs.

8. False Statements

A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

Classification

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

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

This notice contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the OMB, OMB control number 0648–0135.

A notice of availability of financial assistance for fisheries research and development projects will also appear in the Commerce Business Daily.

Dated: October 12, 1994.

Gary Matlock,

Program Management Officer for Fisheries, National Marine Fisheries Service.

[FR Doc. 94–25674 Filed 10–17–94; 8:45 am]

BILLING CODE 3510–22–W

DEPARTMENT OF EDUCATION

Reauthorization of Adult and Vocational Education Programs

AGENCY: Department of Education.

ACTION: Notice of public hearings on the reauthorization of adult and vocational education programs.

SUMMARY: The Secretary of Education announces public hearings on the reauthorization of programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act and the National Literacy Act of 1991.

The hearings for the Adult Education Act, Carl D. Perkins Vocational and Applied Technology Education Act, and the National Literacy Act will provide an opportunity for interested persons to present their views on key issues and programs for consideration in the development of the Department's reauthorization proposals for these important program areas. Separate hearings for adult education and for vocational education will be held at each site. Separate hearings are an attempt to ensure participation of as many presenters as possible and are not meant to limit the scope of discussion. Commenters are encouraged to address reauthorization issues that cut across both the adult and vocational education programs or that address linking these programs with other Federal programs or initiatives.

DATES AND ADDRESSES: Public hearings are scheduled for one and one-half days from 9:00 a.m. to 4:30 p.m. on day one and from 9:00 a.m. to 12:00 p.m. on day two at each of the locations on the dates listed. The Department will generally select persons to testify on a first-come, first-served basis but will attempt to ensure that testimony is received from representatives of diverse constituencies. Persons wishing to confirm their appearance prior to the hearing date must submit a written request to the Department of Education (FAXES encouraged), including the participant's name, address, telephone number, FAX number (if available), organizational affiliation (if appropriate), as well as the location code of the hearing. Written requests to present oral testimony must be received on or before the following closing dates:

California hearing—October 21
Tennessee hearing—October 28
Illinois hearing—November 4
Massachusetts hearing—November 10

To ensure timely handling, the request should be clearly marked with the location code of the hearing. (See the location codes in the listing of dates and locations of the hearings). For example, persons interested in testifying at the adult education hearing in California should use the code CA–AE and persons interested in testifying on vocational education at the California hearing should use the code CA–VTE.

The request should be addressed to Phyllis Dorsey, Division of Adult Education and Literacy, U.S. Department of Education, 600 Independence Avenue, SW., room 4424, Mary E. Switzer Building, Washington, DC 20202–7320 or Nancy Essey, Division of Vocational and Technical Education, U.S. Department of Education, 600 Independence Avenue, SW, room 4317, Mary E. Switzer Building, Washington, DC 20202–7241. Requests will be accepted via FAX and may be sent to the following FAX number: (202) 205–8973. No advance notice is needed for attendance at the hearings.

The opportunity for on-site registration to provide oral testimony also will be provided on a space available basis. Persons not able to testify are encouraged to submit written testimony. Written testimony will be accepted at each hearing site or may be mailed to the Department at either of the addresses listed above.

The dates and locations of the hearings are as follows:

October 24–25: Radisson Hotel at San Francisco Airport [Location Code: CA–AE or CA–VTE], 1177 Airport Boulevard, Burlingame, California, (415) 342–9200.

November 1–2: Stouffer Renaissance Nashville Hotel [Location Code TN–AE or TN–VTE], 611 Commerce Street, Nashville, Tennessee, (615) 255–8400.

November 7–8: Chicago Hilton Hotel & Tower [Location Code: IL–AE or IL–VTE], 720 South Michigan Avenue, Chicago, Illinois, (312) 922–4400.

November 16–17: Ramada Hotel [Location Code: MA–AE or MA–VTE], 225 McClellan Highway, Boston, Massachusetts, (617) 569–5250.

FOR FURTHER INFORMATION CONTACT: *Adult Education Hearings:* Phyllis P. Dorsey, Division of Adult Education and Literacy (202) 205–9311.

Vocational Education Hearings: Nancy E. Essey, Division of Vocational and Technical Education (202) 205–9868.

SUPPLEMENTARY INFORMATION: The Secretary also has requested written comments from the public on the reauthorization of adult and vocational education programs in a notice published in the **Federal Register** on September 20, 1994 (59 FR 48366).

The Secretary is holding these hearings to provide interested persons with the opportunity to present their views on current adult education and vocational education programs, to suggest modifications and alternatives to these programs, and to recommend new and innovative program initiatives that support the President's Goals 2000: Educate America strategy for achieving the National Education, particularly Goals 2 and 6.

Goal 2: By the year 2000, the high school graduation rate will increase to at least 90 percent.

Goal 6: By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Secretary is especially interested in public views on the broad program issues identified in the September 20, 1994, **Federal Register** notice. Persons interested in participating in the hearings are urged to review the **Federal Register** notice to become familiar with the issues and programs that should be addressed.

Need for Reauthorization

The authorization for the Adult Education Act and the Carl D. Perkins Vocational and Applied Technology Act expires September 30, 1995. In order to contribute in a timely manner to congressional reauthorization discussions, the Secretary has begun a review of these programs. To ensure public participation in the reauthorization, the Secretary has requested written comments on issues published in a notice published in the **Federal Register** on September 20, 1994, and is holding a series of four public hearings. The Secretary intends to submit to Congress the Department's proposals to reauthorize these programs in March 1995.

Hearing Procedures

A senior Department official will preside at each hearing and will be accompanied by a panel of Department of Education employees and other Federal agency representatives. The Secretary encourages Members of Congress, Governors, State legislators, State agency personnel, State Board representatives, practitioners, members of professional associations, business representatives, community leaders, organized labor, representatives of higher education institutions, Private Industry Council representatives, special population groups, Tribal representatives, and students to participate in the hearings.

Participants who are selected to testify will be notified of the time of their presentation. Participants may comment on any issue or program relating to the reauthorization. Participants will be grouped in panels of four to five persons. Each participant will be limited to five minutes of oral presentation and five minutes for responding to questions from the Federal panel. More extensive discussions can be included in written comments to be submitted on the day of the hearings.

Presenters are asked to submit two copies of their written comments and recommendations for the record on the day they appear at the hearing.

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.

Dated: October 13, 1994.

Augusta Souza Kappner,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 94–25884 Filed 10–17–94; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.133D]

Office of Special Education and Rehabilitative Services

National Institute on Disability and Rehabilitation Research Notice Reinviting Applications for New Awards Under the Knowledge Dissemination and Utilization Program (D&U) for Fiscal Year (FY) 1995

Purpose: On June 8, 1994 a notice was published in the **Federal Register** at 59 FR 29676 inviting applications for new awards under the D&U program for fiscal year 1994 to train persons with rights and duties under the Americans with Disabilities Act (ADA). The notice of final funding priorities establishing the required activities for these projects was published on June 8, 1994 at 59 FR 29664. Satisfactory applications were not received for two priority areas: (1) ADA Training for Independent Living Centers; and (2) ADA Training for State and Local ADA Coordinators and Policymakers. There is a continuing need for the training projects. The purpose of this notice is to reinvite applications for ADA training projects for Independent living centers, and State and local ADA coordinators and policymakers for fiscal year 1995.

Note: The Rehabilitation Act Amendments of 1992 require that each applicant for a project under this competition must demonstrate in its application how it will address the needs of individuals from minority backgrounds who have disabilities.

APPLICATION NOTICE FOR FISCAL YEAR 1995, KNOWLEDGE DISSEMINATION AND UTILIZATION PROGRAM, CFDA NO. 84.133D

ADA training project funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
Independent living centers	12/19/94	1	$250,000	36

APPLICATION NOTICE FOR FISCAL YEAR 1995, KNOWLEDGE DISSEMINATION AND UTILIZATION PROGRAM, CFDA NO. 84.133D—Continued

ADA training project funding priority	Deadline for transmittal of applications	Estimated number of awards	Estimated size of awards (per year)	Project period (months)
State and local ADA coordinators and policymakers ..... Applications Available: October 19, 1994.	12/19/94	1	250,000	36

The estimated funding level in this notice does not bind the Department of Education to make awards or to any specific number of awards or funding levels.

Eligible Applicants: Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

Priorities: The D&U ADA Training Project priorities on Independent living centers, and State and local ADA coordinators and policymakers published in the **Federal Register** on June 8, 1994 at 59 FR 29664 apply to this competition.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR Parts 350 and 355; and (c) the notice of final priorities published in the **Federal Register** on June 8, 1994 at 59 FR 29664.

For Applications or Information Contact: Dianne Villines, U.S. Department of Education, Room 3417 Switzer Building, 600 Independence Avenue S.W., Washington, D.C. 20202–2704. Telephone: (202) 205–9141. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED BOARD), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 761a and 762.

Dated: October 11, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–25663 Filed 10–17–94; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.128G]

Office of Special Education and Rehabilitative Services Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers With Disabilities

ACTION: Correction Notice.

Project Period: The length of the project period for this competition is revised to "Up to 60 months."

Estimated Number of Awards: The estimated number of awards is revised to "5."

On June 10, 1994, the Secretary published in the **Federal Register** (59 FR 30190, 30200, and 30212) a notice inviting applications for new awards for fiscal year 1995 under the Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers With Disabilities. Detailed information concerning that competition was included in that notice.

The purpose of this notice is to correct the length of the project period and the estimated number of awards for that competition.

For Applications or Further Information Contact: Tony Cavataio, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3311, Switzer Building, Washington, D.C. 20202–2740. Telephone: (202) 205–8206. 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.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–76.

Dated: October 13, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–25828 Filed 10–17–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Waste Acceptance Issues

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice reopening comment period.

SUMMARY: On Wednesday, May 25, 1994, the Department of Energy published a Notice of Inquiry to elicit the views of affected parties on: (1) The Department's preliminary view that it does not have a statutory obligation to accept spent nuclear fuel in 1998 in the absence of an operational repository or a suitable storage facility constructed under the Nuclear Waste Policy Act of 1982, as amended; (2) the need for an interim, away-from-reactor storage facility prior to repository operations; and (3) options for offsetting, through the use of the Nuclear Waste Fund, a portion of the financial burden that may be incurred by utilities in continuing to store spent nuclear fuel at reactor sites beyond 1998 (59 FR 27007). The comment period for this Notice of Inquiry closed on September 22, 1994.

Today's notice announces a reopening of the comment period on the waste acceptance issues addressed in the Notice of Inquiry. The Department is taking this action in response to a request for an extension of the comment period received from Nuclear Information and Resource Service, Public Citizen Critical Mass Energy Project, Prairie Island Coalition Against

Nuclear Storage, Safe Energy Communication Council, U.S. Public Interest Research Group, and Water Information Network.

DATES: Written submission are due on or before December 19, 1994.

ADDRESSES: Written comments should be submitted to Mr. Alan Brownstein, Office of Civilian Radioactive Waste Management (RW–44), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Brownstein at the address above, or by telephone at (202) 586–7346 or Mr. Robert Waxman of the Office of General Counsel at (202) 586–6975.

Issued in Washington, DC, October 13, 1994.

Lake H. Barrett,

Deputy Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 94–25749 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–M

Notice of Wetland Involvement for the Site Integrated Parking Area/Access Road Project at the Fernald Environmental Management Project (FEMP)

AGENCY: U.S. Department of Energy.

ACTION: Notice Of Wetland Involvement.

SUMMARY: The U.S. Department of Energy (DOE) proposes to construct a 570-meter (1870-foot) long and 8-meter (26-foot) wide gravel road within the non-radiologically contaminated area of the Fernald site located approximately 29 kilometers (18 miles) northwest of downtown Cincinnati, Ohio. The road will support site activities and provide access to the proposed parking area providing a capacity for 280 vehicles.

Construction of the proposed access road includes placement of a 121-centimeter (48-inch) corrugated metal pipe in a .01 hectare (.04 acre) section of an emergent wetland. The area will be backfilled with 152 cubic meters (200 cubic yards) of clean soil to the proposed road elevation of 575 feet mean sea level (MSL). The maximum linear extent of the proposed fill within the wetland would extend 15 meters (50 feet). Appropriate, erosion control devices (i.e., silt fences and straw bales) will be implemented to mitigate the potential impacts to wetland areas and other natural resources outside the project boundary.

DATES: Comments are due to the address below November 2, 1994.

ADDRESSES: Mail comments and requests for maps or further information about this project to: Mr. Wally Quaider, Acting Associate Director, Office of Safety, Operations and Technical Support, DOE Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705, Fax: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The proposed action will provide access to a new 91-meter (300-foot) by 131-meter (430-foot) gravel parking area supporting Operable Unit 1 activities, the Operable Unit 4 Vitrification Pilot Plant Project, and future remedial activities for the Operable Unit 2 Lime Sludge Ponds. The access road and parking area will be equipped with fencing, lighting, and proper drainage devices. In addition, a security guard post will be installed equipped with accountability badge scanners.

The proposed action will impact 0.01 hectares (0.04 acres) of a larger emergent wetland [0.25 hectares (0.62 acres)] associated with an unnamed tributary to Paddys Run Stream. The proposed road crossing has been designed to minimize the restriction of normal and expected high flows within the wetland channel. Impacts to the wetland area and other natural resources outside the boundary of the project will be minimized through the implementation of administrative and engineering controls (i.e., erosion and siltation prevention devices). Consequently, impacts resulting from the proposed action will be minimal.

The wetland delineation for the project area was made during a 1993 wetland delineation report for the entire Fernald site. The delineation was conducted using the Routine On-site Methodology, established in the U.S. Army Corp of Engineers (ACOE) 1987 Wetland Delineation Manual and was subsequently approved by the ACOE in August 1993. All drainage ditches delineated as wetlands, within the FEMP site boundaries, occur in Fincastle or Henshaw soils and exhibit soil colors and chromas indicative of hydric situations. Furthermore, onsite drainage ditches and swales support shrub and/or emergent vegetation. Broad-leaf cattail *(Tyoha latifolia)* is the most common species found within site wetland areas. Other species include yellow nutgrass *(Cyperus esculentus)*, green bulrush *(Scirpus atrovirens)*, and swamp milkweed *(Asclepias incarnata)*.

In accordance with DOE wetlands review requirements (10 CFR part 1022), DOE will prepare a wetlands assessment for this project.

Issued this 30th day of September, 1994.

Jack R. Craig,

Acting Director, Fernald Area Office.

[FR Doc. 94–25753 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain and Wetland Involvement For Operable Unit 1 Remedial Action at the Fernald Environmental Management Project

AGENCY: U.S. Department of Energy.

ACTION: Notice of Wetland and Floodplain Involvement.

SUMMARY: The U.S. Department of Energy (DOE) proposes to conduct various remedial activities for Operable Unit 1 which include six waste pits, the Burn pit, and Clearwell, at the Fernald Environmental Management Project (FEMP), located about 18 miles northwest of downtown Cincinnati, Ohio. These activities may involve floodplain and wetland areas. In accordance with 10 CFR 1022, Compliance with Floodplain/Wetland Environmental Review Requirements, DOE will prepare a Floodplain/Wetland assessment for the proposed activities and a Floodplain Statement of Findings. The proposed activities would be performed in a manner that would avoid or minimize potential harm to the identified floodplain and wetland areas. Maps and additional information are available from the DOE at the address below.

DATES: Comments are due to the address below November 2, 1994.

ADDRESSES: Mail comments and requests for maps or further information about this project to: Mr. Wally Quaider, Acting Associate Director for Safety, Operations, and Technical Support, DOE Field Office—Fernald, P.O. Box 538705, Cincinnati, Ohio 45253–8705. Fax comments to: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE floodplain and wetlands environmental review requirements, contact: Ms. Carol Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The proposed action would reduce or eliminate risks to human health and the environment through the removal, treatment and disposal of radiologically and chemically contaminated production process waste from Waste Pits 1–6, the Burn Pit and the Clearwell,

along with associated pit caps and liners.

Included is the construction and operation of a plant for treating the waste and packaging it for transportation to off-site disposal facilities.

Remedial Activities for Waste Pit Contents. Remedial activities associated with Operable Unit 1 (waste pit contents) would require moving approximately 1,100 ft of the 100- and 500-year floodplains along the east bank of Paddy's Run, west of the Waste Pit Area. The net effect of the remedial action would be to potentially increase up to 600 additional feet of floodplain east of Paddy's Run. The expanded floodplain area would decrease flood elevations downstream, minimizing the magnitude of future downstream flood events. A total of approximately 5.98 acres of wetlands within Operable Unit 1 would be affected. Wetland impacts would occur from continuous equipment traffic and soil removal, resulting in physical disturbance and filling of wetland areas.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetlands assessment for the Operable Unit 1 remedial activities, which will be included in the environmental compliance documents being prepared for Operable Unit 1 remedial activities in accordance with the requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Issued 30th day of September, 1994.

Jack R. Craig,

Acting Director, Fernald Area Office.

[FR Doc. 94–25755 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance for Educational Program

AGENCY: Department of Energy, Albuquerque Operations Office.

ACTION: Notice of Renewal Award.

SUMMARY: The Albuquerque Operations Office (AL), pursuant to 10 CFR 600.7(b)(2), has renewed, on a noncompetitive basis, a grant with the American Indian Science & Engineering Society (AISES) of Boulder, CO.

DATES: Award is effective September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Address comments to the attention of Erwin E. Fraqua, Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, NM 87185–5400, (505) 834–6422.

SUPPLEMENTARY INFORMATION: The purpose of this financial assistance is to provide educational support to Native Americans who are pursuing a degree in the mathematics or engineering fields. In order to meet the requirements of the future, the Department will require qualified personnel in engineering fields. This financial assistance will help the Department to meet it's goal of maintaining a highly effective and qualified workforce.

This award renews the grant for another four years. The expiration date is now September 29, 1998. The amount of the award for this budget period is $20,000.

Issued in Albuquerque, New Mexico, on September 30, 1994.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 94–25754 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–M

Environmental Management Site Specific Advisory Board, Pantex

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Pantex

DATES AND TIMES: Tuesday, October 25, 1994: 1:30 p.m. to 5:30 p.m.

ADDRESSES: The board meeting (Tuesday, October 25) will be held at: Square House Museum, Fifth Street and Texas Highway 207, Panhandle, TX.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120, (806)477–3121.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The Pantex Plant Citizen Advisory Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

Tuesday, October 25, 1994

1:30 Welcome—Agenda Review—Introduction of Board
Groundrules—final approval
Nomination of new Pantex Plant Citizen Advisory Board member to fill vacancy
1:45 Updates—occurrence report from DOE; Las Vegas meeting; etc.
2:15 Monitoring
Texas Natural Resources Conservation Commission, Texas Department of Health, Bureau of Radiation Control, Department of Energy wildlife monitoring program/plans. Discussion by Pantex Plant Citizen Advisory Board members.
3:45 Break
4:00 Community Outreach Subcommittee—proposal for activity
4:20 Training and Program Subcommittee—proposals for January and March
4:50 Policy and Personnel Subcommittee—status of implementation
5:00 Budget and Finance Subcommittee—status of implementation
5:20 Next meeting dates and locations discussion
5:30 Adjourn.

Public comment will be taken periodically throughout the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, this notice is being published less than 15 days before the date of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX, phone (806)371–5400. Hours of operation are from 7:45 a.m. to 10:00 p.m. Monday through Thursday; 7:45 a.m. to 5:00 p.m. on Friday; 8:30 a.m. to 12:00 noon on Saturday; and 2:00 p.m. to 6:00 p.m. on Sunday; except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806)537–3742. Hours of operation are from 9:00 a.m. to 7:00 p.m. on Monday; 9:00 a.m. to 5:00 p.m., Tuesday through Friday; and closed Saturday and Sunday as well as Federal holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on October 11, 1994.

Rachel M. Samuel,

Acting Advisory Committee Management Officer.

[FR Doc. 94–25756 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES: Wednesday, November 2, 1994: 5:30 p.m.–10:00 p.m.

ADDRESSES: Holiday Inn Crowne Plaza, 4255 South Paradise Road, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Don Beck, Public Participation Program Manager, Office of Public Accountability, EM–5, 1000 Independence Avenue, SW Washington, DC 20585, (202) 586–7633.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The EM SSAB provides input and recommendations to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda:

Wednesday, November 2, 1994

5:30 p.m. Call to Order
- Review Agenda
- Minutes Acceptance
- Financial Report
- Correspondence
- Reports from Committees, Delegates and Representatives
- Unfinished Business
- New Business
- Evaluation of Board and Environmental Restoration and Waste Management Programs
- Announcements

10:00 p.m. Adjournment

If needed, time will be allotted after public comments for old business, new business, items added to the agenda, and administrative details.

A final agenda will be available at the meeting Wednesday, November 2, 1994.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Don Beck's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays.

Issued at Washington, DC on October 11, 1994.

Rachel M. Samuel,

Acting Advisory Committee Management Officer.

[FR Doc. 94–25752 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board,

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), notice is hereby given of the State Energy Advisory Board.

DATES: November 3–4, 1994, from 9:00 a.m. to 5:00 p.m.

ADDRESS: The Madison Hotel, 15th and M Streets, NW., Washington, DC 20005.

FOR MORE INFORMATION CONTACT: William J. Raup, Office of Technical and Financial Assistance (EE–50), Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585, Telephone 202/586–2214.

SUMMARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for Energy Efficiency and Renewable Energy regarding goals and objectives and programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Public Law 101–440).

Tentative Agenda: Briefings on, and discussions of:

- The strategic plan of the Office of Energy Efficiency and Renewable Energy.
- Review of State Energy Advisory Board committee activities.
- Outline of current Annual Report.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William J. Raup at the address or telephone number listed above. Requests to make oral presentations must be received five days prior to the meeting; reasonable provision will be made to include the statements in the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 11, 1994.

Rachel M. Samuel,

Acting Advisory Committee Manager Officer.

[FR Doc. 94–25757 Filed 10–17–94; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER94–109–000, et al.]

Southern Company Services, Inc., et al. Electric Rate and Corporate Regulation Filings

October 6, 1994.

Take notice that the following filings have been made with the Commission:

1. Southern Company Services, Inc.

[Docket No. ER94–109–000]

Take notice that on October 3, 1994, Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as the "Operating Companies"), submitted for filing a Revised and Restated Amendment No. 4 to The Southern

Company System Intercompany Interchange Contract ("IIC") dated October 31, 1988. The amendment supersedes Amendment No. 4, which has been pending before the Commission since November 1, 1993. The amendment reflects modifications in the process used to determine the capability of the Operating Companies' generating capacity for use in connection with the IIC. In addition, the amendment incorporates the revisions necessary to implement Statement of Financial Accounting Standards No. 109 ("SFAS No. 109") in a manner that does not impact billings under the IIC. The Operating Companies request an effective date of January 1, 1994, for the capacity rating revisions and an effective date of January 1, 1993 for the SFAS No. 109 revisions.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Electric and Gas Company, et al.

[Docket No. ER94-220-000]

Take notice that on September 28, 1994, the Filing Parties submitted as an initial rate schedule an agreement among the members of the Mid-Atlantic Area Council superseding the May 29, 1979, agreement among said members previously submitted in this docket. Waiver of notice for good cause is requested to permit the superseding agreement to become effective on August 1, 1994, if deemed jurisdictional by the Commission.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Portland General Electric Company

[Docket No. ER94-1543-000]

Take notice that on September 27, 1994, Portland General Electric Company (PGE) tendered for filing an amendment to its filing in the above-captioned Docket.

Copies of the filing were served upon the list of entities, including all proposed customers under this tariff, appearing on the Certificate of Service attached to the filing letter.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER94-1681-000]

Take notice that on September 26, 1994, Arizona Public Service Company (APS) tendered for filing APS Electric Coordination Tariff No. 1 (Tariff). The Tariff proposes two service schedules: 1) Service Schedule A—Coordination Power and Energy, and 2) Service Schedule B—Power and Energy Exchanges.

No new or modifications to existing facilities are anticipated to be required as a result of this Tariff.

A copy of this filing has been served on the Arizona Corporation Commission.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Public Service Company

[Docket No. ER94-1682-000]

Take notice that on September 27, 1994, Maine Public Service Company (Maine Public) filed an executed Service Agreement with Massachusetts Municipal Wholesale Electric Company. Maine Public states that the service agreement is being submitted pursuant to its tariff provision pertaining to the short-term non-firm sale of capacity and energy which establishes a ceiling rate at Maine Public's cost of service for the units available for sale.

Maine Public requests that the service agreement become effective October 1, 1994 and requests waiver of the Commission's regulations regarding filing.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER94-1683-000]

Take notice that on September 27, 1994, Florida Power & Light Company (FPL) tendered for filing a Notice of Cancellation of FPL's Service Agreement for the Supply of Wholesale Electric Power Service to Municipalities and Rural Electric Cooperatives with the Utilities Commission, City of New Smyrna Beach, Florida.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER94-1684-000]

Take notice that on September 26, 1994, Louisville Gas and Electric Company (LG&E) tendered for filing letter agreements confirming that LG&E will provide power and energy to Louis Dreyfus Electric Power Inc. and Rainbow Energy Marketing Corporation under Rate GSS on various dates.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Citizens Lehman Power Sales

[Docket No. ER94-1685-000]

Take notice that on September 23, 1994, Citizens Lehman Power Sales tendered for filing its initial FERC electric service tariff, Rate Schedule No. 1, and a petition for blanket approvals and waivers of various Commission regulations under the Federal Power Act.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER94-1686-000]

Take notice that on September 27, 1994, Idaho Power Company (IPC), tendered for filing a Service Agreement between Electric Clearinghouse, Inc. and Idaho Power Company under Idaho Power's FERC Electric Tariff, Second Revised Volume No. 1.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER94-1687-000]

Take notice that on September 29, 1994, New England Power Company (NEP), tendered for filing a transmission contract for service to Maine Public Service.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Company

[Docket No. ER94-1688-000]

Take notice that on September 29, 1994, Pacific Gas and Electric Company (PG&E), tendered for filing a change in rate schedule for Rate Schedule FERC No. 108, a contract with the City of Santa Clara, California (City) entitled "System Bulk Power Sale and Purchase Agreement Between City of Santa Clara and Pacific Gas and Electric Company" (Agreement). The Agreement and its appendices were accepted for filing by the Commission on September 23, 1987 in Docket No. ER87-498-000, and contain capacity and energy rates for firm, baseload power sold to City by PG&E.

PG&E proposes to change the energy rate, pursuant to Appendix A of the Agreement, from 27.9 mills to 28.5 mills based on the new 1994 Average Thermal Cost Index. Since the increase is under $1,000,000 and City has agreed to the proposed rate, PG&E is filing in accordance with § 35.13(a)(2) of the Commission's regulations (18 CFR 35.13(a)(2)). In addition, PG&E is requesting a waiver of the Commission's notice requirements in accordance with Section 35.11 of the Commission's regulations (18 CFR 35.11) so that the energy rate change may become effective on April 1, 1994, pursuant to the Agreement.

Copies of this filing were served upon City and the California Public Service Commission.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER94–1689–000]

Take notice that on September 29, 1994, Boston Edison Company (Boston Edison) filed a letter agreement between itself and Reading Municipal Light Department (RMLD) concerning the contract (Boston Edison Rate Schedule No. 113) under which RMLD has an entitlement in Boston Edison's Pilgrim nuclear power plant. The agreement provides that Boston Edison's and RMLD's rights and obligations as in effect as of July 28, 1994, as to billing disputes are to remain in effect during the term of the agreement. The agreement may be terminated by either party up to a termination deadline as defined in the agreement. As long as the agreement is in effect, RMLD may elect to receive the relief finally achieved in Docket No. EL94–73–000 by either Commonwealth Electric Company or the Municipal Customers. However, the Agreement only provides relief for RMLD for 1993 and subsequent years and does not provide relief for 1992 or earlier years through the agreement itself. Also as long as the agreement is in effect, RMLD may not intervene in Docket No. EL94–73–000 nor may it initiate litigation regarding its Pilgrim billings. Otherwise, this agreement has no effect on the rates, charges, and terms and conditions under RMLD's contract with Boston Edison.

Boston Edison states that it has served copies of this filing upon each of the affected customers and upon the other Pilgrim power purchasers; Commonwealth Electric Company, Montaup Electric Company, and the thirteen municipal electric systems who have Pilgrim unit power purchase contracts.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. Engelhard Power Marketing, Inc.

[Docket No. ER94–1690–000]

Take notice that on September 29, 1994, Engelhard Power Marketing, Inc. (Engelhard Power), tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, 385.207, its Rate Schedule No. 1, to be effective 60 days from and after September 29, 1994, and a petition for waivers of and blanket approvals under various regulations of the Commission, and clarification of jurisdiction under Section 201 of the Federal Power Act.

Engelhard Power intends to engage in electric power and energy transactions as a marketer. Engelhard Power's marketing activities will include purchasing capacity, energy and/or transmission services from electric utilities qualifying facilities and independent power producers, and reselling such power to other purchasers. Engelhard Power proposes to charge rates mutually agreed upon by the parties. All sales will be at arms-length. Engelhard Power is not in the business of producing or transmitting electric power. Neither Engelhard Power nor its affiliates currently has or contemplates acquiring title to any electric power transmission or generation facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at prices mutually agreed upon by the purchaser and Engelhard Power.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Northern Indiana Public Service Company

[Docket No. FA92–19–001]

Take notice that on August 15, 1994, Northern Indiana Public Service Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. FA93–10–001]

Take notice that on September 27, 1994, Southern California Edison Company tendered for filing its refund report in the above-referenced docket.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

16. Thermo Cogeneration Partnership, L.P.

[Docket Nos. QF87–552–003 and EL95–1–000]

Take notice that on October 4, 1994, Thermo Cogeneration Partnership, L.P. (Thermo Cogen), tendered for filing a request for limited waiver of the Commission's Regulations under the Public Utility Regulatory Policies Act of 1978 (PURPA). Thermo Cogen requests the Commission to temporarily waive the operating and efficiency standards for qualifying cogeneration facilities as set forth in § 292.205, 18 CFR 292.205 of the Commission's Regulations implementing Section 201 of PURPA, as amended, with respect to its 272 MW cogeneration facility located in Fort Lupton, Colorado. Specifically, Thermo Cogen requests waiver of the operating and efficiency standards for the calendar year 1994.

Comment date: Thirty days from the date of publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

17. Tenaska Washington Partners, L.P.

[Docket No. QF92–91–005]

On October 4, 1994, Tenaska Washington Partners, L.P. (Applicant) tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Comment date: October 25, 1994, in accordance with Standard Paragraph E at the end of this notice.

18. AES WE Limited Partnership

[Docket No. QF92–123–002]

On September 20, 1994, and September 29, 1994, AES WE Limited Partnership (AES WE) tendered for filing two supplements to its filing in this docket.

These supplements pertain to the technical aspects of the facility. No determination has been made that these submittals constitute a complete filing.

Comment date: October 20, 1994, in accordance with Standard Paragraph E at the end of this notice.

19. Pasco Cogen, Ltd.

[Docket No. QF92–156–001]

On September 30, 1994, Pasco Cogen, Ltd. (Applicant), c/o Peoples Cogeneration Company, 111 East Madison Street, Suite 1700, Tampa, Florida 33602, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207 (b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the cogeneration facility will be located in Dade City, Florida. The Commission previously certified the facility as a 106.4 MW topping-cycle cogeneration facility, *Pasco Cogen, Ltd.*, 60 FERC ¶ 62,247 (1992). The instant request for recertification is due to a change in ownership of the facility and an increase in its capacity to 109 MW.

Comment date: Thirty days from the date of publication in the **Federal**

Register, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25661 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. QF88–295–006]

Tenaska III Texas Partners; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

October 12, 1994.

On October 6, 1994, Tenaska III Texas Partners (Tenaska) of 1044 North 115 Street, Suite 400, Omaha, Nebraska 68154, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the natural gas-fueled cogeneration facility is located in Paris, Texas. The Commission previously certified the capacity of the facility to be 250 MW. The facility consists of two combustion turbine generators, two heat recovery boilers and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility is used in food preparation by Campbell Soup (Texas) Inc. The instant application for recertification was submitted to report a changed ownership structure.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25656 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

Availability of the Office of Pipeline Regulation "Handbook for Using Third-Party Contractors To Prepare Environmental Assessments and Environmental Impact Statements"

October 12, 1994.

This handbook provides guidance on how the voluntary third-party contracting program works for natural gas facilities analyzed by the Commission's Office of Pipeline Regulation (OPR). It contains information about how the third-party contractor is:

- Selected by and works under the direct supervision and control of the OPR staff;
- Responsible for conducting environmental analyses and preparing documentation, including environmental assessments and environmental impact statements; and
- Paid by the project applicant(s).

Copies of the handbook are available at: Federal Energy Regulatory Commission, Division of Public Information, 941 North Capitol Street, N.W., Room 3104, Washington, DC 20426, (202) 208–1371

Lois D. Cashell,

Secretary.

[FR Doc. 94–25659 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ST94–6192–000 et al.]

Transok, Inc., Self-Implementing Transactions

October 12, 1994.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's regulations, Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act. [1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to Section 284.102 of the Commission's regulations and Section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.122 of the Commission's regulations and Section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to Section 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to Section 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to Section 284.163 of the Commission's regulations and Section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.222 and a blanket certificate issued under Section 284.221 of the Commission's regulations.

A "G–I" indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under Section 284.227 of the Commission's regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to Section 284.223 and a blanket certificate issued under Section 284.221 of the Commission's regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under Section

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

284.224 of the Commission's regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to Section 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to Section 284.303 of the Commission's regulations.

Lois D. Cashell,

Secretary.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94–6192	Transok, Inc	ANR Pipeline Co., et al.	08–01–94	C	2,000	N	I	07–01–94	Indef.
ST94–6193	Panhandle Eastern Pipe Line Co.	Amoco Energy Trading Corp.	08–01–94	G–S	195,600	N	I	05–05–94	04–30–98
ST94–6194	Panhandle Eastern Pipe Line Co.	Aluminum Co. of America.	08–01–94	G–S	2,800	N	F	07–01–94	03–31–95
ST94–6195	Panhandle Eastern Pipe Line Co.	KN Gas Marketing, Inc.	08–01–94	G–S	2,000	N	F	07–01–94	06–30–95
ST94–6196	Panhandle Eastern Pipe Line Co.	Rangeline Corp	08–01–94	G–S	50,000	N	I	07–01–94	05–31–98
ST94–6197	Panhandle Eastern Pipe Line Co.	KN Gas Marketing, Inc.	08–01–94	G–S	42,000	N	I	07–01–94	04–30–98
ST94–6198	Panhandle Eastern Pipe Line Co.	Ohio Gas Co	08–01–94	B	9,218	N	F	07–01–94	10–31–97
ST94–6199	Panhandle Eastern Pipe Line Co.	Bleigh Construction Co.	08–01–94	G–S	75	N	I	07–01–94	06–30–96
ST94–6200	Panhandle Eastern Pipe Line Co.	Appalachian Gas Sales Corp.	08–01–94	G–S	30,000	N	I	07–01–94	06–02–99
ST94–6201	Transcontinental Gas P/L Corp.	Cenergy, Inc	08–01–94	G–S	1,460,000	N	I	07–01–94	Indef.
ST94–6202	Transcontinental Gas P/L Corp.	Offshore Gas Marketing, Inc.	08–01–94	G–S	50,000	N	I	07–01–94	Indef.
ST94–6203	Transcontinental Gas P/L Corp.	Conoco, Inc	08–01–94	G–S	13,889	N	F	07–01–94	06–30–95
ST94–6204	Transcontinental Gas P/L Corp.	Shell Gas Trading	08–01–94	G–S	50,000	N	F	07–01–94	06–30–95
ST94–6205	Transcontinental Gas P/L Corp.	City of Alexander City.	08–01–94	G–S	2,500	N	F	07–11–94	10–31–13
ST94–6206	Transcontinental Gas P/L Corp.	Exxon Corp	08–01–94	G–S	35,000	N	F	07–01–94	06–30–99
ST94–6207	Transcontinental Gas P/L Corp.	Con Edison Gas Marketing, Inc.	08–01–94	G–S	160,000	N	I	07–01–94	Indef.
ST94–6208	Transcontinental Gas P/L Corp.	Resource Energy Services Co., LLC.	08–01–94	G–S	70,000	N	I	07–01–94	Indef.
ST94–6209	Transcontinental Gas P/L Corp.	Mobil Natural Gas, Inc.	08–01–94	G–S	53,073	N	F	07–01–94	06–30–95
ST94–6210	Transcontinental Gas P/L Corp.	Amoco Energy Trading Corp.	08–01–94	G–S	45,000	N	F	07–01–94	06–30–95
ST94–6211	Transcontinental Gas P/L Corp.	Exxon Corp	08–01–94	G–S	125,000	N	F	07–01–94	06–30–95
ST94–6212	Iroquois Gas Trans. System, L.P.	Transco Energy Marketing Co.	08–01–94	G–S	200,000	N	I	07–07–94	Indef.
ST94–6213	Iroquois Gas Trans. System, L.P.	New England Power Co.	08–01–94	G–S	7,927	N	F	07–01–94	08–01–94
ST94–6214	Iroquois Gas Trans. System, L.P.	Connecticut Light & Power Co.	08–01–94	G–S	54,000	N	F	07–16–94	07–01–14
ST94–6215	Panhandle Eastern Pipe Line Co.	Kansas Pipeline Partnership.	08–02–94	G–S	100,500	N	I	07–07–94	04–30–98
ST94–6216	Panhandle Eastern Pipe Line Co.	Union Electric Co	08–02–94	G–S	75,000	N	I	07–10–94	03–31–99
ST94–6217	Panhandle Eastern Pipe Line Co.	Borg-Warner Automotive—D.T.P.C.	08–02–94	G–S	545	N	F	07–02–94	06–30–96
ST94–6218	Florida Gas Transmission Co.	Polk Power Partners, L.P.	08–02–94	G–S	16,000	N	I	07–04–94	Indef.
ST94–6219	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08–02–94	B	25,000	Y	I	07–01–93	Indef.
ST94–6220	Phillips Gas Pipeline Co.	Transok, Inc., et al	08–02–94	B	50,000	Y	I	01–01–94	Indef.
ST94–6221	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08–02–94	B	50,000	Y	I	01–01–93	Indef.
ST94–6222	U–T Offshore System.	Hadson Gas Systems, Inc.	08–02–94	K–S	10,000	N	I	07–02–94	Indef.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6223	Williams Natural Gas Co.	Chevron USA	08-03-94	G-S	20,000	N	I	07-16-94	10-01-94
ST94-6224	Northern Illinois Gas Co.	Natural Gas P/L Co. of Amer. et al.	08-04-94	C	755	N	I	07-20-94	07-31-94
ST94-6225	K N Wattenberg Trans. L/L Co.	Snyder Oil Co	08-04-94	G-S	20,000	N	I	03-04-94	Indef.
ST94-6226	Transcontinental Gas P/L Corp.	Cook Inlet Energy Supply.	08-04-94	G-S	100,000	N	I	07-23-94	Indef.
ST94-6227	Columbia Gas Transmission Corp.	Victoria International Limited.	08-04-94	G-S	5,000	N	I	07-01-94	Indef.
ST94-6228	Columbia Gas Transmission Corp.	Schuller International, Inc.	08-04-94	G-S	1,000	N	F	08-01-94	Indef.
ST94-6229	Columbia Gas Transmission Corp.	Conoco, Inc	08-04-94	G-S	70,000	N	I	08-01-94	Indef.
ST94-6230	South Georgia Natural Gas Co.	Texican Natural Gas Co.	08-04-94	G-S	1,500	Y	I	07-23-94	Indef.
ST94-6231	Florida Gas Transmission Co.	Florida Power & Light Co.	08-05-94	G-S	200,000	N	I	07-07-94	Indef.
ST94-6232	El Paso Natural Gas Co.	Union Pacific Fuels, Inc.	08-05-94	G-S	41,200	N	I	07-09-94	Indef.
ST94-6233	El Paso Natural Gas Co.	Cenergy, Inc	08-05-94	G-S	10,000	N	I	07-07-94	Indef.
ST94-6234	Southern Natural Gas Co.	DSM Chemicals, North America, Inc.	08-05-94	G-S	9,000	N	F	07-25-94	07-24-97
ST94-6235	Trunkline Gas Co	Central Soya Co., Inc.	08-05-94	G-S	1,665	N	F	08-01-94	Indef.
ST94-6236	Enogex Inc	Phillips Gas Pipeline Co.	08-05-94	C	50,000	N	I	07-15-94	Indef.
ST94-6237	Gas Co. of New Mexico.	El Paso Natural Gas Co.	08-08-94	G-HT	8,500	N	I	05-01-94	Indef.
ST94-6238	Bridgeline Gas Distribution LLC.	Sabine Pipe Line Co	08-08-94	G-HT	2,000	N	I	06-22-94	Indef.
ST94-6239	Bridgeline Gas Distribution LLC.	Columbia Gulf Transmission Co.	08-08-94	G-HT	3,161	N	I	06-25-94	Indef.
ST94-6240	Channel Industries Gas Co.	Eagull Marketing Services, Inc.	08-08-94	G-I	50,000	N	I	07-09-94	Indef.
ST94-6241	Transwestern Pipeline Co.	Gas Co of New Mexico.	08-08-94	G-S	20,000	N	F	07-08-94	08-07-94
ST94-6242	Transwestern Pipeline Co.	Fina Natural Gas	08-08-94	G-S	5,051	N	F	07-07-94	07-31-94
ST94-6243	Transwestern Pipeline Co.	Meridian Oil Trading Inc.	08-08-94	G-S	45,000	N	F	07-16-94	02-28-00
ST94-6244	Texas Gas Transmission Corp.	Coast Energy Group, Inc.	08-08-94	G-S	21,000	N	I	12-02-93	Indef.
ST94-6245	Texas Gas Transmission Corp.	Cincinnati Gas and Electric Co.	08-08-94	G-S	12,810	N	F	08-01-94	Indef.
ST94-6246	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	08-08-94	G-S	300,000	A	I	07-09-94	08-31-95
ST94-6247	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	08-08-94	G-S	300,000	A	I	07-09-94	08-31-95
ST94-6248	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	08-08-94	G-S	300,000	A	I	07-09-94	08-31-95
ST94-6249	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	08-08-94	G-S	300,000	A	I	07-09-94	08-31-95
ST94-6250	Delhi Gas Pipeline Corp.	El Paso Natural Gas Co, et al.	08-08-94	C	2,500	N	I	07-07-94	Indef.
ST94-6251	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-09-94	B	75,000	Y	I	01-01-93	Indef.
ST94-6252	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-09-94	B	75,000	Y	I	01-01-93	Indef.
ST94-6253	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-09-94	B	20,000	Y	I	08-01-93	Indef.
ST94-6254	El Paso Natural Gas Co.	Richardson Products II, Ltd.	08-09-94	G-S	75,000	N	I	07-12-94	Indef.
ST94-6255	Tennessee Gas Pipeline Co.	Timken Co	08-09-94	G-S	6,119	N	F	08-01-94	Indef.
ST94-6256	Noram Gas Transmission Co.	Arkla	08-08-94	B	150,000	Y	I	06-01-94	Indef.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6257	Noram Gas Transmission Co.	Stalwart Energy Marketer.	08-08-94	G-S	100,000	N	I	06-01-94	Indef.
ST94-6258	Midwestern Gas Transmission Co.	Tenneco Gas Marketing Co.	08-10-94	G-S	10,000	Y	F	08-01-94	Indef.
ST94-6259	Midwestern Gas Transmission Co.	Associated Natural Gas, Inc.	08-10-94	G-S	10,000	N	F	08-01-94	Indef.
ST94-6260	Midcon Texas Pipeline Corp.	Chevron U.S.A., Inc	08-11-94	G-I	10,000	N	I	07-01-94	Indef.
ST94-6261	Natural Gas P/L Co of America.	North Canadian Marketing.	08-11-94	G-S	150,000	N	I	12-10-92	Indef.
ST94-6262	Natural Gas P/L Co. of America.	Midcon Gas Services Corp.	08-11-94	G-S	300,000	Y	I	08-26-92	Indef
ST94-6263	Natural Gas P/L Co. of America.	Associated Natural Gas, Inc.	08-11-94	G-S	60,000	N	I	02-27-93	Indef
ST94-6264	Natural Gas P/L Co. of America.	Enmark Gas Corp ...	08-11-94	G-S	14,550	N	I	02-23-93	Indef
ST94-6265	Natural Gas P/L Co. of America.	Enogex Services Corp.	08-11-94	G-S	50,000	N	I	10-17-92	Indef
ST94-6266	Natural Gas P/L Co. of America.	Tenneco Gas Marketing Co.	08-11-94	G-S	100,000	N	I	01-15-93	Indef
ST94-6267	Natural Gas P/L Co. of America.	Noram Energy Services, Inc.	08-11-94	G-S	375,000	N	I	04-04-91	Indef.
ST94-6268	Natural Gas P/L Co. of America.	Chevron U.S.A., Inc	08-11-94	G-S	70,000	N	I	04-01-89	Indef.
ST94-6269	Natural Gas P/L Co. of America.	Hadson Gas Systems, Inc.	08-11-94	G-S	100,000	N	I	09-22-92	Indef.
ST94-6270	Natural Gas P/L Co. of America.	Mobil Natural Gas, Inc.	08-11-94	G-S	200,000	N	I	01-09-91	Indef.
ST94-6271	Natural Gas P/L Co. of America.	Archer Daniels Midland Co.	08-11-94	G-S	15,000	N	I	11-01-89	Indef.
ST94-6272	Natural Gas P/L Co. of America.	Southern California Gas Co, et al.	08-11-94	B	60,000	N	I	06-01-90	Indef.
ST94-6273	Natural Gas P/L Co. of America.	Enron Gas Marketing, Inc.	08-11-94	G-S	100,000	N	I	10-01-91	Indef.
ST94-6274	Natural Gas P/L Co. of America.	Texaco Gas Marketing, Inc.	08-11-94	G-S	100,000	N	I	03-01-93	Indef.
ST94-6275	Natural Gas P/L Co. of America.	Yuma Gas Corp	08-11-94	G-S	100,000	N	I	11-01-88	Indef.
ST94-6276	Natural Gas P/L Co. of America.	Amoco Energy Trading Corp.	08-11-94	G-S	400,000	N	I	04-01-89	Indef.
ST94-6277	Natural Gas P/L Co. of America.	Hadson Gas Systems, Inc.	08-12-94	G-S	50,000	N	I	09-10-92	Indef.
ST94-6278	Natural Gas P/L Co. of America.	Olympic Fuels Co ...	08-12-94	G-S	20,000	N	I	10-03-92	Indef.
ST94-6279	Natural Gas P/L Co. of America.	Tejas Power Corp ...	08-12-94	G-S	100,000	N	I	11-23-91	Indef.
ST94-6280	Natural Gas P/L Co. of America.	Peoples Gas Light and Coke Co.	08-12-94	B	300	N	I	01-01-88	Indef.
ST94-6281	Natural Gas P/L Co. of America.	MG Natural Gas Corp.	08-12-94	G-S	200,000	N	I	03-16-93	Indef.
ST94-6282	Natural Gas P/L Co. of America.	Florida Gas Utility ...	08-12-94	G-S	100,000	N	I	04-01-93	Indef.
ST94-6283	Natural Gas P/L Co. of America.	NGC Transportation, Inc.	08-12-94	G-S	500,000	N	I	03-18-93	Indef.
ST94-6284	Natural Gas P/L Co. of America.	Texaco Gas Marketing Inc.	08-12-94	G-S	100,000	N	I	05-19-93	Indef.
ST94-6285	Natural Gas P/L Co. of America.	Texaco Gas Marketing Inc.	08-12-94	G-S	100,000	N	I	03-19-93	Indef.
ST94-6286	Natural Gas P/L Co. of America.	Maxus Gas Marketing Co.	08-12-94	G-S	100,000	N	I	03-19-93	Indef.
ST94-6287	Natural Gas P/L Co. of America.	Graham Energy Marketing Corp.	08-12-94	G-S	100,000	N	I	07-01-92	Indef.
ST94-6288	Natural Gas P/L Co. of America.	Vesta Energy Co	08-12-94	G-S	185,000	N	I	12-01-88	Indef.
ST94-6289	Columbia Gulf Transmission Co.	Noble Gas Marketing Co.	08-15-94	G-S	30,000	N	I	07-20-94	Indef.
ST94-6290	Columbia Gulf Transmission Co.	Victoria International Limited.	08-15-94	G-S	5,000	N	I	07-20-94	Indef.
ST94-6291	Florida Gas Transmission Co.	Oryx Gas Marketing Limited Part.	08-15-94	G-S	35,000	N	F	07-15-94	07-31-94
ST94-6292	Sabine Pipe Line Co	Neches Gas Distribution Co.	08-15-94	B	25,000	Y	I	08-01-94	Indef.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6293	Sabine Pipe Line Co	Phibro Energy Div. of Salomon Inc.	08-15-94	G-S	500,000	N	I	08-03-94	Indef.
ST94-6294	Koch Gateway Pipeline Co.	Acadian Gas Pipeline, et al.	08-15-94	G-S	N/A	N	I	08-01-94	Indef.
ST94-6295	Koch Gateway Pipeline Co.	Acadian Gas Pipeline, et al.	08-15-94	G-S	N/A	N	I	08-01-94	Indef.
ST94-6296	Koch Gateway Pipeline Co.	Acadian Gas Pipeline, et al.	08-15-94	G-S	N/A	N	I	08-01-94	Indef.
ST94-6297	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-15-94	B	50,000	Y	I	10-01-93	Indef.
ST94-6298	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-15-94	B	20,000	Y	I	08-01-93	Indef.
ST94-6299	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-15-94	B	25,000	Y	I	07-01-93	Indef.
ST94-6300	Phillips Gas Pipeline Co.	Seagas Pipeline Co	08-15-94	B	5,000	Y	I	01-01-93	Indef.
ST94-6301	ONG Transmission Co.	Natural Gas P/L Co. of America.	08-15-94	C	50,000	N	I	07-08-94	Indef.
ST94-6302	ONG Transmission Co.	Phillips Gas Pipeline Co.	08-15-94	C	100,000	N	I	07-20-94	Indef.
ST94-6303	ONG Transmission Co.	Transok-Bradley (NGPL).	08-15-94	C	50,000	N	I	07-01-94	Indef.
ST94-6304	Southern California Gas Co.	Natural Gas Clearing House.	08-15-94	G-HT	100,000	N	I	07-16-94	08-15-95
ST94-6305	Southern California Gas Co.	Coastal Gas Marketing Co.	08-15-94	G-HT	100,000	N	I	07-30-94	08-29-95
ST94-6306	Southern California Gas Co.	American Hunter Energy.	08-15-94	G-HT	100,000	N	I	07-23-94	07-22-95
ST94-6307	K N Interstate Gas Trans. Co.	City of Wisner	08-16-94	G-S	945	N	F	10-01-93	Indef.
ST94-6308	K N Interstate Gas Trans. Co.	Nebraska Public Gas Agency.	08-16-94	G-S	270	N	F	10-01-93	Indef.
ST94-6309	K N Interstate Gas Trans. Co.	Peoples Natural Gas Co.	08-16-94	G-S	13,400	N	F	10-01-93	Indef.
ST94-6310	K N Interstate Gas Trans. Co.	City of Winona	08-16-94	G-S	165	N	F	10-01-93	Indef.
ST94-6311	K N Interstate Gas Trans. Co.	Hastings Utilities	08-16-94	G-S	1,500	N	F	05-21-94	09-30-94
ST94-6312	K N Interstate Gas Trans. Co.	City of Alma	08-16-94	G-S	945	N	F	01-08-94	Indef.
ST94-6313	K N Interstate Gas Trans. Co.	Greeley Gas Co	08-16-94	G-S	2,000	N	F	11-01-93	Indef.
ST94-6314	K N Interstate Gas Trans. Co.	Public Service Co. of Colorado.	08-16-94	G-S	6,000	N	F	05-01-94	Indef.
ST94-6315	K N Interstate Gas Trans. Co.	City of Central City .	08-16-94	G-S	2,100	N	F	10-01-93	Indef.
ST94-6316	K N Interstate Gas Trans. Co.	K N Energy, Inc	08-16-94	G-S	89,795	N	F	12-02-93	Indef.
ST94-6317	Orange and Rockland Util., Inc.	Tennessee Gas Pipeline Co.	08-16-94	C	50,000	N	I	07-18-94	12-31-94
ST94-6318	Noram Gas Transmission Co.	Riceland Foods	08-16-94	G-S	3,600	N	F	08-01-94	10-31-94
ST94-6319	Noram Gas Transmission Co.	Tyson Foods, Inc	08-16-94	G-S	328	N	F	08-01-94	Indef.
ST94-6320	Noram Gas Transmission Co.	Superior Graphite ...	08-16-94	G-S	650	N	F	08-01-94	Indef.
ST94-6321	Noram Gas Transmission Co.	Norandal USA, Inc ..	08-16-94	G-S	800	N	F	08-01-94	Indef.
ST94-6322	Noram Gas Transmission Co.	Monroe Auto Equipment.	08-16-94	G-S	700	N	F	08-01-94	Indef.
ST94-6323	Noram Gas Transmission Co.	Loral Vought Systems.	08-16-94	G-S	250	N	F	08-01-94	Indef.
ST94-6324	Noram Gas Transmission Co.	Armstrong Tire & Rubber.	08-16-94	G-S	450	N	F	08-01-94	Indef.
ST94-6325	Noram Gas Transmission Co.	Halstead Metals	08-16-94	G-S	700	N	F	08-01-94	Indef.
ST94-6326	Noram Gas Transmission Co.	Mabeline Products ..	08-16-94	G-S	231	N	F	08-01-94	Indef.
ST94-6327	Noram Gas Transmission Co.	Arkansas Children's Hospital.	08-16-94	G-S	450	N	F	08-01-94	Indef.
ST94-6328	Noram Gas Transmission Co.	Noram Energy Services, Inc.	08-16-94	G-S	350	N	F	08-01-94	Indef.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6329	Colorado Interstate Gas Co.	Wyoming Dept. of Transportation.	08-16-94	G-S	50	N	I	08-01-94	Indef
ST94-6330	Colorado Interstate Gas Co.	Thermo Cogeneration Partner., L.P.	08-16-94	G-S	4,100	N	F	08-11-94	06-30-09
ST94-6331	Transcontinental Gas P/L Corp.	City of Lexington	08-17-94	G-S	219	N	F	08-01-94	03-17-98
ST94-6332	Transcontinental Gas P/L Corp.	City of Shelby	08-17-94	G-S	262	N	F	08-01-94	03-17-98
ST94-6333	Transcontinental Gas P/L Corp.	Transco Energy Marketing Co.	08-17-94	G-S	77,295	A	F	11-01-93	07-31-05
ST94-6334	U-T Offshore System.	Coast Energy Group	08-17-94	K-S	25,000	N	F	08-02-94	08-31-94
ST94-6335	U-T Offshore System.	CNG Producing Co .	08-17-94	K-S	22,000	N	F	07-17-94	07-31-94
ST94-6336	U-T Offshore System.	CNG Producing Co .	08-17-94	K-S	42,500	N	F	08-01-94	08-31-94
ST94-6337	Transwestern Pipeline Co.	Fina Natural Gas Co	08-17-94	G-S	35,000	N	I	07-01-94	Indef.
ST94-6338	Transwestern Pipeline Co.	Tristar Gas Marketing Co.	08-17-94	G-S	22,980	N	F	07-01-94	07-31-94
ST94-6339	Transwestern Pipeline Co.	Clayton Williams Energy, Inc.	08-17-94	G-S	1,440	N	F	07-01-94	07-03-94
ST94-6340	Transwestern Pipeline Co.	GPM Gas Corp	08-17-94	G-S	35,890	N	F	07-01-94	07-31-94
ST94-6341	Transwestern Pipeline Co.	NGC Transportation, Inc.	08-17-94	G-S	28,710	N	F	07-01-94	07-31-94
ST94-6342	Transwestern Pipeline Co.	Enron Gas Marketing.	08-17-94	G-S	25,400	A	F	07-01-94	07-31-94
ST94-6343	Transwestern Pipeline Co.	Fina Natural Gas Co	08-17-94	G-S	4,800	N	F	07-01-94	07-31-94
ST94-6344	Transwestern Pipeline Co.	Tristar Gas Marketing Co.	08-17-94	G-S	36,800	N	F	07-01-94	07-31-94
ST94-6345	Transwestern Pipeline Co.	Valero Gas Marketing, L.P.	08-17-94	G-S	25,000	N	F	07-02-94	07-31-94
ST94-6346	Transwestern Pipeline Co.	Chevron U.S.A. Production Co.	08-17-94	G-S	20,000	N	F	07-02-94	07-31-94
ST94-6347	Transwestern Pipeline Co.	Amarillo Natural Gas Co.	08-17-94	G-S	150	N	I	07-30-94	Indef.
ST94-6348	Midwestern Gas Transmission Co.	Enron Gas Marketing Inc.	08-17-94	G-S	10,000	N	F	08-01-94	Indef.
ST94-6349	Midwestern Gas Transmission Co.	H & N Gas, Ltd	08-17-94	G-S	10,553	N	F	08-01-94	Indef.
ST94-6350	Texas Eastern Transmission Corp.	Entre Energy Corp ..	08-18-94	G-S	60,000	N	I	07-20-94	Indef.
ST94-6351	Texas Eastern Transmission Corp.	Tenneco Gas Marketing Co.	08-18-94	G-S	100,000	N	I	07-02-94	Indef.
ST94-6352	Panhandle Eastern Pipe Line Co.	Arcadian Partners, L.P.	08-18-94	G-S	5,500	N	F	08-01-94	03-31-95
ST94-6353	Panhandle Eastern Pipe Line Co.	Anadarko Trading Co.	08-18-94	G-S	770,000	N	I	05-01-94	04-30-98
ST94-6354	Panhandle Eastern Pipe Line Co.	Schuller International, Inc.	08-18-94	G-S	9,800	N	F	08-01-94	10-31-96
ST94-6355	Tennessee Gas Pipeline Co.	National Fuel Gas Supply Corp.	08-18-94	G-S	3,342	N	F	07-18-94	Indef.
ST94-6356	Kern River Gas Transmission Co.	Union Pacific Fuels, Inc.	08-19-94	G-S	25,000	N	F	08-01-94	08-31-94
ST94-6357	Midcon Texas Pipeline Corp.	Amoco Energy Trading Corp.	08-18-94	G-I	20,000	N	I	08-01-94	Indef.
ST94-6358	Midcon Texas Pipeline Corp.	Natural Gas Clearinghouse.	08-18-94	G-I	5,000	N	I	08-01-94	Indef.
ST94-6359	El Paso Natural Gas Co.	Bridgegas U.S.A. Inc.	08-18-94	G-S	100,000	N	I	07-23-94	Indef.
ST94-6360	Enogex Inc	Williams Natural Gas Co.	08-18-94	C	164	N	I	08-02-94	Indef.
ST94-6361	Southern Natural Gas Co.	Sonat Marketing Co	08-18-94	G-S	50,000	Y	I	08-01-94	07-31-95
ST94-6362	Southern Natural Gas Co.	Ford Motor Co	08-18-94	G-S	1,000	N	F	08-01-94	08-31-94
ST94-6363	Texas Gas Transmission Corp.	NGC Transportation, Inc.	08-19-94	G-S	300,000	N	I	08-06-94	Indef.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6364	Texas Gas Transmission Corp.	Chevron U.S.A. Co .	08-19-94	G-S	250,000	N	I	08-16-94	Indef.
ST94-6365	Texas Gas Transmission Corp.	Transco Energy Marketing Co.	08-19-94	G-S	100,000	Y	I	08-12-94	Indef.
ST94-6366	Transwestern Pipeline Co.	Fina Natural Gas Co	08-19-94	G-S	8,800	N	F	08-02-94	08-31-94
ST94-6367	Transwestern Pipeline Co.	Bridge Gas Co	08-19-94	G-S	4,051	N	F	08-01-94	08-31-94
ST94-6368	Transwestern Pipeline Co.	Aurora National Gas	08-19-94	G-S	1,000	N	I	08-02-94	Indef.
ST94-6369	Transwestern Pipeline Co.	Enron Gas Marketing.	08-19-94	G-S	16,429	A	F	07-20-94	07-31-94
ST94-6370	Transwestern Pipeline Co.	Cenergy	08-19-94	G-S	40,000	N	I	08-01-94	Indef.
ST94-6371	Transwestern Pipeline Co.	Clayton Williams Energy, Inc.	08-19-94	G-S	1,800	N	F	08-01-94	08-31-94
ST94-6372	Transwestern Pipeline Co.	Brooklyn Interstate No. Gas Corp.	08-19-94	G-S	3,600	N	F	08-01-94	08-02-94
ST94-6373	Transwestern Pipeline Co.	Enron Gas Marketing.	08-19-94	G-S	100,000	A	I	09-28-92	Indef.
ST94-6374	Transwestern Pipeline Co.	Sun Gas Services ...	08-19-94	G-S	100,000	N	I	07-30-94	Indef.
ST94-6375	Transwestern Pipeline Co.	GPM Gas Corp	08-19-94	G-S	100,000	N	I	08-04-94	Indef.
ST94-6376	K N Interstate Gas Trans. Co.	Chevron U.S.A., Inc.	08-19-94	G-S	2,500	N	F	06-01-94	05-31-95
ST94-6377	K N Interstate Gas Trans. Co.	K N Gas Marketing, Inc.	08-19-94	G-S	5,000	A	F	06-01-94	09-30-94
ST94-6378	K N Interstate Gas Trans. Co.	Retex Gathering Co., Inc.	08-19-94	G-S	3,500	N	F	06-01-94	05-31-95
ST94-6379	K N Interstate Gas Trans. Co.	Nebraska Public Gas Agency.	08-19-94	G-S	35,500	N	I	04-22-94	Indef.
ST94-6380	K N Interstate Gas Trans. Co.	Interenergy Corp	08-19-94	G-S	20,000	N	I	06-14-94	Indef.
ST94-6381	Oasis Pipe Line Co .	El Paso Natural Gas Co., et al.	08-22-94	C	50,000	N	I	06-01-94	Indef.
ST94-6382	Oasis Pipe Line Co .	Northern Natural Gas Co.	08-22-94	C	100,000	N	I	05-01-94	Indef.
ST94-6383	Oasis Pipe Line Co .	El Paso Natural Gas Co, et al.	08-22-94	C	50,000	N	I	06-15-94	Indef.
ST94-6384	Houston Pipe Line Co.	Black Marlin Pipeline Co., et al.	08-22-94	C	50,000	N	I	05-01-94	Indef.
ST94-6385	Oasis Pipe Line Co .	El Paso Natural Gas Co, et al.	08-22-94	C	50,000	N	I	06-09-94	Indef.
ST94-6386	Oasis Pipe Line Co .	El Paso Natural Gas Co., et al.	08-22-94	C	50,000	N	I	06-09-94	Indef.
ST94-6387	Houston Pipe Line Co.	NGC Transportation, Inc.	08-22-94	G-I	50,000	N	I	05-01-94	Indef.
ST94-6388	Houston Pipe Line Co.	Entex Gas Marketing Co.	08-22-94	G-I	25,000	N	I	05-01-94	Indef.
ST94-6389	Oasis Pipe Line Co .	El Paso Natural Gas Co., et al.	08-22-94	C	50,000	N	I	05-01-94	Indef.
ST94-6390	Oasis Pipe Line Co .	El Paso Natural Gas Co.	08-22-94	C	20,000	N	I	04-22-94	Indef.
ST94-6391	Oasis Pipe Line Co .	El Paso Natural Gas Co., et al.	08-22-94	C	50,000	N	I	06-09-94	Indef.
ST94-6392	Oasis Pipe Line Co .	Northern Natural Gas Co.	08-22-94	C	25,000	N	I	05-20-94	Indef.
ST94-6393	Houston Pipe Line Co.	Black Marlin Pipeline Co., et al.	08-22-94	C	50,000	N	I	05-10-94	Indef.
ST94-6394	Williams Natural Gas Co.	NGC Transportation, Inc.	08-22-94	G-S	10,000	N	I	07-01-94	09-30-94
ST94-6395	Williams Natural Gas Co.	NGC Transportation, Inc.	08-22-94	G-S	10,000	N	I	07-01-94	10-01-94
ST94-6396	Tejas Gas Pipeline Co.	Transcontinental Gas Pipeline Corp.	08-22-94	C	2,000	N	I	06-01-94	Indef.
ST94-6397	Tejas Gas Pipeline Co.	Texas Eastern Transmission Corp.	08-22-94	C	2,000	N	I	07-07-94	Indef.
ST94-6398	Natural Gas P/L Co., of America.	Caterpillar Inc	08-22-94	G-S	8,000	N	F	08-01-94	07-31-95

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6399	Koch Gateway Pipeline Co.	Frito-Lay, Inc	08-24-94	G-S	N/A	N	I	07-30-94	Indef.
ST94-6400	Koch Gateway Pipeline Co.	Boston Gas Co	08-24-94	G-S	57,979	N	I	07-30-94	Indef.
ST94-6401	Mobile Bay Pipeline Co.	Amerada Hess Corp	08-24-94	G-S	N/A	N	I	07-29-94	Indef.
ST94-6402	Equitrans, Inc	Brooklyn Interstate Nat. Gas Corp.	08-24-94	G-S	6,000	N	I	08-18-94	Indef.
ST94-6403	Tennessee Gas Pipeline Co.	CNG Transmission Corp.	08-24-94	G-S	14,096	N	F	08-01-94	Indef.
ST94-6404	Valero Transmission, L.P.	El Paso Natural Gas Co.	08-25-94	C	10,000	N	I	08-11-94	Indef.
ST94-6405	Northern Natural Gas Co.	Catex-Vitol Gas, Inc	08-25-94	G-S	50,000	N	I	07-01-94	Indef.
ST94-6406	Northern Natural Gas Co.	Amgas Inc	08-25-94	G-S	5,000	N	F	07-06-94	06-30-04
ST94-6407	Nortern Natural Gas Co.	Princeton Natural Gas Co.	08-25-94	G-S	10,000	N	I	07-01-94	Indef.
ST94-6408	Algonguin Gas Transmission Co.	Tristar Gas Co	08-26-94	G-S	25,000	N	I	07-26-94	Indef.
ST94-6409	Mid Louisiana Gas Co.	Shell Gas Trading Co.	08-26-94	G-S	50,000	N	I	08-17-94	12-31-94
ST94-6410	Transwestern Pipeline Co.	Tristar Gas Marketing Co.	08-26-94	G-S	20,000	N	F	08-01-94	08-31-94
ST94-6411	Transwestern Pipeline Co.	Richardson Production Co.	08-26-94	G-S	32,100	N	F	08-01-94	08-31-94
ST94-6412	Florida Gas Transmission Co.	Oryx Gas Marketing Limited Part.	08-26-94	G-S	35,000	N	F	08-01-94	Indef.
ST94-6413	CNG Transmission Corp.	Champion Natural Gas Co.	08-26-94	G-S	2,000	N	I	08-01-94	09-30-94
ST94-6414	CNG Transmission Corp.	NGC Transportation, Inc.	08-26-94	G-S	100,000	N	I	08-01-94	Indef.
ST94-6415	CNG Transmission Corp.	Cranberry Pipeline	08-26-94	G-S	10,000	N	I	07-21-94	Indef.
ST94-6416	CNG Transmission Corp.	Columbia Gas Transmissin Corp.	08-26-94	G	50,000	N	I	08-01-94	09-30-94
ST94-6417	CNG Transmission Corp.	Clinton Gas Marketing.	08-26-94	G-S	99,999	N	I	07-28-94	09-30-94
ST94-6418	Delhi Gas Pipeline Corp.	Williams Natural Gas Co., et al.	08-29-94	C	25,000	N	I	08-01-94	Indef.
ST94-6419	Seagull Shoreline System.	Northern Natural Gas Co.	08-29-94	C	10,500	N	I	06-01-94	Indef.
ST94-6420	Delhi Gas Pipeline Corp.	ANR Pipeline Co., et al.	08-29-94	C	2,500	N	I	08-01-94	Indef.
ST94-6421	Pacific Gas Transmission Co.	Tristar Gas Co	08-29-94	G-S	50,000	N	I	08-02-94	Indef.
ST94-6422	El Paso Natural Gas Co.	Anthem Energy Co., L.P.	08-29-94	G-S	77,250	N	I	08-01-94	Indef.
ST94-6423	El Paso Natural Gas Co.	Hadson Gas Systems, Inc.	08-29-94	G-S	40,000	N	I	08-01-94	Indef.
ST94-6424	Texas Eastern Transmission Corp.	GGR Energy	08-29-94	G-S	50,000	N	I	07-30-94	Indef.
ST94-6425	Texas Eastern Transmission Corp.	Associated Intrastate Pipeline Co.	08-29-94	G-S	28,500	N	I	08-02-94	Indef.
ST94-6426	Texas Eastern Transmission Corp.	Noble Gas Marketing, Inc.	08-29-94	G-S	87,500	N	I	08-06-94	Indef.
ST94-6427	Texas Eastern Transmission Corp.	North Atlantic Utilities.	08-29-94	G-S	31,050	N	I	08-01-94	Indef.
ST94-6428	Mississippi River Trans. Corp.	Equitable Resources Marketing Co.	08-29-94	G-S	100,000	Y	I	07-29-94	Indef.
ST94-6429	Natural Gas P/L Co of America.	Midcon Gas Services Corp.	08-29-94	B	50,000	Y	I	12-01-91	Indef.
ST94-6430	Natural Gas P/L Co of America.	Cenergy, Inc	08-29-94	G-S	30,000	N	I	09-01-93	Indef.
ST94-6431	Natural Gas P/L Co of America.	Total Petroleum Inc	08-30-94	G-S	12,500	N	F	07-01-94	11-30-98
ST94-6432	Natural Gas P/L Co of America.	Catex Vitol Gas, Inc	08-30-94	G-S	10,000	N	F	08-01-94	7-31-95

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6433	Natural Gas P/L Co of America.	American Hunter Energy.	08-30-94	G-S	1,000	N	F	08-01-94	11-30-00
ST94-6434	Natural Gas P/L Co of America.	Valero Gas Marketing, L.P.	08-30-94	G-S	25,000	N	F	08-01-94	8-31-94
ST94-6435	Natural Gas P/L Co of America.	Chevron U.S.A., Inc	08-30-94	G-S	25,000	N	F	08-01-94	9-30-94
ST94-6436	Natural Gas P/L Co of America.	Arcadian Corp	08-30-94	G-S	17,000	N	F	08-01-94	7-31-95
ST94-6437	Natural Gas P/L Co of America.	University of Illinois .	08-30-94	G-S	5,000	N	F	08-01-94	8-31-04
ST94-6438	Natural Gas P/L Co of America.	Associated Natural Gas, Inc.	08-30-94	G-S	9,000	N	F	08-01-94	7-31-96
ST94-6439	Natural Gas P/L Co of America.	National Gas Resources L.P.	08-30-94	G-S	50,000	N	I	08-06-94	Indef.
ST94-6440	Natural Gas P/L Co of America.	Aquila Energy Marketing Corp.	08-30-94	G-S	25,000	N	F	08-01-94	4-30-95
ST94-6441	Panhandle Eastern Pipe Line Co.	Cargill, Inc	08-30-94	G-S	100,000	N	I	08-01-94	4-30-99
ST94-6442	Panhandle Eastern Pipe Line Co.	Sithe/Independence Power Partners.	08-30-94	G-S	36,050	N	F	08-01-94	1-31-15
ST94-6443	Panhandle Eastern Pipe Line Co.	Semco Energy Services, Inc.	08-30-94	G-S	26,445	N	F	08-01-94	3-31-95
ST94-6444	Panhandle Eastern Pipe Line Co.	Sonat Marketing Co	08-30-94	G-S	55,000	N	I	08-01-94	7-31-96
ST94-6445	Panhandle Eastern Pipe Line Co.	Mississippi River Trans. Corp.	08-30-94	G	5,000	N	I	08-01-94	7-31-96
ST94-6446	Seagull Shoreline System.	Northern Natural Gas Co.	08-29-94	C	10,000	N	I	02-01-94	Indef.
ST94-6447	Channel Industries Gas Co.	Tennessee Gas Pipeline Co., et al..	08-30-94	C	100,000	Y	I	08-01-94	Indef.
ST94-6448	Iroquois Gas Trans. System, L.P.	Direct Gas Supply/ Iesco, Inc.	08-30-94	G-S	11,673	N	F	08-01-94	9-01-94
ST94-6449	Iroquois Gas Trans. System, L.P.	Transco Energy Marketing Co.	08-30-94	G-S	20,000	N	F	08-01-94	9-01-94
ST94-6450	Iroquois Gas Trans. System, L.P.	Direct Gas Supply/ Iesco, Inc.	08-30-94	G-S	11,720	N	F	08-01-94	9-01-94
ST94-6451	Iroquois Gas Trans. System, L.P.	Phibro Oil & Gas, Inc.	08-30-94	G-S	7,021	N	F	08-01-94	9-01-94
ST94-6452	Iroquois Gas Trans. System, L.P.	Phibro Oil & Gas, Inc.	08-30-94	G-S	7,000	N	F	08-01-94	9-01-94
ST94-6453	Iroquois Gas Trans. System, L.P.	Northeast Utilities Service Co.	08-30-94	G-S	280,000	N	I	08-02-94	Indef.
ST94-6454	Iroquois Gas Trans. System, L.P.	Transco Energy Marketing Co.	08-30-94	G-S	20,000	N	F	08-01-94	9-01-94
ST94-6455	Iroquois Gas Trans. System, L.P.	Direct Gas Supply/ Iesco, Inc.	08-30-94	G-S	12,000	N	F	08-01-94	9-01-94
ST94-6456	Northern Natural Gas Co.	NGC Transportation, Inc.	08-30-94	G-S	29,600	N	F	08-01-94	10-31-94
ST94-6457	Northern Natural Gas Co.	Archer Daniels Midland.	08-30-94	G-S	10,000	N	F	08-01-94	7-30-95
ST94-6458	Florida Gas Transmission Co.	City of Tallahassee .	08-31-94	G-S	10,000	N	I	08-18-94	Indef.
ST94-6459	Florida Gas Transmission Co.	CNB/Olympic Gas Services.	08-31-94	G-S	30,000	N	I	08-13-94	Indef.
ST94-6460	Florida Gas Transmission Co.	Onyx Gas Marketing Co., L.C.	08-31-94	G-S	15,000	N	I	08-25-94	Indef.
ST94-6461	Columbia Gas Transmission Corp.	O&R Energy Inc	08-31-94	G-S	N/A	N	I	08-15-94	Indef.
ST94-6462	Columbia Gas Transmission Corp.	Appalachian Gas Sales.	08-31-94	G-S	N/A	N	I	07-20-94	Indef.
ST94-6463	Columbia Gas Transmission Corp.	Vineland Cogeneration Limited Part.	08-31-94	G-S	N/A	N	I	07-20-94	Indef.
ST94-6464	Midcon Texas Pipeline Corp.	Texaco Gas Marketing Inc.	08-31-94	G-I	10,000	N	I	08-13-94	Indef.
ST94-6465	Tennessee Gas Pipeline Co.	Northeast Ohio Natural Gas Co.	08-31-94	B	1,500	N	F	08-05-94	Indef.
ST94-6466	Midwestern Gas Transmission Co.	Southern Indiana Gas & Electric Co.	08-31-94	G-S	4,856	N	F	08-12-94	Indef.

Docket No.*	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity**	AFF. Y/A/N***	Rate sch.	Date commenced	Projected termination date
ST94-6467	Midwestern Gas Transmission Co.	Tenneco Gas Marketing Co.	08-31-94	G-S	20,000	A	F	08-01-94	Indef.
ST94-6468	Tennessee Gas Pipeline Co.	Yankee Gas Services Co.	08-31-94	G-S	14,000	N	F	08-01-94	Indef
ST94-6469	Williston Basin Inter. P/L Co.	Rainbow Gas Co	08-31-94	G-S	500,000	A	I	08-01-94	7-31-96
ST94-6470	El Paso Natural Gas Co.	Meridian Oil Trading Inc.	08-31-94	G-S	10,300	N	I	08-02-94	Indef
ST94-6471	K N Interstate Gas Trans. Co.	Westar Transmission Co Inc.	08-31-94	B	50,000	A	I	03-01-94	Indef

*Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).

**Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.

***Affiliation of reporting company to entities involved in the transaction. A "Y" indicates affiliation, an "A" indicates marketing affiliation, and a "N" indicates no affiliation.

[FR Doc. 94-25660 Filed 10-17-94; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. RP94-43-007]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 12, 1994.

Take notice that on October 6, 1994, ANR Pipeline Company (ANR), tendered for filing revised tariff sheets to its Second Revised Volume No. 1 and Original Volume No. 2 FERC Gas Tariff, which ANR proposes to be effective on the dates stated thereon.

ANR states that the revised tariff sheets are being submitted in compliance with the Commission's "Order Accepting Revised Tariff Sheets, Subject to Refund and Conditions" issued September 21, 1994, in the captioned proceeding.

ANR states that each of its Volume Nos. 1 and 2 customers, interested State Commissions and all parties on the Commission's service list have been apprised of this filing via U.S. Mail.

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 Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protest should be filed on or before October 19, 1994. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-25647 Filed 10-17-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA94-5-000]

Centana Intrastate Pipeline Company; Petition for Adjustment

October 12, 1994.

Take notice that on September 27, 1994, Centana Intrastate Pipeline Company (CIPCO)[1] filed pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from 284.123(b)(1)(ii) of the Commission's regulations to permit CIPCO to use its tariff on file with the Railroad Commission of Texas (TRC) for services performed pursuant to NGPA Section 311.

In support of its petition, CIPCO states that it is an intrastate pipeline operating in the State of Texas, and is a gas utility subject to the jurisdiction of the TRC. CIPCO owns and operates the transmission and storage facilities formerly owned by Winnie Pipeline Company, which continues to operate as an intrastate pipeline. CIPCO's transportation and storage rates are subject to regulation by the TRC. CIPCO provides Section 311 transportation and storage service on behalf of interstate pipeline companies or local distribution companies served by interstate pipeline companies for a charge not to exceed the rates on file with the TRC. CIPCO desires the Commission to grant an adjustment to CIPCO to avoid any confusion with Winnie, which also has adjustments for transportation and storage.[2]

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the **Federal Register**. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-25657 Filed 10-17-94; 8:45 am]

BILLING CODE 6717-01-M

[1] Formerly Monument Intrastate Pipeline Company.

[2] 41 FERC ¶ 61,187 (1987); 61 FERC ¶ 61,152 (1992).

[Docket No. RP94-158-005]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 12, 1994.

Take notice that on October 6, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective October 1, 1994:

First Revised Sheet No. 96
First Revised Sheet No. 97

Columbia states the instant filing is being made pursuant to Ordering Paragraph (B) of the Commission's order issued September 21, 1994, in Columbia's Account No. 191 direct billing proceeding in Docket No. RP94-158, *et al.* Ordering Paragraph (B) required Columbia to file with each customer's monthly direct bill recalculated based upon customer's elections of extended amortization periods, including carrying charges reflecting the amortization period chosen.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All

such protests should be filed on or before October 19, 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 Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25648 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–21–000]

Llano, Inc.; Petition for Rate Approval

October 12, 1994.

Take notice that on September 27, 1994, Llano, Inc. (Llano) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable market-based rates for firm and interruptible storage and transportation services performed under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Llano states that it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA and it owns and operates an intrastate pipeline system in the State of New Mexico. Pipeline proposes an effective date of September 27, 1994.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before October 27, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25654 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–22–000]

Mobil Vanderbilt-Beaumont Pipeline Company; Petition for Rate Approval

October 12, 1994.

Take notice that on September 30, 1994, Mobil Vanderbilt-Beaumont Pipeline Company (MVB) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.03 per MMBtu for transportation services performed under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) on its LaGloria pipeline segment.

MVB states that it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA and it owns and operates an intrastate pipeline system in the State of Texas. MVB proposes an effective date of October 1, 1994.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before October 27, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25655 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–59–000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 12, 1994.

Take notice that on October 5, 1994, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that 1 Rev Fourteenth Revised Sheet No. 53 is being filed to establish the September 1994, Index Price for determining the dollar/volume equivalent for any transportation imbalances that may exist on contracts between Northern and its Shippers. Northern proposes an effective date of October 1, 1994.

Northern states that copies of the filing were served upon the company's customers 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, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 19, 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 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25658 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–5–000]

Northwest Pipeline Corporation; Proposed Changes in FERC Gas Tariff

October 12, 1994.

Take notice that on October 6, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 the following tariff sheets with a proposed effective date of November 6, 1994:

Fifth Revised Sheet No. 5
Fourth Revised Sheet No. 225
Third Revised Sheet Nos. 226 and 227
Second Revised Sheet Nos. 228 through 232
First Revised Sheet No. 233
Second Revised Sheet No. 234
First Revised Sheet No. 235
Second Revised Sheet No. 236
First Revised Sheet No. 237
Original Sheet Nos. 237–A through 237–C

Northwest states that the purposes of this filing are as follows: (i) To formalize the process of imbalance makeup; (ii) to allow Northwest the flexibility to entitle the system up to two hours before the start of the days and to entitle specific customers; (iii) to enable Northwest to declare one of three levels of overtake entitlement in order to provide less stringent entitlement parameters in appropriate cases; (iv) to provide for netting of Receiving Party and Shipper Imbalances for each customer; and (v) to

define and provide a way to trade "Shipper Imbalances."

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and upon affected state regulatory commissions.

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 § 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 October 19, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25651 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–6–000]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff

October 12, 1994.

Take notice that on October 6, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff the following tariff sheets with a proposed effective date of November 6, 1994:

Third Revised Volume No. 1

Third Revised Sheet No. 232
Original Sheet Nos. 232–A through 232–D

Northwest states that the purpose of this filing is to provide for operational flow orders (OFOs) on Northwest's system, to enumerate the circumstances under which OFOs will be invoked, to impose penalties on parties who fail to abide by such OFOs, to limit a party's liability for actions taken in accordance with an OFO and to limit Northwest's liability for issuing OFOs, provided Northwest acts reasonably and in good faith.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and upon affected state regulatory commissions.

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 §§ 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 October 19, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25652 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–109–013]

Pacific Gas Transmission Co.; Compliance Filing

October 12, 1994.

Take notice that on October 6, 1994, Pacific Gas Transmission Company (PGT) tendered for filing First Revision Second Revised Sheet No. 4 (proposed to be effective January 1, 1994), and Second Revision Third Revised Sheet No. 5 (proposed to be effective July 1, 1994), to its FERC Gas Tariff, First Revised Sheet No. 5 (proposed to be effective January 1, 1994) to its FERC Gas Tariff, Second Revised Volume No. 1.

PGT states that the tariff sheets which it is submitted are in compliance with the Commission's February 3, 1993, Opinion No. 381, 62 FERC § 61,109 (1993).

PGT further states it has served a copy of this filing upon all interested state regulatory agencies, PGT's jurisdictional customers and all parties on the official service list compiled by the Secretary in this proceeding.

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 § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 19, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25646 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–4–000]

Tennessee Gas Pipeline Company; Rate Filing

October 12, 1994.

Take notice that on October 6, 1994, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Revised Sheet No. 177, Second Revised Sheet No. 180, Second Revised Sheet No. 181, First Revised Sheet No. 203, First Revised Sheet No. 205, Original Sheet No. 205A, and first Revised Sheet No. 639. Tennessee requests an effective date for the above-referenced sheets of November 6, 1994.

Tennessee is proposing to change the fuel and use provision in its NET Rate Schedule. Currently, those NET Shippers who provide their own fuel are required to make it available from their Transportation Quantity. Tennessee proposes to eliminate this requirement so that those NET Shippers who provide fuel can provide fuel and use quantities in addition to their Transportation Quantity. The result of this change is that NET Shippers will be able to receive the full amount of their Transportation Quantity at their point(s) of delivery.

Tennessee proposes to modify Schedule LMS–MA by changing the delivery limit restriction on the market area aggregator Operational Balancing Agreement (OBA) from 10,000 Dth per day to 300,000 Dth per day. This increase in delivery limits will be subject to a five percent daily variance, and will be restricted by stated delivery point maximum quantities (based on firm entitlements). Tennessee has determined that it is able to afford aggregators additional flexibility over what is currently provided in the Rate Schedule without adversely affecting the operational integrity of the pipeline.

While Tennessee does not believe any waivers are necessary, Tennessee respectfully requests that the Commission grant any waivers it deems necessary for acceptance of this filing.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commission.

Any person desiring to be heard or to make any protest with reference to said

filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 24 of the Commission's Rules of Practice and Procedure,18 CFR 385.211 and 385.214. All such petitions or protests should be filed on or before October 19, 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 this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25650 Filed 10–17–94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94–68–002]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

October 12, 1994.

Take notice that on September 30, 1994, Transcontinental Gas Pile Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Original Sheet No. 40C, with a proposed effective date of November 1, 1994.

On March 2, 1994, the Commission issued a Preliminary Determination On Nonenvironmental Issues approving TGPL's 1994 Southeast Expansion project (SE94), including the initial rates proposed therein, subject to a final order addressing environmental issues. On May 27, 1994, the Commission issued an Order Issuing Certificate which granted final certificate authorization for the SE94 project (May 27 order). Ordering paragraph (B) of the Commission's May 27 order directed TGPL to file a separately stated incremental rate under Rate Schedule FT for the firm transportation service under SE94. In compliance with such directive TGPL states that it is filing Original Sheet No. 40C which sets forth the initial incremental reservation rate of $12.70 per Mcf for SE94 firm transportation service. In addition, all applicable surcharges under Rate Schedule FT including, but not limited to, the ACA, GRI and Order No. 636 transition cost surcharges shall apply to SE94 firm transportation service.

TGPL states that copies of the filing are being mailed to customers, state commissions and other interested parties.

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 § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 19, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25653 Filed 10–17–94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95–3–000]

Williams Natural Gas Company; Proposed Changes in FERC Gas Tariff

October 12, 1994.

Take notice that on October 5, 1994, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 11 and First Revised Sheet No. 12. The proposed effective date of these tariff sheets is November 5, 1994.

WNG states that this filing is being made pursuant to Article 14.1 of the General Terms and Conditions of it's tariff to collect up to $75 million paid to Amoco Production Company (Amoco) in settlement of long-standing litigation between WNG and Amoco in the Wamsutter area. Such payment to Amoco is made pursuant to the attached Principles of Settlement between WNG and Amoco. This litigation was listed as pending in WNG's previous Account No. 191 filing in Docket No. RP94–296. In the Commission's July 20, 1994, order in that docket (68 FERC 61,102), WNG states, WNG was granted permission to seek to recover costs resulting from such litigation.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 19, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25649 Filed 10–17–94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER94–1457–000]

Camelot Energy Services; Notice of Issuance of Order

October 13, 1994.

On July 15, 1994 and August 15, 1994, Camelot Energy Services (Camelot) submitted for filing a rate schedule under which Camelot will engage in wholesale electric power and energy transactions as a marketer. Camelot also requested waiver of various Commission regulations. In particular, Camelot requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Camelot.

On September 30, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Camelot 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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Camelot is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interests, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued

approval of Camelot's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 31, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25715 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1580–000]

Energy Resources Marketing, Inc.; Notice of Issuance of Order

October 13, 1994.

On August 22, 1994, Energy Resources Marketing, Inc. (ERM) submitted for filing a rate schedule under which ERM will engage in wholesale electric power and energy transactions as a marketer. ERM also requested waiver of various Commission regulations. In particular, ERM requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by ERM.

On September 30, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by ERM 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).

Absent a request for hearing within this period, ERM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interests, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of ERM's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is October 31, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25717 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1539–000]

Equitable Power Services Company; Notice of Issuance of Order

October 13, 1994.

On August 5, 1994, Equitable Power Services Company (Equitable Power) submitted for filing a rate schedule under which Equitable Power will engage in wholesale electric power and energy transactions as a marketer. Equitable Power also requested waiver of various Commission regulations. In particular, Equitable Power requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Equitable Power.

On September 8, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Equitable Power 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Equitable Power is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interests, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Equitable Power's issuances of securities or assumptions of liability.

Notice is hereby given that in this instance the deadline for filing motions to intervene or protests will be thirty days from the date of this notice, and will be November 14, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–25716 Filed 10–17–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5092–9]

Acid Rain Program; Notice of Final Compliance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final sulfur dioxide and nitrogen oxides compliance plans.

SUMMARY: The U.S. Environmental Protection Agency is approving 5-year sulfur dioxide (SO_2) compliance plans which modify previously issued final Phase I Acid Rain Permits, according to the Acid Rain Program regulations (40 CFR part 72), for the following 6 utility plants, Grand Tower, Meredosia, and Newton in Illinois; Paradise in Kentucky; Cumberland and Gallatin in Tennessee.

The U.S. Environmental Protection Agency (EPA) is approving 5-year nitrogen oxides (NO_x) compliance plans, according to the Acid Rain Program regulations (40 CFR part 76), for the following 48 utility plants: Colbert and E C Gaston in Alabama; Crist in Florida; Bowen, Hammond, Jack McDonough, Wansley, and Yates in Georgia; Coleman, Cooper, East Bend, Elmer Smith, Ghent, Green River, H L Spurlock, HMP & L Station 2, and R D Green in Kentucky, Jack Watson in Mississippi, Gallatin and Johnsonville in Tennessee; Baldwin, Grand Tower, Hennepin, Hutsonville, Joppa Steam, Meredosia, Newton, and Vermilion in Illinois; Elmer Stout in Indiana, J H Campbell in Michigan, High Bridge, and Sherburne County in Minnesota; Ashtabula, Conesville, East Lake, Edgewater, Gorge, Miami Fort, Picway, R E Burger, Toronto, Walter C Beckjord,

and W H Sammis in Ohio; Genoa, and Pulliam in Wisconsin; Gadsby in Utah; Jim Bridger and Wyodak in Wyoming.

FOR FURTHER INFORMATION: Contact the following persons for more information about a permit listed in this notice: for plants in Alabama, Florida, Georgia, Kentucky, Mississippi, and Tennessee, Brian Beals, EPA Region 4, (404) 347–5014; for plants in Illinois, Cecilia Mijares, EPA Region 5, (312) 886–0968; for plants in Indiana, Genevieve Nearmyer, EPA Region 5, (312) 353–4761; for plants in Michigan and Wisconsin, Beth Valenziano, EPA Region 5, (312) 886–2703; for plants in Minnesota, Allan Batka, EPA Region 5, (312) 353–7316; for plants in Ohio, Franklin Echevarria, EPA Region 5, (312) 886–9653; for plants in Utah and Wyoming, Mark Komp, EPA Region 8, (303) 293–0956.

Dated: October 12, 1994.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 94–25745 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5092–7]

Nominations for Exemptions to the Production and Import Phaseout of Ozone Depleting Substances for Uses Satisfying the Montreal Protocol "Essential Use" Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Through this notice, the U.S. Environmental Protection Agency is requesting applications for consideration at the Seventh Meeting of the Parties to the Montreal Protocol to be held in late 1995 for exemptions to the production and import phase-out for ozone-depleting substances including halons in 1996 and subsequent years, and for all other Class I substances for production in 1997 and subsequent years (including CFC–11, CFC–12, CFC–113, CFC–114, CFC–115, CFC–13, CFC–111, CFC–112, CFC–211, CFC–212, CFC–213, CFC–214, CFC–215, CFC–216, CFC–217, Carbon Tetrachloride, and Methyl Chloroform).

Nominations for essential use exemptions for production in 1996 for Class I substances other than halon were solicited in a previous **Federal Register** Notice (58 FR 29410; May 20, 1993) and recommendations by the Montreal Protocol Technology and Economics Assessment Panel have been forwarded to the Parties for consideration at the Sixth Meeting of the Parties, to be held October 3–5, 1994. Therefore no additional applications for essential uses for these Class I substances in 1996 will be considered in this data call. The results of the previous solicitations and subsequent actions taken by the Protocol Parties are described in this Notice.

DATES: Applications for essential use exemptions eligible for consideration at the Seventh Meeting of the Parties must be submitted to EPA no later than 45 days after date of publication of this notice in order for the U.S. government to complete its review and to submit its nominations to the United Nations Environment Programme (UNEP) and the Protocol Parties by January 1, 1995.

ADDRESSES: Karen Metchis, Program Manager; Essential Use Exemptions; Mail Stop 6205J; U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Karen Metchis, Substitutes Analysis and Review Branch, Stratospheric Protection Division (6205J), Office of Atmospheric Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; Phone (202) 233–9193; FAX (202) 233–9579. General information may be obtained from the Stratospheric Ozone Hotline at 1–800–296–1996 or (202) 775–6677.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background—The Essential Use Nomination Process
II. Summary of Actions to Date
III. Request for Applications for Production of Halons in 1996, and of All Class I Substances in 1997 and Subsequent Years

I. Background—The Essential Use Nomination Process

As described in previous **Federal Register** notices, the Parties to the Montreal Protocol on Substitutes that Deplete the Ozone Layer (the Parties) agreed during the Fourth Meeting in Copenhagen on November 23–25, 1992, to accelerate the phase-out schedules for Class I ozone-depleting substances. Specifically, the Parties agreed to phase out the production of halons by January 1, 1994 and the production of other Class I substances, except Methyl Bromide, by January 1, 1996. The Parties also took decisions and adopted resolutions on a variety of other matters, including the criteria to be used for allowing "essential use" exemptions from the phase out of production and importation of controlled substances for uses considered essential. Language regarding essential uses was added to the Protocol provisions in Article 2 governing the control measures. Decision IV/25 of the Fourth Meeting of the Protocol details the specific criteria and review process for granting essential use exemptions. The Parties recognized the importance of including such an exemption because of the accelerated phaseout dates for these chemicals.

At the Fifth Meeting of the Parties held on November 17–19, 1993 in Bangkok, the Parties modified the timetable for the nomination of essential uses for all controlled substances. Pursuant to Decision V/18, Parties may nominate production of a controlled substance for uses meeting the essential use criteria by January 1 of each year. Decisions on such nominations will be taken by the Parties in that year in which the nomination is made for production in any subsequent year. In accordance with this new timetable, the UNEP Montreal Protocol Technology and Economics Assessment Panel (the Panel) and its relevant Technical Options Committees will review and develop recommendations on the nominations and submit their report to the Protocol Parties.

Nominations can be for production in any year after the date on which the substance is phased out and can be for more than one calendar year. For example, a nomination could be submitted by January 1, 1995 for a halon essential use Decision at the Meeting of the Parties in late 1995 to allow for production of halons beginning in 1996. If adequate supplies of halons were available for 1996, but thought to be unavailable beginning in 1997, an application in 1995 could request the production exemption for 1997. The Parties may choose to grant the production exemption for one or more of the nominated years, but each approved or pending application can be reconsidered and modified by the Parties at their annual meetings. In cases where companies believe they have a use meeting the essential use criteria but where an adequate supply of the controlled substance is currently available, an application generally need not be made at this time. Applications for these uses may be made at a later date for consideration at subsequent meetings of the Parties, and EPA intends to solicit applications annually. Thus, the process permits, but does not require, that applications for essential uses for future years may be made prior to those years to facilitate planning.

In establishing these essential uses exemptions, the Parties set out criteria to apply to identify eligible essential uses and established a process for the

Parties to decide which uses would qualify under this provision. Decision IV/25 states that "a use of a controlled substance should qualify as essential only if: (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health". In addition, the Parties agreed "that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: (i) All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances."

Any essential use exemptions would also have to comply with the provisions of the Clean Air Act (CAA). Section 604 authorizes the granting of specific exemptions from the phaseout schedules contained in the Clean Air Act. Specific to halons, it allows exemptions for aviation safety [section 604(d)(3)], national security [section 604(f)], and fire suppression and explosion prevention [section 604(g)]. Other exemptions specified in section 604 include essential uses of methyl chloroform [section 604(d)(1)]; uses of Class I substances in medical devices [section 604(d)(2)]; and uses of CFC–114 for national security [section 604(f)]. To the extent that an accelerated phaseout schedule has been adopted under the Montreal Protocol, EPA can legally provide exemptions for uses not specified in the CAA, so long as these exemptions do not exceed the time limits allowed in the production reduction schedule contained in section 604(a). Since section 604(b) specifies the phaseout date for Class I substances as 2000 (2002 for methyl chloroform), that section effectively limits the authority of EPA to provide essential use exemptions for periods after the CAA's production termination dates, other than for the specific exemptions authorized by section 604.

The first step in the process to qualify a use as essential under the Protocol is for the user to carefully consider whether the use of the controlled substance meets the Protocol criteria. If the user believes that it does, the user should notify EPA of the candidate use and provide sufficient information for EPA and the Protocol Parties to evaluate that use for consistency with the criteria adopted by the Parties in Copenhagen. The Panel has issued a handbook entitled "Handbook on Essential Use Nominations," available from EPA, to guide applicants. EPA will review the candidate for exemption and will work with other interested federal agencies to determine whether or not it should be submitted to the Ozone Secretariat for further consideration. Nominations submitted to the Ozone Secretariat by the U.S. or other Parties will then be directed to the Panel and its Technical Options Committees which will review submissions and prepare recommendations to the Parties for exemptions. The Panel will review these nominations to determine whether the eligibility criteria have been satisfied and will examine the expected duration of the essential use, emission controls for the essential use application, sources of already produced controlled substances that are available to meet the essential use, and the steps necessary to ensure that alternatives and substitutes are available as soon as possible for the proposed essential use. The Parties also instructed the Panel to consider the environmental acceptability, health effects, economic feasibility, availability and regulatory status of alternatives and substitutes. The Panel's recommendations are then considered by the Parties who subsequently take final action on each proposed nomination. If the Parties decide that a specified use of a controlled substance is essential, EPA will propose regulatory changes to reflect decisions by the Parties consistent with the CAA.

If a user of the controlled substance determines that other alternatives are not feasible and that sources of future supply do not exist, the user should prepare and submit to EPA an essential use application as described below.

II. Summary of Actions to Date

The initial cycle of implementing the essential use Decision has been completed in the context of halons which were phased out of production at the end of 1993. EPA issued a **Federal Register** notice requesting nominations for essential uses of halons (February 2, 1993; 58 FR 6786). In response, the Agency received over ten nominations, but was able to work with applicants to resolve their near-term requirements. As a result, the U.S. did not nominate any uses for continued halon production in 1994. About a dozen other nations submitted nominations which were reviewed by the Technical and Economics Assessment Panel. Because the Panel determined that in each case alternatives existed or that the existing supply of banked halons was adequate to meet near-term needs, it did not recommend approval of any of the nominations. In November of 1993, at the Fifth Meeting, the Parties unanimously adopted the recommendation of the Panel not to approve any essential uses for the production or consumption of halons in 1994.

EPA issued a second notice for essential use nominations for halons on October 18, 1993 (58 FR 53722). These nominations covered possible production of halons in 1995 for essential uses. In response to this inquiry, EPA received no nominations.

Only one nomination (from France) was received by the Panel for production and consumption of halons for an essential use in 1995. The Panel did not recommend approval of this nomination.

EPA also issued a **Federal Register** notice requesting nominations for essential use applications which would need to continue beyond the 1996 phaseout of consumption and production allowances for CFCs, methyl chloroform, carbon tetrachloride, and hydrobromofluorocarbons (May 20, 1993, 58 FR 29410). EPA received 20 applications in response to this notice. For several of these applications, EPA determined that the criteria contained in Decision IV/25 had not been satisfied. For example, two applications sought CFCs for servicing existing air-conditioning equipment. EPA rejected these applications on the basis that if all economically feasible steps were taken prior to the 1996 phaseout, then a combination of retrofits and existing supplies of banked and recycled CFCs would be adequate to meet near term requirements. However, in rejecting these nominations, the United States noted that servicing existing air-conditioning and refrigeration remains a major challenge to the successful transition from the use of CFCs and that a future nomination in this area might be necessary if a combination of retrofits, replacements, recycling, recovery at disposal, and banking do not adequately address these needs.

Of the responses to the **Federal Register** request for essential use applications, the United States submitted essential use nominations to the Protocol (letter from Pomerance to UNEP, September 27, 1993) for the following uses of CFCs:

- metered dose inhalers and other selected medical applications;
- a bonding agent for the Space Shuttle;
- aerosol wasp killers;
- limited use in a specified bonding agent and polymer application; and

• a generic application for laboratory uses under specified limitations.

Nominations from the U.S. and other countries for over 200 specific uses were submitted to the Montreal Protocol Secretariat and provided to the Technical and Economics Assessment Panel for review. In March 1994, the Panel issued the "1994 Report of the Technology and Economic Assessment Panel." The Report includes the Panel's recommendations for essential-use production and consumption exemptions. The Panel recommended that essential use exemptions be granted for nominations of:

• methyl chloroform in solvent bonding of the Space Shuttle;

• CFCs used in metered dose inhalers; and

• specific controlled substances needed for laboratory and analytical applications.

For each of the other nominations submitted, the Panel determined that one or more of the criteria for evaluating an essential use had not been satisfied. For example, in the case of several of the U.S. nominations, the Report states that alternatives are available and therefore the essential use exemption is not warranted.

The next meeting of the Parties is scheduled for October 1994. At that session the Parties will review the following recommendations by the Technology and Economic Assessment Panel and make final decisions on this round of essential use nominations.

ESSENTIAL USES RECOMMENDATION BY THE UNEP TECHNOLOGY AND ECONOMIC ASSESSMENT PANEL

Company	Year	Chemical	(Metric tons)
		Metered Dose Inhalers	
International Pharmaceutical & Aerosol Consortium.	1996	CFC–11	749.8
		CFC–12	2353.2
		CFC–114	314.1
	1997	CFC–11	658.3
		CFC–12	2166.5
		CFC–114	311.4
Sterling Winthrop	1996	CFC–12	10.2
		CFC–114	29.6
	1997	CFC–12	10.5
		CFC–114	31.7
		Space Shuttle Solvent	
NASA/Thiokol	1996	Methyl Chloroform	56.8
	1997	Methyl Chloroform	56.8
	1998	Methyl Chloroform	56.8
	1999	Methyl Chloroform	56.8
	2000	Methyl Chloroform	56.8
	2001	Methyl Chloroform	56.8
		Laboratory and Analytical Applications	
Global Exemption	1996	CFCs, Methyl Chloroform, Carbon Tetrachloride.	No quantity specified.
	1997	CFCs, Methyl Chloroform, Carbon Tetrachloride.	No quantity specified.
	1998	CFCs, Methyl Chloroform, Carbon Tetrachloride.	No quantity specified.

The nomination for essential uses in 1996, 1997 and 1998 of CFCs, methyl chloroform and carbon tetrachloride in laboratory and analytical applications is being recommended by the Technology and Economic Assessment Panel for a global exemption which will not specify the quantity granted to each Party. The Panel describes the many analytical and laboratory procedures for which small quantities of controlled substances are now used and for which applications were received, such as: equipment calibration; extraction solvents, diluents, or carriers for specific chemical analyses; inducing chemical-specific health effects for biochemical research; and other critical purposes in research and development where substitutes are not readily available or where standards set by national and international agencies require specific use of a controlled substance. The Panel recommendation for a global exemption pertains only to 1996, 1997 and 1998 and refers to the manufacture of CFCs, methyl chloroform and carbon tetrachloride of very high purity to be packaged in small containers.

EPA will be issuing a Notice of Proposed Rulemaking (NPRM) in the near future which will propose to use the applications that are agreed to by the Parties to make specific allocations of essential-use allowances. Although the Panel has received applications for essential-use exemptions beyond 1997, as described in today's Notice, EPA's upcoming NPRM will only include those recommendations by the Panel for 1996 and 1997. Future Rulemakings will address Decisions taken by the Parties for exemptions beyond 1997. Final essential-use allowances promulgated by EPA may not exceed the exemptions adopted by the Parties.

III. Request for Applications for Production of Halons in 1996, and of all Class I Substances in 1997 and Subsequent Years

Through this Notice, EPA requests applications for essential use exemptions for halons for production in 1996 or after. Eligible applications will be nominated to the Secretariat for consideration at the Seventh Meeting of the Parties to be held in September, 1995 or later. Applications for essential use exemptions for halon should be submitted to EPA no later than 45 days after the date of publication of this notice to allow time for a review of the

information before the deadline for submitting nominations to the Secretariat.

Nominations for exemptions for production in 1996 of other Class I substances have previously been considered, and thus may not be submitted for consideration at this time (58 FR 29410; May 20, 1993). However, applications for other Class I substances for essential use production in 1997 or beyond may be submitted at this time for consideration in 1995.

As described previously, the Parties established criteria to apply to identifying essential uses and a process to decide which uses would qualify under Decision IV/25. The Decision states that "a use of a controlled substance should qualify as essential only if: (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health." In addition, the Parties agreed "that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances." When submitting a nomination to the Secretariat, the U.S. must be able to demonstrate that the proposed applicants meet these criteria. The burden of proof is on the nominating country, and applications failing to prove that these criteria have been met will be rejected by the Parties. Thus, it is incumbent upon applicants to ensure that all applications are supported by complete and detailed documentation including the types of information outlined in the Handbook on Essential Use Nominations to allow EPA to determine whether to submit the applications as nominations, and to allow EPA to present a strong and credible case before the Parties and the recommending Panel.

All requests for nominations submitted to EPA must present the following information in the manner prescribed in the Panel Handbook. EPA will not forward incomplete or inadequate nominations to the Montreal Protocol Secretariat for consideration, and therefore recommends that applicants make every effort to provide the requested information. Applicants should contact the Essential Use Program Manager to obtain a copy of the Handbook on Essential Use Nominations, prepared by the Panel, for guidance on preparing nominations. As noted in that book, nominations should, at a minimum:

(1) Provide details of the type, quantity and quality of the controlled substance that is requested to satisfy the use that is the subject of the nomination. Indicate the period of time and the annual quantities of the controlled substance that is requested.

(2) Provide a detailed description of the use.

(3) Explain why this use is necessary for health and/or safety, or why it is critical for the functioning of society.

(4) Explain what other alternatives and substitutes have been employed to reduce the dependency on the controlled substance for this application.

(5) Explain what alternatives were investigated and why they were not considered adequate (technically, economically or legally).

(6) Describe the measures that are proposed to eliminate all unnecessary emissions. At a minimum, this explanation should include design considerations and maintenance procedures.

(7) Explain what efforts are being undertaken to employ other measures for this application in the future.

(8) Explain whether the nomination is being made because national or international regulations require use of the controlled substance to achieve compliance. Provide full documentation including the name, address, phone and fax number of the regulatory authority requiring use of the controlled substance and provide a full copy or summary of the regulations. Explain what efforts are being made to change such regulations or to achieve acceptance on the basis of alternative measures that would satisfy the intent of the requirement.

(9) Describe the efforts that have been made to acquire stockpiled or recycled controlled substance for this application both from within your nation and internationally. Explain what efforts have been made to establish banks for the controlled substance.

(10) Briefly state any other barriers encountered in attempts to eliminate the use of the controlled substance for this application.

(11) Demonstrate consistency with CAA provisions on essential uses.

All nominations should be sent to: Karen Metchis, Program Manager, Essential Use Exemptions, Mail Stop 6205J, Environmental Protection Agency, Washington, DC 20460, FAX: (202) 233-9579, Phone: (202) 233-9193.

EPA will work with submitters, other interested federal agencies, and outside experts to review this information and forward nominations to the Protocol's Secretariat for consideration as appropriate and consistent with any CAA limitations.

Dated: October 4, 1994.

Robert D. Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 94-25743 Filed 10-17-94; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5093-1]

Notice and Open Meeting for the Permits Improvement Team

AGENCY: Environmental Protection Agency.

ACTION: National Meetings of the Permits Improvement Team.

SUMMARY: In the October 3, 1994 **Federal Register** (59 FR 50231-50232) the purpose and locations of five National Meetings of the Permit Improvement Team were announced. This notice provides the meeting location for the Dallas, Texas meeting.

In July of 1994, Administrator Browner established the Permits Improvement Team (Team) to implement specific actions to reform the permits process. These actions will (1) Improve the quality, certainty and timeliness of the permit decision process; (2) provide for earlier and better public participation in the permitting process; and (3) enhance the use of innovative technologies and pollution prevention through the permitting process. From October 20, 1994 through November 21, 1994 the Team will be holding national stakeholder meetings to receive individual input on the specific activities the Team should focus on. The objective of these meetings is to obtain individual ideas and comments, but not to obtain opinion from the meeting participants.

DATES: The Team will be holding national stakeholder meetings to solicit input on the priorities of the team. Meetings will be held on October 20th in Denver, CO, October 26th in Philadelphia, PA, November 7th in Seattle, WA, November 14th in Dallas TX, and on November 21st in Boston, MA. Meetings are open to the public and will be held from 9:00 am to 5:00 pm on these scheduled dates. Participants are requested to notify in writing which meeting they will be

attending. Notification should be to USEPA Permits Improvement Team, Mail Stop 100, 2890 Woodbridge Ave., Edison, New Jersey 08837.

ADDRESSES: The location of the November 14, 1994 meeting will be in the Dallas Park Central Hotel, 7750 LBJ Freeway, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Persons requiring further information on the substantive matters of the Team should contact, in writing, Mr. Lance Miller, USEPA Permits Improvement Team, Mail Stop 100, 2890 Woodbridge Ave., Edison, New Jersey 08837.

Dated: October 11, 1994.

Elliott P. Laws,

Designated Federal Official.

[FR Doc. 94–25788 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5094–2]

Border Environment Cooperation Commission Notice of First Public Meeting

Notice is hereby given that the first public meeting of the Border Environment Cooperation Commission (BECC) will be held in Ciudad Juarez, Mexico, on November 17, 1994 at 1:30 p.m. The meeting may be continued into the evening of the 17th and possibly into the morning of November 18. The meeting location is being arranged, but will be no more than a ten minute drive from the El Paso/Ciudad Juarez border crossing.

The BECC was created to help develop and finance environmental infrastructure projects along the U.S.-Mexican border in support of the purposes of the North American Free Trade Agreement (NAFTA). The Administrator of the U.S. Environmental Protection Agency is a member of the BECC Board.

Any person may attend a public meeting of the BECC Board as an observer by providing his/her name and the name of the organization, if any, with which he/she is affiliated. Persons may register in advance or at the meeting.

Persons wishing to make an oral statement at the meeting can send their request no later than November 2, 1994, to the address or fax below. The request should identify the name of the individual, the organization, if any, he/she represents, address and phone number for contact purposes, and the topic the individual wishes to address. Oral statements will be limited to ten minutes and must be made in English or Spanish. Oral statements need not be in writing, but a written version of the oral statement in English or Spanish is helpful. Simultaneous translation in English and Spanish will be provided.

Persons may also submit a written statement for formal consideration by the BECC Board during the public meeting. Written statements submitted by November 7, 1994, may be in either English or Spanish. Written statements submitted at the meeting must be in both languages.

The public meeting agenda is as follows:

1. Presentation by BECC Board of Directors.
2. Status of environmental infrastructure programs on the U.S.-Mexico border by U.S. and Mexican government officials.
3. Oral presentations by the public.

To register as an observer, to send a request to make an oral presentation, to send a written statement, to obtain meeting location directions, or to receive answers to questions about the meeting, contact:

BECC Board of Directors, P.O. Box 10525, El Paso, Texas 79995, Telephone and fax in Ciudad Juarez (from the U.S. dial 011–52–16–115120; from Mexico dial 91–16–115120)

or

EPA Border Liaison Facility, Telephone: 915/533–7273, Fax: 915/533–2327

Dated: October 14, 1994.

Robert M. Sussman,

Deputy Administrator, U.S. Environmental Protection Agency.

[FR Doc. 94–25872 Filed 10–17–94 8:45am]

BILLING CODE 6060–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficiency of Assets to Satisfy All Claims of Certain Financial Institutions in Receivership

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: In accordance with the authorities contained in 12 U.S.C. 1821(c), the Federal Deposit Insurance Corporation (FDIC) was duly appointed receiver for the financial institution specified in **SUPPLEMENTARY INFORMATION.** The FDIC has determined that the proceeds which can be realized from the liquidation of the assets of the below listed receivership estate are insufficient to wholly satisfy the priority claims of depositors against the receivership estates. Therefore, upon satisfaction of secured claims, depositor claims and claims which have priority over depositors under applicable law, no amount will remain or will be recovered sufficient to allow a dividend, distribution or payment to any creditor of lessor priority, including but not limited to, claims of general creditors. Any such claims are hereby determined to be worthless.

FOR FURTHER INFORMATION CONTACT: Tina A. Lamoreaux, Counsel, Legal Division, FDIC, 550 17th Street, NW., Room H–11027, Washington, DC 20429. Telephone: (202) 736–3134.

SUPPLEMENTARY INFORMATION: Financial Institution in Receivership Determined to Have Insufficient Assets to Satisfy All Claims

Premier Bank, #4573, Northridge, California

Dated: October 12, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–25698 Filed 10–17–94; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1040-DR]

Republic of the Marshall Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Republic of the Marshall Islands (FEMA–1040–DR), dated October 6, 1994, and related determinations.

EFFECTIVE DATE: October 6, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 6, 1994, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the Republic of the Marshall Islands; resulting from high tide and wave action on June 9–10, 1994, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Republic of the Marshall Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated area. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Dale Peterson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Republic of the Marshall Islands to have been affected adversely by this declared major disaster:

Majuro Atoll for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 94–25735 Filed 10–17–94; 8:45 am]

BILLING CODE 6718–02–P–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200887.

Title: Florida Ports Conference.

Parties:

Canaversal Port Authority
Port Everglades Authority
Jacksonville Port Authority
Manatee County Port Authority
Metro-Dade Board of County Commissioners
Ocean Highway and Port Authority
Panama City Port Authority
City of Pensacola, Department of Marine Operations
Tampa Port Authority

Filing Agent: James C. Massie, Esquire, Massie & Scott, P.O. Box 10371, Barnett Bank Building, Tallahassee, Florda 32302–2371.

Synopsis: The proposed Agreement authorizes the parties to establish a conference arrangement between U.S. Marine Terminal Operators in Florida. It also permits the parties to discuss rates and charges, rules and regulations, practices and other matters of mutual concern.

Dated: October 12, 1994.

By order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 94–25642 Filed 10–17–94; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following committee meeting.

Name: Board of Scientific Counselors, ATSDR.

Times and Dates: 8:30 a.m.–5:30 p.m., November 9, 1994; 8:30 a.m.–1:30 p.m., November 10, 1994.

Place: The Wyndham Garden Hotel—Buckhead, 3340 Peachtree Road, NE, Atlanta, Georgia 30326.

Status: The entire meeting will be open to the public.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of the science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize.

Agenda: The agenda will include an update on Superfund reauthorization and will also focus on other issues of concern to ATSDR, including an overview of health studies supported and/or conducted by ATSDR, a site-specific study, studies of priority health conditions, multi-site data bank studies, and studies in support of the ATSDR National Exposure Registry; ATSDR medical surveillance criteria; psychological impact of hazardous waste; and an update on the work of the Board of Scientific Counselors, ATSDR, concerning Significant Human Exposure Levels.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Charles Xintaras, Sc.D., Executive Secretary, Board of Scientific Counselors, ATSDR, Mailstop E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708.

Dated: October 11, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–25688 Filed 10–17–94; 8:45 am]

BILLING CODE 4163–70–M

Agency For Toxic Substances and Disease Registry

[ATSDR–86]

Availability of Draft Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of eight new draft toxicological profiles on unregulated hazardous substances prepared for the Department of Defense by ATSDR for review and comment.

DATES: To ensure consideration, comments on these draft toxicological profiles must be received on or before December 12, 1994. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for copies of the draft toxicological profiles or comments

regarding the draft toxicological profiles should be sent to the attention of Ms. Kim Fears, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Requests for the draft toxicological profiles must be in writing. Please specify the profiled hazardous substance(s) you wish to receive. ATSDR reserves the right to provide only one copy of each profile requested, free of charge. In case of extended distribution delays, requestors will be notified.

Written comments and other data submitted in response to this notice and the draft toxicological profiles should bear the docket control number ATSDR–86. Send one copy of all comments and three copies of all supporting documents to the Division of Toxicology at the above address by the end of the comment period. All written comments and draft profiles will be available for public inspection at the ATSDR, Building 4, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8:00 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Fears, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road NE., Atlanta, Georgia 30333, telephone, (404) 639–6304.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99–499) amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of Health and Human Services of not less than 25 of the most commonly found unregulated hazardous substances at defense facilities. Each profile includes an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information and data are used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), may plan a program of research designed to determine these health effects.

Although key studies for each of the substances were considered during the profile development process, this **Federal Register** notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profiles now or in the future.

The following draft toxicological profiles are expected to be available to the public on or about September 23, 1994.

Document and hazardous substance	CAS No.
1. Di-N-Octylphthalate	117–84–0
2. Hexachloroethane	67–72–1
3. HMX	2691–41–0
4. Hydraulic Fluids	(1)
5. Hydrazines	302–01–2
1,1–Dimethylhydrazine	57–14–7
1,2–Dimethylhydrazine	540–73–8
Dimethylhydrazine	30260–66–3
6. Mineral-Based Crankcase Oil	8002–05–9
7. Titanium Tetrachloride	7550–45–0
8. White Phosphorus	7723–14–0

[1] Various.

All profiles issued as "Drafts for Public Comment" represent the agency's best efforts to provide important toxicological information on priority hazardous substances. We are seeking public comments and additional information which may be used to supplement these profiles. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our clients.

Dated: October 12, 1994.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 94–25689 Filed 10–17–94; 8:45 am]

BILLING CODE 4163–70–P

Centers for Disease Control and Prevention

[CRADA 94–003]

Cooperative Research and Development Agreement

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), National Center for Infectious Diseases, announces the opportunity for potential collaborators to enter into a Cooperative Research and Development Agreement (CRADA) for the refinement and commercialization of a sensitive and specific assay for the detection of reverse transcriptase in a variety of sample types.

It is anticipated that this and any new technologies or inventions which may arise from this CRADA will be licensed to the collaborator with whom the CRADA is made.

Because CRADAs are designed to facilitate the development of scientific and technological knowledge into useful, marketable products, a great deal of freedom is given to Federal agencies in implementing collaborative research. The CDC may accept staff, facilities, equipment, supplies, and money from the other participants in a CRADA. CDC may also provide staff, facilities, equipment, and supplies to the project. There is a single restriction in this exchange: CDC MAY NOT PROVIDE FUNDS to the other participants in a CRADA. This opportunity is available until 30 days after publication of this notice. Respondents may be provided a longer period of time to furnish additional information if CDC finds this necessary.

FOR FURTHER INFORMATION CONTACT:

Technical

Walid Heneine, Ph.D., or Thomas Folks, Ph.D., Retrovirus Diseases Branch, Division of Viral and Rickettsial Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop G–19, Atlanta, GA 30333, telephone (404) 639–1024.

Business

Lisa Blake-DiSpigna, Technology Transfer Representative, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–19, Atlanta, GA 30333, telephone (404) 639–3227.

SUPPLEMENTARY INFORMATION: To speed the research, development, and commercialization of this technology, CDC, National Center for Infectious Diseases is seeking an agreement with a biotechnology or pharmaceutical company in accordance with the regulations governing the transfer of government-developed agents for joint research, development, evaluation, and commercialization.

CDC has developed a sensitive and specific reverse transcriptase assay which has a number of possible commercial uses, such as: (1) Sensitive detection of known and unknown retroviruses in supernatants from cell cultures of human or animal samples, (2) screening samples of serum/plasma, cerebrospinal fluid, or any other cells or tissues from a human or animal source for the presence of known or unknown retroviruses, (3) in vitro testing of antiretroviral drugs, (4) monitoring viral burden, such as in studies of the efficacy of antiviral drug therapy in HIV-infected patients, and (5) detection of RT-associated agents other than retroviruses.

This developmental assay uses an in vitro transcribed heteropolymeric RNA sequence for the RT enzyme template, and gene amplification with Southern blot hybridization as the detection system for the cDNA product of the reaction. A comparative analysis using HIV-1 found the assay to be 10^5 times more sensitive than standard RT, and from 10^2 to 10^4 times more sensitive than p24 antigen capture, branched DNA, and RT-PCR assays.

The CRADA partner will refine the assay to make it more amenable for clinical laboratory use. Such refinements may include adapting it to a 96-well microtiter format and modifying the detection system to use a non-radioactive methodology, such as chemiluminescence. The collaborator will utilize its scientific expertise to explore additional applications of the assay, and its market research to evaluate the commercialization of the technology.

Respondents should provide evidence of expertise in the development and evaluation of molecular diagnostic assays, evidence of experience in commercialization of diagnostics products, and supporting data (e.g., publications, proficiency testing, certifications, resumes, etc.) of qualifications for the principal investigator who would be involved in the CRADA. The respondent will develop the final research plan in collaboration with CDC.

Applicant submissions will be judged according to the following criteria:

1. Expertise in molecular biology;
2. Evidence of scientific credibility;
3. Evidence of commitment and ability to develop innovative molecular diagnostic assays;
4. Evidence of preparing non-radioactive detection systems for molecular probes or markers; and
5. Evidence of an existing infrastructure to commercialize successful technologies.

This CRADA is proposed and implemented under the 1986 Federal Technology Transfer Act, Public Law 99-502 (15 U.S.C. 3710).

The responses must be made to: Lisa Blake-DiSpigna, Technology Transfer Representative, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C-19, Atlanta, GA 30333.

Dated: October 12, 1994.

Deborah L. Jones,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94-25690 Filed 10-17-94; 8:45 am]

BILLING CODE 4163-18-P

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Joint Meeting of the Food and Veterinary Medicine Advisory Committees

Date, time, and place. November 2 and 3, 1994, 8:30 a.m., Howard Johnson Hotel-National Airport, Pentagon Ballroom, 2650 Jefferson Davis Hwy., Arlington, VA.

Type of meeting and contact person. Open committee discussion, November 2, 1994, 8:30 a.m. to 5:15 p.m.; open committee discussion, November 3, 1994, 8:30 a.m. to 8:45 a.m.; open public hearing, 8:45 a.m. to 9:45 a.m., unless public participation does not last that long; open committee discussion, 9:45 a.m. to 12:15 p.m.; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS-5), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-4727, or Catherine M. DeRoever, Advisory Committee Staff (HFS-22), 202-205-4251, FAX 202-205-4970.

General function of the committees. The Food Advisory Committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade. The Veterinary Medicine Advisory Committee reviews and evaluates available data concerning safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by close of business October 25, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. If necessary, comments may be limited to 5 minutes.

Open committee discussion. The joint committees will discuss possible future initiatives that impact on science and regulation in areas such as biotechnology, food safety and processing, compositionally enhanced foods, and food production and agriculture sustainability. The biotechnology discussion will focus on FDA's 1992 policy statement on foods derived from new plant varieties developed by new biotechnology methods. Also, because FDA is considering proposing a premarket notification program, the committees will be asked to discuss procedures that FDA might use to become aware of a developer's intention to introduce such foods into commercial distribution. The agency will present examples of the applications for products currently approaching commercialization. In addition, the committees will be asked to consider proposed criteria that would identify concerns for which FDA might seek advisory committee assistance.

Joint Meeting of the Dermatologic Drugs and Anti-Infective Drugs Advisory Committees With Nonprescription Drugs Advisory Committee Representation

Date, time, and place. November 16, 1994, 8 a.m., Bethesda Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Ermona B. McGoodwin or Valerie M. Mealy, Center for Drug

Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committees. The Dermatologic Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of dermatologic diseases. The Anti-Infective Drugs Advisory Committee reviews and evaluates data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 9, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will jointly discuss the potential for development of antibiotic resistance with over-the-counter use of topical erythromycin in the treatment of acne.

Anti-Infective Drugs Advisory Committee

Date, time, and place. November 17, 1994, 8:30 a.m., Bethesda Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Ermona B. McGoodwin or Mary Elizabeth Donahue, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 9, 1994, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the validity of endoscopically-obtained maxillary sinus specimens versus antral puncture for the microbiological diagnosis of sinusitis.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 14, 1994.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 94–25945 Filed 10–17–94; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 56 FR 29484, June 27, 1991, as amended most recently in pertinent part 59 FR 9487, February 28, 1994) is amended to reflect an organizational change in the Food and Drug Administration (FDA).

FDA has increasing demands for integration and coordination among Agency information systems both in pursuit of new initiatives and in improved efficiencies in the continued execution of existing responsibilities. The Commissioner or Food and Drugs has determined that this integration and coordination can best be accomplished by moving the paperwork and records management activities into the Office of Information Resources Management (OIRM) and moving OIRM out of the Office of Management. OIRM will be combined with the strategic systems planning activities in the Office of Management and Systems (OMS). OIRM will be elevated to report directly to the Deputy Commissioner for Management and Systems. The functions of OIRM will be expanded specifically to include strategic systems activities.

Under Chapter HF, Section HF–B, Organization:

1. Delete subparagraph Office of Management (HFA7) in its entirety and insert a new subparagraph under the Office Management and Systems (HFA6), reading as follows:

Office of Management (HFA7). Advises and assists the Commissioner and other key officials on all phases of management inherent in the operations of FDA.

Directs the effective utilization of all management resources and the implementation of operating programs by coordinating the funding, manpower, facilities, and non-ADP equipment resources of the Agency.

Assures that the conduct of Agency administrative and financial management activities, including budget, finance, personnel, organization, methods, grants and contracts, procurement and property, and similar support activities, effectively supports program operations.

Develops policy and procedures necessary to maintain the integrity of trade secrets and other privileged information submitted by industry to FDA; formulates Agencywide non-ADP security policy and investigates and recommends action concerning security problems.

Coordinates Agency response to external audits, including negotiation of difference, preparation of official Agency responses to audit findings, implementation of accepted recommendations, and preparation of progress reports for the HHS Inspector General and the Secretary.

Provides a focal point for committee management activities within FDA.

Processes the public response to proposed FDA rulemaking and formal adjudications.

Coordinates the preparation of internal travel plans, including the Annual International Travel Plan for the Commissioner's approval.

2. Insert a new subparagraph Office of Information Resources Management (HFA8) under the Office of Management and Systems (HFA6) reading as follows:

Serves as the focal point for the Agencywide strategic information resources management program.

Advises the Commissioner and other key officials on information resources management and strategic systems issues.

Coordinates information resources management and telecommunications strategic planning.

Participates and facilitates decisionmaking on information priorities and resource allocations.

Identifies and coordinates the development of Agency systems initiatives and project management of automated administrative programs.

Directs the Agency's centralized ADP user support.

Develops and provides ADP contractual oversight of automated programs.

Houses the Parklawn Computer Center.

Provides leadership and guidance to Headquarters staff offices and operating activities and field activities for management programs relating to reports, directives, correspondence, records, forms, and microforms.

Under Chapter HF, Section HF–D, Prior Delegations of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: October 7, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–25720 Filed 10–17–94; 8:45 am]

BILLING CODE 4160–01–M

[GN #2280]

Office of the Assistant Secretary for Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 59 FR 10135, March 3, 1994) is amended to reflect the establishment of an OASH Executive Office to provide a focal point for OASH management and administrative support services in the areas of budget, personnel, information technology, and administrative services.

Office of the Assistant Secretary for Health

Under *Chapter HA, Office of the Assistant Secretary for Health, Section HA–10, Organization*, add the following: 19. OASH Executive Office (HAU5)

Under *Chapter HA, Section HA–20, Functions*, following the statement for the *Division of Payment Management (HAU45), Office of Resource Management (HAU4)* add the following title and statement:

OASH Executive Office (HAU5). Under the direction of an Executive Officer who reports to the Director, Office of Management, the Office:

(1) Serves as the focal point for planning, managing, and administering support services to OASH components in the areas of budget, personnel, and information systems and technologies;

(2) Serves as the principal advisor to the ASH regarding OASH financial and personnel management matters;

(3) Maintains liaison with OS and OMB staff having review responsibilities for OASH budget proposals;

(4) Provides technical assistance to the directors of the OASH component organizations on matters related to budget, personnel, and information systems and technologies;

(5) Advises and assists the ASH on the planning, internal allocation, and day-to-day management of resources among the OASH component organizations, including developing policies and instructions for OASH budget preparation and presentation;

(6) Ensures that the internal management and administrative activities of the OASH components are carried out in accordance with Federal law, regulations, and DHHS and PHS policies; and

(7) Coordinates the development and implementation by OASH of strategies, plans, policies, and standards necessary to guide acquisition and adoption of cost-effective automated information systems and technologies.

After the statement for the *Division of Management Planning and Analysis (HAU26)*, delete the title and statement in its entirely for the *Division of OASH Information Technology and Management (HAU27).*

After the statement for the *Division of Staffing and Development (HAU36)*, delete the title and statement in its

entirety for the *Division of Personnel Operations (HAU37).*

Office of the Assistant Secretary for Health

Under *Chapter HA, Section HA–30, Delegations of Authority,* add the following:

All delegations and redelegations of authority to officers and employees of the OASH which were in effect immediately prior to the effective date of this reorganization will be continued in effect in them or their successors, pending further redelegations, provided they are consistent with this reorganization.

Effective date. This reorganization is effective November 1, 1994.

Dated: September 28, 1994.

Philip R. Lee,

Assistant Secretary for Health.

[FR Doc. 94–25719 Filed 10–17–94; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Plan of Operations and Environmental Assessment Plug, Abandonment and Reclamation; Vantage Point Energy Padre Island National Seashore; Kleberg County, Texas

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 Vantage Point Energy a Plan of Operations and Environmental Assessment for plugging, abandonment, and reclamation of the Laguna Madre State Tract 180 Oil Well within Padre Island National Seashore, located within Kleberg 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, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas; or the Division of Environmental Coordination, National Park Service, Southwest Regional Office, 1220 S. St. Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418, and will be sent upon request.

Dated: October 11, 1994.

Philip A. Francis,

Regional Director, Southwest Region.

[FR Doc. 94–25734 Filed 10–17–94; 8:45 am]

BILLING CODE 4310–70–M

Cape Cod National Seashore South Wellfleet, Massachusetts; Cape Cod National Seashore Advisory Commission, Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, November 4, 1994.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet at 1 p.m. at Park Headquarters, Marconi Station for their regular business meeting which will be held for the following reasons:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting
3. Reports of Officers
4. Old Business
5. Superintendent's Report
6. FAA Radar Facility
7. Hatches Harbor Project Update
8. Concessions Overview
9. New Business
10. Agenda for Next Meeting
11. Date for Next Meeting
12. Communications/Public Comment
13. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, So. Wellfleet, MA 02663.

Dated: October 5, 1994.

Chrysandra L. Water

Acting Regional Director.

[FR Doc. 94–25733 Filed 10–17–94; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed on the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change In the Substances or in the Method of Collection

(1) Arrival and Departure Record, Immigration and Naturalization Service Form I–94.

(2) Form I–94. Immigration and Naturalization Service.

(3) On Occasion.

(4) Individuals or households. Documentation of alien arrival and departure, to and from the United States, is part of the manifest requirements of Section 231 and 235 of the Immigration and Nationality Act and may be evidence of registration when issued as provided by Section 264 of the Act.

(5) 19,000,000 annual respondents at .066 hours per response.

(6) 1,254,000 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged

Dated: October 12, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–25640 Filed 10–17–94; 8:45 am]

BILLING CODE 4410–10–M

Information Collection Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Guarantee of Payment INS Form I–510.

(2) Form I–510. Immigration and Naturalization Service.

(3) On Occasion.

(4) Businesses or other for profit. Section 253 of the Immigration and Naturalization Act provides that the master or agent of a vessel or aircraft shall guarantee payment for expenses incurred for an alien crewman who arrived in the United States and is afflicted with any disease or illness mentioned in Section 255 of the Immigration and Naturalization Act.

(5) 100 annual respondents at .083 hours per response.

(6) 8 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

October 12, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–25611 Filed 10–17–94; 8:45 am]

BILLING CODE 4410–10–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated August 22, 1994, and published in the **Federal Register** on August 26, 1994, (59 FR 44191), Celgene Corporation, 7 Powder Horn Drive, Warren, New Jersey 07059, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 2,5-Dimethoxyamphetamine (7396) a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 6, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–25718 Filed 10–17–94; 8:45 am]

BILLING CODE 4410–09–M

Notice of Lodging of De Minimis Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Early *De Minimis* Consent Decree in *United States and State of Connecticut* v. *A.F. Murphy Die & Machine Co., Inc., et al.*, Civil Actions Nos. 394:CV1667 and 394:CV1668 was lodged on September 29, 1994 with the United States District Court for the District of Connecticut. The complaint in this action seeks (1) to recover, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") 42 U.S.C. 9601 *et seq.*, response costs incurred and to be incurred by EPA at the Solvents Recovery Service of New England, Inc. Superfund Site located in the Town of Southington, Connecticut ("Site") and natural resources damages at the Site; and (2) injunctive relief under Section 106 of CERCLA, 42 U.S.C. 9606, and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 9673.

The proposed Early *De Minimis* Consent Decree embodies an agreement with 840 parties, representing 882 potentially responsible parties ("PRPs") at the Site pursuant to Section 122(g) of CERCLA, 42 U.S.C. 9622(g): (1) To reimburse EPA and the State of Connecticut for a portion of their past and future response costs at the Site; (2) to pay partial damages to the U.S. Department of the Interior for injury to, destruction of, or loss of natural resources at the Site under the trusteeship of the Secretary of the Interior. Of the $6.7 million generated by the settlement, approximately $1.9 million and $420,000 will be paid to EPA and the State of Connecticut, respectively, for reimbursement of past

response costs; $60,000 will be paid to the Department of the Interior for natural resource damages; $1.8 million will be used for the partial funding of a non-time-critical removal action ("NTCRA") being performed at the Site by the larger-volume generator PRPs; and the remaining $2.5 million will be set aside for the funding of future remedial actions at the Site. The NTCRA comprises, *inter alia*, the installation and operation of a groundwater containment system designed to prevent further migration from the Site of contaminated groundwater. The Early *De Minimis* Consent Decree also provides the settling defendants with a release for civil liability for EPA's and the State's past and future CERCLA response costs and natural resource damages at the Site for resources under the trusteeship of the Secretary of the Interior and the Secretary of Commerce, through the National Oceanic and Atmospheric Administration.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Early *De Minimis* Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States and State of Connecticut* v. *A.F. Murphy Die & Machine Co., Inc., et al.*, DOJ Ref. No. 90-7-1-23C.

The proposed consent decree may be examined at the Office of the United States Attorney, 157 Church Street, 23rd Floor, New Haven, Connecticut 06510; the Region I Office of the Environmental Protection Agency, Region I Records Center, 90 Canal Street, First Floor, Boston, MA 02203; and at the Consent Decree Library, 1120 G Street, N.W., Fourth 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, Fourth Floor, N.W., Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $244.00 (25 cents per page reproduction costs), payable to the Consent Decree Library. If you wish to receive a copy without the settlers' signature pages, please so indicate, and enclose a check in the amount of $34.00 payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-25767 Filed 10-17-94; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States and State of Hawaii* v. *City and County of Honolulu*, Civ. No. 94-00765DAE, was lodged with the United States District Court for the District of Hawaii, on October 3, 1994. That action was brought against defendant pursuant to the Clean Water Act ("the Act") for penalties and injunctive relief as a result of unauthorized discharges from the City and County of Honolulu's ("the City") sewage collection system and for failure to implement a pretreatment program at its various wastewater treatment plants. The decree requires the City to pay $1.2 million in civil penalties to the United States and State of Hawaii, to fully implement its pretreatment program in accordance with the regulations, and to perform significant maintenance and rehabilitation work on its collection system. In addition, the City is required to perform two Supplemental Environmental Projects—one for beneficial reuse of sludge and one for beneficial reuse of effluent.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *United States and State of Hawaii* v. *City and County of Honolulu*, D.J. Ref. 90-5-1-1-3825.

The proposed consent decree may be examined at the office of the United States Attorney for the District of Hawaii, Room 6100, PJKK Federal Building, 300 Ala Moana Blvd., Honolulu, Hawaii 96850, at the Region IX office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, 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. In requesting a copy, please enclose a check in the amount of $17.00 for the decree (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States and State of Hawaii* v. *City and County of Honolulu*, D.J. Ref. 90-5-1-1-3825.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94-25766 Filed 10-17-94; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on August 9, 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 Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. 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, Roanoke Cement Company has resigned its membership effective May 31, 1994, and National Portland Cement Company has resigned effective September 1, 1994.

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 PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA 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 February 5, 1985, 50FR 5015.

The last notification was filed with the Department on May 17, 1994. Notice in the **Federal Register** was published pursuant to Section 6(b) of the Act on June 30, 1994, 59FR 33783.

Mark C. Schechter,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 94-25768 Filed 10-17-94; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. C–04]

Notice of Public Meeting on OSHA's Standards Planning Process

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Notice of public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is developing a new standards planning process for standards setting and other agency activities. This new system will ensure that the agency's limited resources are directed appropriately and result in the promulgation of standards and other appropriate agency actions that have the maximum public health impact.

One of the early steps in this process is the solicitation of suggestions from interested individuals for workplace hazards or issues that might warrant appropriate OSHA action.

This notice requests such written comments, and announces a public meeting to provide an opportunity for interested individuals to informally discuss the workplace hazards or issues included on a preliminary list of suggestions. Also, in accordance with Executive Order 12866, OSHA requests written comments from the public regarding how existing OSHA standards can be improved.

DATES: The public meeting will be held on Monday, November 21, 1994, in room C5515, Seminar Rooms 1A–B of the Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C., 20210. The meeting will begin at 9:30 a.m. and is scheduled to end at 4:45 p.m.

Requests to Appear: OSHA requests that any person wishing to appear at the public meeting notify OSHA in writing. To assume that time is provided for oral comments, the request should be received by OSHA no later than Monday, November 7, 1994, and should identify the person and/or organization intending to appear, address and phone/fax number, the amount of time requested, and a brief summary of the comments. OSHA also requests that any suggestions for hazards or issues which should be included on the OSHA Action List, including comments on existing OSHA standards, be submitted to OSHA in writing no later than Monday, November 7, 1994. To facilitate discussion at the public meeting, all persons who notify OSHA of their intention to appear will receive a package of material containing a preliminary list of suggestions, along with additional background material prior to the meeting.

Please send written requests to appear, and any written comments, to Sue Andrei at the address listed below. All comments received from interested parties will be included in Docket C–04, and available for public review in the OSHA Docket Office, Room N2625, 200 Constitution Avenue, N.W., Washington, D.C., 20210, telephone (202) 219–7894.

Persons with disabilities, who need special accommodations, should contact Sue Andrei, by November 16, 1994, at the address indicated below.

FOR FURTHER INFORMATION CONTACT: Sue Andrei, Directorate of Policy, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 219–8055, extension 113, FAX (202) 219–4383.

SUPPLEMENTARY INFORMATION: The Assistant Secretary has assigned the development of priorities under the agency's new standards planning process to an internal committee, the Standards Planning Committee. The committee will be assisted by experts from other governmental agencies, and will seek public input in its decisions. The Assistant Secretary retains authority over all decisions for agency action.

The primary task of the committee is to develop a list of up to 50 workplace hazards or issues that warrant appropriate OSHA action (the "OSHA Action List"). For all of the items on the OSHA Action List, the committee will recommend appropriate agency action (e.g., rulemaking, revision of existing standards, issuance of a hazard alert, enforcement emphasis, consultation, etc.) to the Assistant Secretary and the Director of NIOSH, including a subset of up to 20 items (the "Regulatory Intent List") intended for rulemaking.

The committee sent letters to a broad range of readily identifiable stakeholders, including labor and industry groups, professional organizations, academia, Occupational Safety and Health State Plan Designees, Federal government agencies, and others, soliciting suggestions of possible workplace hazards or issues for inclusion on the OSHA Action List. Continuing this search for additional stakeholder suggestions, the Standards Planning Committee invites all interested parties who have not yet been contacted individually to provide written comments for the committee's consideration.

The committee will review all suggestions submitted by the November 7, 1994, due date and prepare a preliminary list for discussion at the public meeting. The purpose of the meeting is to give equal opportunity for interested parties to discuss their particular views with OSHA concerning which hazards or issues should be included on the OSHA Action List.

When submitting suggestions for hazards or issues to OSHA, please include (1) the name of the hazard/issue (these include chemical, biological or physical hazards such as chromium, tuberculosis, or noise; safety hazards such as unguarded machines; program needs such as exposure assessment or medical surveillance); and (2) a brief description of the hazard/issue. In making suggestions, the following criteria should be considered. (1) How serious is the hazard/issue (i.e., what are the possible consequences to exposed employees? Death? Loss of limb? Cancer? How likely is it that exposed workers would be affected?)? (2) How many workers are exposed? What is the number of workers experiencing injury, illness or death due to the hazard (please indicate if these numbers are estimates, and if not, the source of the data)? What types of workplaces and industries are affected? (3) How reliable and accurate is available risk information? (4) What is the risk reduction potential of OSHA action (i.e., can agency action be reasonably expected to reduce or eliminate exposure to the hazard? What risk reduction technologies are available and are technologically and economically feasible? Could regulation of the hazard/issue potentially force or stimulate technological change?)?

In making recommendations for which hazards or issues should be included on the OSHA Action List, the committee will consider a number of factors, including: (1) The seriousness of the hazard; (2) the number of exposed workers; (3) the quality of available risk information; and (4) risk reduction potential, among others. The committee will also consider additional factors in recommending specific agency actions, such as: (1) administrative efficiency or feasibility; (2) legal feasibility; and (3) other public policy considerations. The Regulatory Intent List is a source from which OSHA will draw items for its Regulatory Calendar. As final standards are published, items from the Regulatory Intent List will be moved up to the Regulatory Calendar for rulemaking.

Persons making timely written requests to speak at the public meeting will be given priority for oral comments, as time permits. Other persons wishing to speak should register at the meeting from 8:45–9:15. The Standards Planning Committee will make every effort to accommodate individuals wishing to speak at the public meeting.

Authority: This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of October, 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–25764 Filed 10–17–94; 8:45 am]

BILLING CODE 4510–26–M

MERIT SYSTEMS PROTECTION BOARD

Notice of Availability of Appeal Forms

AGENCY: Merit Systems Protection Board.

ACTION: Correction.

SUMMARY: The Notice on Availability of Appeal Forms which was published on September 15, 1994, contained an error in the FAX number. The following Notice contains the correct FAX number:

The Merit Systems Protection Board (MSPB) now maintains stock of the MSPB Appeal Form (OF–283). Henceforth, agencies should direct all supply requests for the current edition of this form to the Financial and Administrative Management Division, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419. The telephone number is (202) 653–7263. The FAX number is (202) 653–5589. A reasonable supply of the form will be made available to agencies without charge. Agencies are also authorized to reproduce the form locally.

EFFECTIVE DATE: October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Dick Dorr, Financial and Administrative Management Division, (202) 653–7263.

Dated: October 12, 1994.

Shannon McCarthy,

Deputy Clerk.

[FR Doc. 94–25639 Filed 10–17–94; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date and Time: October 31, 1994—8:30 am–5:30 pm; November 1, 1994—8:30 am–1:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 375, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Thomas A. Weber, Executive Officer, MPS, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Telephone: (703) 306–1802.

Minutes: May be obtained from the contact person listed above.

Meeting Purpose: To provide advice and recommendations on development of MPS strategic planning mechanisms; provide advice on the appropriateness of current disciplinary boundaries; evaluate the current MPS interfaces with academia and industry; and advise on methods of achieving overall program excellence in MPS.

Agenda

October 31, 1994

AM—Introductory Remarks; Prioritization Discussion with MPS Divisions

PM—Discussion of Approach to Interdisciplinarity; Discussion of Education/Diversity Initiative

November 1, 1994

AM—Strawman Proposal for Global Prioritization; Discussion/Summary of Issues.

Dated: October 12, 1994

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–25732 Filed 10–17–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new revision, or extension: Revision.

2. The title of the information collection: Proposed Rule, "10 CFR 50.67: Shutdown and Low-Power Operations for Nuclear Power Reactors."

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time.

5. Who will be required to report: Commercial nuclear power plant licensees.

6. An estimate the number of annual respondents: licensees of 74 nuclear power plant sites.

7. An estimate of the total number of hours needed annually to complete the requirement: 232,360 (approximately 3160 hours of recordkeeping burden per site).

8. An indication of whether section 3504(h), Pub.L. 96–511 applies: Applicable.

9. Abstract: Proposed 10 CFR 50.67 of NRC's regulations, "Shutdown and Low-Power Operations for Nuclear Power Reactors" would require power reactor licensees to implement safety improvements to resolve NRC concerns regarding shutdown and low-power operations. In part, licensees would be required to (1) establish controls in technical specifications limiting conditions for operation and surveillance requirements in accordance with the requirements of 10 CFR 50.36(c) (2) and (3), or plant procedures required by technical specifications administrative controls pursuant to 10 CFR 50.36(c)(5) for equipment which licensees identify as necessary to perform their safety function when plants are in a shutdown or low power condition; and (2) evaluate realistically the effects of fires stemming from activities conducted during cold shutdown or refueling conditions, determine whether such fires could prevent accomplishment of the normal decay heat removal capability, and if so, either provide measures to prevent loss of normal decay heat removal or establish a contingency plan that will ensure an alternate decay heat removal capability exists. These reporting and recordkeeping requirements, in addition to other actions required by the proposed amendment to NRC's regulations, are intended to protect public health and safety from the risk of a core-melt accident.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

Comments and questions should be directed to the OMB reviewer: Troy

Hillier, Office of Information and Regulatory Affairs (3150–0011), NEOB–10202, Office of Management and Budget Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, MD, this 12th day of October 1994.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 94–25711 Filed 10–17–94; 8:45 am]

BILLING CODE 7590–01–M

Proposed Generic Communication;

"Use of NUMARC/EPRI Report TR–102348, 'Guideline on Licensing Digital Upgrades,' in Determining the Acceptability of Performing Analog-to-Digital Replacements Under 10 CFR 50.59"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter to provide a new regulatory position on the use of Nuclear Management and Resources Council/Electrical Power Research Institute (NUMARC/EPRI) Report TR–102348, "Guideline on Licensing Digital Upgrades." This report, dated December, 1993, provides guidance for determining when an analog-to-digital replacement can be performed without prior NRC approval under the requirements of § 50.59 of title 10 of the Code of Federal Regulations (10 CFR 50.59). The report applies to all digital equipment that uses software and, in particular, to microprocessor-based systems. The report, together with the clarifications discussed in the proposed generic letter, would represent a method acceptable to the NRC for use in making a determination of whether or not an unreviewed safety question exists with respect to 10 CFR 50.59 requirements. In those cases where a licensee proposes to retrofit with a digital replacement system that the NRC had previously approved, the NRC review scope would be significantly reduced and would focus only on plant-specific issues associated with the modification (e.g., environmental qualifications and configuration management). The NRC would not review again generic aspects of the proposed design, such as the software development program, unless these aspects had changed or were affected by plant-specific differences.

The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the Supplementary Information heading. The proposed generic letter and supporting documentation were discussed in the 259th meeting of the Committee to Review Generic Requirements (CRGR). The relevant information used to support CRGR review of the proposed generic letter will be available in the Public Document Rooms. In addition, the proposed generic letter and supporting documentation were discussed in a public meeting of the NRC Advisory Committee on Reactor Safeguards (ACRS) on September 8, 1994. Comments from the ACRS were incorporated in the proposed generic letter.

The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC final evaluation will include a review of the technical position and, when appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued in final form by the NRC, it will become available for public inspection in the Public Document Rooms.

DATES: Comment period expires January 17, 1995. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC. 20555. Written comments may also be delivered to Room T–6D59, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m., Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Loeser, (301) 504–2825.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 94–XX Use of NUMARC/EPRI Report TR–102348, "Guideline on Licensing Digital Upgrades," in Determining the Acceptability of Performing Analog-to-Digital Replacements Under 10 CFR 50.59

Addressess

All holders of operating licenses or construction permits for nuclear power reactors.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) staff is issuing this generic letter to inform addresses of a new staff position on the use of Nuclear Management and Resources Council/Electrical Power Research Institute (NUMARC/EPRI) Report TR–102348, "Guideline on Licensing Digital Upgrades," dated December, 1993, as acceptable guidance for determining when an analog-to-digital replacement can be performed without prior NRC staff approval under the requirements of § 50.59 of title 10 of the Code of Federal Regulations (10 CFR 50.59). The report applies to all digital equipment that uses software and, in particular, to microprocessor-based systems. The report, together with the clarifications discussed in this generic letter, represents a method acceptable to the staff for use in making a determination of whether or not an unreviewed safety question exists with respect to 10 CFR 50.59 requirements. It is expected that recipients will consider the information in this generic letter when performing analog-to-digital instrumentation and control systems replacement. However, suggestions contained in this generic letter are not NRC requirements; therefore, no specific action or written response is required.

Description of Circumstances

The age-related degradation of some earlier analog electronic systems and the difficulties in obtaining qualified replacement components for those systems, as well as a desire for enhanced features such as automatic self-test and diagnostics, greater flexibility, and increased data availability have prompted some operating reactor licensees to replace existing analog systems with digital systems. After reviewing a number of these digital system replacements and digital equipment failures in both nuclear and non-nuclear applications, the staff has identified potentially safety-significant concerns pertaining to digital systems in nuclear power plants. The concerns of the staff stem from the design characteristics specific to the new digital electronics that could result in failure modes and system malfunctions that either were not considered during the initial plant design or may not have been evaluated in sufficient detail in the safety analysis report. These concerns include potential common mode failures due to (1) the use of common software in redundant channels, (2) increased sensitivity to the effects of electromagnetic interference, (3) the improper use and control of

equipment used to control and modify software and hardware configurations, (4) the effect that some digital designs have on diverse trip functions, (5) improper system integration, and (6) inappropriate commercial dedication of digital electronics.

As result of the above concerns, the NRC staff issued a draft generic letter for public comment in the **Federal Register** (57FR36680) on August 14, 1992, wherein a position was established that essentially all safety-related digital replacements result in an unreviewed safety question because of the possibility of the creation of a different type of malfunction that those evaluated previously in the safety analysis report. The staff concluded, therefore, that prior approval by the NRC staff of all safety-related digital modifications was necessary. However, subsequent discussions and comments on the draft generic letter have resulted in the staff position as described in this letter.

Discussion

To assist licensees in effectively implementing digital replacements by addressing the concerns indicated above and in determining which upgrades can be performed under 10 CFR 50.59 without prior NRC staff approval, Report TR–102348 has been published. The NRC staff reviewed and provided comments on this report while it was in draft form, and the final report reflects a coordinated effort between industry and the NRC staff. The NRC staff believes that, when properly implemented, modern digital systems offer the potential for greater system reliability and enhanced features such as automatic self-test and diagnostics, as well as greater flexibility, increased data availability, and ease of modification.

Report TR–102348 contains guidance that will assist licensees in implementing and licensing digital upgrades in such a manner as to minimize the potential concerns indicated above. It describes actions to be taken in the design and implementation process to ensure that the digital upgrade licensing and safety issues are addressed, and ways to consider these issues when performing the 10 CFR 50.59 evaluation. It is not the intent of the report or of the NRC staff to predispose the outcome of the 10 CFR 50.59 process, but rather to provide a process that will assist licensees in reaching a proper conclusion regarding the existence of an unreviewed safety question when undertaking a digital system replacement. However, as shown in Example 5–6 of the report, when using this document as guidance for the analysis of modifications of some safety-significant systems such as the reactor protection system or an engineered safety feature system, it is likely these digital modifications will require staff review when 10 CFR 50.59 criteria are applied.

Report TR–102348 states in the introduction that the guidance is supplemental to and consistent with that provided in NSAC–125, "Guidelines for 10 CFR 50.59 Safety Evaluations." Licensees should bear in mind that NSAC–125 has not been endorsed by the NRC, and therefore any use of those guidelines is advisory only, and that nothing in NSAC–125 can be construed as a modification of 10 CFR 50.59. While the guidelines of NSAC–125 can be useful in the evaluation of systems, and are representative of logic used in making a 10 CFR 50.59 determination, the actual determination of whether or not an unreviewed safety question exists must be done in accordance with 10 CFR 50.59.

10 CFR 50.59(a)(2)(i) and (ii) states that a proposed change, test or experiment involves an unreviewed safety question if the probability or consequences of an accident or malfunction previously evaluated in the safety analysis report may increase, or if the possibility for an accident or malfunction of a different type than any previously evaluated in the safety analysis report may be created. If during the 10 CFR 50.59 determination there is uncertainty about whether the probability or consequences may increase, or whether the possibility of a different type of accident or malfunction may be created, the uncertainty should lead the licensee to conclude that the probability or consequences may increase or a new type of malfunction may be created. If the uncertainty is only on the degree of improvement the digital system will provide, the modification would not involve an unreviewed safety question. If, however, the uncertainty involves whether or not this modification is more or less safe than the previous analog system, or if no degree of safety has been determined, an unreviewed safety question is involved.

Subsequent 5.3 of Report TR–102348, entitled "Compatibility With the Environment," mentions the need to ensure equipment installed as part of an upgrade is compatible with its environment including such variables as temperature, humidity, and radiation. While these environmental stressors are cited as examples, it should be noted that a proposed digital upgrade must be qualified for operability against those environmental stressors and for those events specified in the plant specific licensing basis. This may include other environmental stressors beyond the cited examples.

The staff believes that two clarifications to Report TR–102348 are appropriate as follows:

1. 10 CFR 50.59 requires determination of whether "a possibility for an accident or malfunction of a different type than any previously evaluated in the safety evaluation report may be created." As a part of this determination, Report TR–102348 suggests looking for "any new types of system-level failures that would result in effects not previously considered in the FSAR." (For example, see TR–102348, Section 4.5, Question 6.) It is the NRC staff's position that the system-level considered in this regard should be the digital system being installed. The staff believes that this clarification is necessary because 10 CFR 50.59 does not refer to "system-level" failure but rather refers to the malfunction of the equipment important to safety being modified. As an example, when installing an upgraded digital high pressure function of the reactor trip system, it is the digital instrumentation and control circuitry associated with the high pressure reactor trip function that would be subject to the questions on failure modes and effects identified in the report that would represent the unreviewed safety question, not the entire reactor trip system. If the entire trip system is being replaced with a digital upgrade, then the entire replacement digital instrumentation and control system would be subject to the failure modes and effects analysis, not the full range of instrumentation and control systems being actuated to respond to a transient or accident.

2. 10 CFR 50.59 requires maintaining records that "include a written safety evaluation which provides the bases for the determination that the change, test, or experiment does not involve an unreviewed safety question." Section 3.1.2 of the report points out that the use of qualitative engineering judgment is typically involved in areas that are not readily quantifiable, such as likelihood of the failure, its importance to the system and to the plant, and the practicality and incremental improvements of various options available for resolving the failure. Such judgments may be difficult to duplicate and understand at a later time. It is the NRC staff's position that the basis for the engineering judgment and the logic used in the determination should be documented to the extent practicable. This type of documentation is of particular importance in areas where no established consensus methods are available, such as for software

reliability, or the use of commercial-grade hardware and software where full documentation of the design process is not available.

EPRI Report TR–102348, together with the clarifications discussed in this generic letter, can be used as guidance by licensees in both designing analog-to-digital replacements and, with respect to unreviewed safety question determinations, determining if an analog-to-digital replacement can be performed under 10 CFR 50.59 without prior staff approval.

Dated at Rockville, MD, this 11th day of October 1994.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 94–25708 Filed 10–17–94; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Safety Research Review Committee; Meeting of Accident Analysis Subcommittee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

The NSRRC Accident Analysis Subcommittee will hold a meeting on November 9–10, 1994 in Room T–2B3, Two White Flint North (TWFN) Building, 11545 Rockville Pike, Rockville, MD.

The entire meeting will be open to public attendance.

The review to be conducted by the Subcommittee will be an update review of accomplishments, status, and plans for reactor safety research programs in the areas of thermal hydraulics, severe accidents, and transients. The agenda will be as follows:

November 9

8:30–8:45:
Introductory remarks (Chairman, Members)
8:45–11:45:
Update of thermal-hydraulic research: plans, approaches, approaches, accomplishments (NRC staff presentations and discussion).
1:00–3:00:
Research involving transients. Other accident analysis research outside the Severe Accident Research Program.
3:00–5:00:
Subcommittee discussion

November 10

8:30–8:45:
Introductory remarks (Chairman, Members)
8:45–3:00:
Update on severe accident research: plans, approaches, accomplishments (NRC staff presentations and discussion).
12:00–1:15: Lunch break.
3:00–5:00:
Subcommittee discussion.

The Subcommittee will report to the full Committee on the facts and analyses discussed at the meeting.

A detailed agenda will be made available at the meeting.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Subcommittee. Questions may be asked only by members of the Committee and the staff. Persons desiring to make oral statements should notify the Nuclear Regulatory Commission staff members named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to Mr. George Sege (telephone 301/415–6593) between 8 a.m. and 4:30 p.m. (EST). persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 12, 1994.

George Sege,

Technical Assistant to the Director, Office of Nuclear Regulatory Research.

[FR Doc. 94–25710 Filed 10–17–94; 8:45 am]

BILLING CODE 7590–01–M

Agenda for Public Workshop in the Seismic Revisit of the Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Workshop Agenda on Seismic Revisit of Individual Plant Examination of External Events (IPEEE).

SUMMARY: On September 22, 1994, the NRC announced in FRN (Vol. 59, No. 183) that it plans to conduct a workshop on October 21, 1994 to discuss the results of the seismic IPEEE revisit. The staff intends to use this workshop to identify approaches and issues, and solicit comments from the public that will be used to develop a proposed position. Draft contractor reports on a proposed seismic revisit are available at the NRC Public Document Room (PDR), Gelman Building, 2120 L Street NW, Washington, DC. These reports and other related information will be discussed in the workshop.

DATES: October 21, 1994; 9:00–5:00.

ADDRESSES: The NRC Auditorium, 11555 Rockville Pike, Rockville, MD. 20852–2738.

Agenda

9:00–9:15 Opening Remarks/General Introduction
9:15–9:45 ERI Reports
9:45–10:15 NRC Staff Discussion on Potential Approaches and Issues
10:15–10:30 Break
10:30–12:00 Panel Discussion on ERI Reports and Potential Approaches
12:00–13:00 Lunch Break
13:00–14:00 Public Comment
14:30–14:45 Break
14:45–16:00 Queston & Answer

FOR FURTHER INFORMATION CONTACT: John T. Chen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6549.

SUPPLEMENTARY INFORMATION: On June 28, 1991 the NRC issued Generic Letter 88–20. Supplement 4, Individual Plant Examination of External Events (IPEEE) for Severe Accident Vulnerabilities, and NUREG–1407 containing procedural and submittal guidance for IPEEE. The Generic Letter requested all licensees to perform an IPEEE to identify plant-specific vulnerabilities to severe accidents due to external events and report the results to the NRC. Key elements of the development of the IPEEE guidance included assigning earthquake review level and review scope for the seismic events. In this development, for central and eastern U.S. plants, the process of assigning plants to appropriate review categories has relied largely on the use of available seismic hazard estimates: those published in 1989 by Lawrence Livermore National Laboratory (LLNL) and the Electric Power Research Institute (EPRI). However, grouping of the plants relied heavily on a grouping technique with a number of attributes using seismic hazard on a relative basis. In 1993, based on a re-elicitation of LLNL ground-motion and seismicity experts, revised seismic hazard estimates were published in NUREG–1488. The revised mean hazard estimates are lower than the 1989 LLNL estimates. The results prompted the NRC to revisit the seismic IPEEE program and consider the potential impact of the revised LLNL results.

The contractor's study has been completed and the draft reports are available and will be discussed in the workshop. These reports have investigated various schemes of

rebinning the plant and redefining the scope of examination within a bin. The proposed schemes have involved consideration of absolute value of estimated core damage frequency with a generic fragility as suggested by NEI as well as reexamination of insights obtained from past PRAs. On the basis of evaluation of these reports, the staff is considering several approaches to revisit the scope of the seismic IPEEE. Fundamental to the staff consideration is maintaining the IPEEE objectives, that is, to obtain insights regarding severe accident vulnerabilities and behavior. The staff intends to discuss these approaches as well as key issues including:

(1) The need for revisit;

(2) The suitability of an approach to identify severe accident vulnerabilities and meet IPEEE objectives;

(3) The appropriateness of absolute numerical core damage value as a criterion in light of large inherent uncertainties in the seismic hazard and risk estimates;

(4) An appropriate numerical value and its basis;

(5) Limiting the evaluation to selected components and the basis for selection of components; and

(6) The role and extent of use and documentation of engineering judgment by the seismic review team in conducting an examination.

(Note that the FRN dated Sept. 22, 1994 incorrectly indicated that the NRC staff position would be discussed at this workshop. The workshop will discuss the draft contractor reports and these discussions will serve as a basis for development of a staff position.)

These reports have been reviewed by an independent group of experts, whose views will be presented at this workshop. In addition, an opportunity will be available for members of the public, utility representatives or other interested parties to comment on the contractor reports and staff presentation on the possible approaches for rebinning. Those persons who wish to make a brief presentation at the workshop, should indicate their desire to the contact listed above, so that they can be added to the agenda. Written comments will also be accepted up to 4 weeks following the workshop.

Dated in Rockville, MD this 12th day of October, 1994.

For the Nuclear Regulatory Commission.

Joseph Murphy,

Acting Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 94–25709 Filed 10–17–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of Form OPM 1536

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for a reclearance of an information collection. Form OPM 1536, Former Spouse's Application for Survivor Annuity Under the Civil Service Retirement System, is designed for use by former spouses of Federal employees and annuitants who are applying for a monthly Civil Service Retirement System benefit. This application collects information about whether the applicant is covered by the Federal Employees Health Benefits Program and about any court order which awards the applicant retirement benefits.

There are estimated to be 500 respondents for OPM 1536. It takes approximately 45 minutes to complete OPM 1536. The combined annual burden is 375 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received on or before November 17, 1994.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E. Street NW., room 3349, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief, Forms Analysis and Design, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–25701 Filed 10–17–94; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34827; File No. SR–GSCC–94–06]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Modifying the Trade Reporting Requirements for Category 2 Inter-Dealer Broker Netting Members

October 12, 1994.

On July 5, 1994, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–GSCC–94–06) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change modifies GSCC's rules concerning the trade reporting requirements for category 2 inter-dealer broker netting members ("IDBs"). The Commission published notice of the proposed rule change in the **Federal Register** on August 17, 1994.[2] No comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change modifies GSCC's rules concerning the trade reporting requirements for category 2 IDBs. In particular, the proposal revises Rule 15, Section 3 of GSCC's rules concerning special provisions for IDBs was established by GSCC in 1993 in order to permit qualifying IDBs to engage in up to ten percent of their trading activity in eligible securities with non-netting members.[3] Each category 2 IDB must act exclusively as a broker, and at least ninety percent of its business, based on the overall dollar volume of next day and forward settlement activity in eligible netting securities over the most recent twenty day period, must be with netting members.[4]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34511 (August 10, 1994), 59 FR 42319.

[3] The Commission approved category 2 IDBs in Securities Exchange Act Release No. 32722 (August 12, 1993), 58 FR 42993.

[4] For a temporary period established by GSCC's Board of Directors, the term netting members is defined to include certain specifically designated grandfathered non-netting member firms that currently have IDB screen access. This temporarily will allow category 2 IDBs to trade with nonmember dealers that historically have had access to the IDBs' screens. An IDB's trading activity with granfathered dealers will not be included for purposes of determining when an IDB meets the ten percent scope of business limitation.

In order to monitor compliance with their scope of business requirements, GSCC's rules currently require each category 2 IDB to provide GSCC in writing with a list of all of the legal entities that it acts on behalf of and promptly inform GSCC of any change to such list. Each category 2 IDB also is required to submit to GSCC on each business day all of its next day and forward settling trades in eligible netting securities, including trades with non-grandfathered non-members, and must indicate the buy and sell side of each transaction.

GSCC's rules do not, however, expressly require that a category 2 IDB provide to GSCC for every trade done involving an eligible netting security the identity of each buy side and sell side counterparty. The proposed rule change expressly requires each category 2 IDB to disclose to GSCC the identity of each buy side and sell side counterparty for every trade done, including trades done with non-members, involving an eligible netting security.[5]

II. Discussion

The Commission believes that GSCC's proposed rule change is consistent with Section 17A of the Act,[6] and in particular, Sections 17A(b)(3) (A) and (F) of the Act.[7] Sections 17A(b)(3) (A) and (F) require, among other things, that a clearing agency and its rules be designed to safeguard the securities and funds in its rules be designed to safeguard the securities and funds in its possession or control or for which it is responsible. The Commission believes that GSCC's proposal to modify the trade reporting requirements for category 2 IDBs is consistent with this obligation.

According to GSCC, requiring category 2 IDBs to provide the identity of each buy side and sell side counterparty for every trade done involving an eligible netting security is significant for risk monitoring and surveillance purposes. The Commission agrees with GSCC and believes that the proposal helps GSCC ensure that it can appropriately monitor its existing netting members. By requiring each category 2 IDB to disclose the identity of each buy side and sell side counterparty, GSCC will be better able to understand and assess the volume of and degree of concentration of trading done by a category 2 IDB with one or more specific non-members. This, in turn, should help GSCC fulfill its safeguarding obligations.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act, and in particular with Section 17A of the Act, and with the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–GSCC–94–06) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25729 Filed 10–17–94; 8:45 am]

BILLING CODE 8010–01–M

[5] Although the identity of each buy side and sell side counterparty is known for trades done by category 1 IDBs, there is no obligation in GSCC's rules imposing this disclosure requirement. The proposed rule change therefore formalizes and expressly sets forth this reporting obligation for category 1 IDBs.

[6] 15 U.S.C. 78q–1 (1988).

[7] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12).

[Release No. 34–34825; File No. SR–NSCC–94–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving A Proposed Rule Change Modifying Rules and Procedures Relating to Compared Trade Summaries

October 12, 1994.

On August 2, 1994, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–94–15) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published on September 1, 1994, in the **Federal Register** to solicit comments on the proposed rule change.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change is to facilitate NSCC's distribution each day of a Consolidated Trade Summary that reports both Continuous Net Settlement ("CNS") and Non-CNS trades due for settlement the next day. NSCC will continue to distribute each day its current CNS and non-CNS Compared Trade Summaries which also report, in greater detail, the trades due to settle the next day. After ninety days or more, NSCC intends to eliminate the CNS and non-CNS Compared Trade Summaries and distribute only the Consolidated Trade Summary.[3]

On both the CNS and Non-CNS Compared Trade Summary, each transaction appears at the original contract price, and quantities and money are totalled and netted for each security issue. The contract output provided to member on T+1 contains much of the trade detail given on the CNS and Non-CNS Compared Trade Summaries.[4] In contrast, the Consolidated Trade Summary reports only the net positions due for settlement on the following day. Each position, in CUSIP order, is reported as broad buys and sells by marketplace or source, netted by issue, quantity, and money. The Consolidated Trade Summary eliminates trade details, such as the contra-broker, price, and trade date, which are currently included on the CNS and Non-CNS Compared Trade Summaries and which already have been provided to members through the contract output NSCC provides.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[5] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. Introduction of the Consolidated Trade Summary aids NSCC in its effort to move towards three business by settlement ("T+3") and is consistent with Rule 15c6–1 under the Act.[6] Currently, NSCC's Rules require that the CNS and Non-CNS Compared Trade Summaries be issued on the morning of

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34595 (August 25, 1994), 59 FR 45321.

[3] NSCC Plans to begin distribution of the Consolidated Trade Summary on September 20, 1994. NSCC will not eliminate the CNS and Non-CNS Compared Trade Summaries in connection with the Reconfirmation and Pricing Service ("RECAPS"). RECAPS is a fail clearance system that provides an opportunity to reconfirm and reprice transactions that already have been compared. NSCC's Procedure II (G).

[4] Prime broker transactions do not have contract output. Instead, the details of these transactions are reported on the Regional Interface Operation ("RIO") Blotter.

[5] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[6] On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act, which establishes three business days after the trade date ("T+3") instead of five business days ("T+5") as the standard settlement timeframe for most broker-dealer transactions. The rule becomes effective June 1, 1995. Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

T+4. When the settlement cycle is reduced to T+3, it will be necessary to issue trade reports earlier. In anticipation of the move to T+3, the proposal requires that the Consolidated Trade Summary be issued on the day before settlement.

When the settlement cycle is reduced, NSCC will issue the trade summaries on T+2, which is the day after NSCC issues the contract output to members. To repeat the trade details reported on the contract output in the Consolidated Trade Summary, as is currently done in the CNS and non-CNS Compared Trade Summaries would duplicate unnecessarily the information provided only the day before. By eliminating information for each individual trade, the Consolidated Trade Summary will provide a more concise statement. The Commission believes that NSCC's rule change reducing the redundant information contained in the trade summaries to include only information on net positions due for settlement on the following day should result in benefits to both customers and members by increasing efficiency and reducing costs.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and particularly with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-94-15) be and hereby is approves.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-27530 Filed 10-17-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20613; File No. 812-8382]

Pacific Select Fund, et al.

October 12, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Pacific Select Fund ("Select Fund") and Pacific Corinthian Variable Fund ("Variable Fund"), referred to collectively as the "Applicants."

RELEVANT 1940 ACT SECTIONS: Order requested under Section 17(b) of the 1940 Act for exemption from Section 17(a) thereof.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the assets of Variable Fund to be transferred to and combined with the assets of Select Fund in exchange for shares of Select Fund. (The transfer and combination of assets in exchange for such shares is referred to herein as the "Reorganization.")

FILING DATES: The original application was filed on May 4, 1993. An amended and restated application was filed on July 8, 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 the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 6, 1994, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Sharon A Cheever, Esq., Pacific Mutual Life Insurance Company, 700 Newport Center Drive, Newport Beach, CA 92660.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Attorney, Division of Investment Management, Office of Insurance Products, at (202) 942-0679.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. Select Fund is a diversified, open-end management investment company, organized under the laws of the Commonwealth of Massachusetts.

2. Select Fund consists of ten investment series: (i) The Money Market Series; (ii) The Managed Bond Series; (iii) The Government Securities Series; (iv) The High Yield Bond Series; (v) The Growth Series; (vi) The Growth LT Series; (vii) The Equity Income Series; (viii) The Multi-Strategy Series; (ix) The Equity Index Series; and (x) The International Series. It is presently contemplated that two new series of Select Fund—the Equity Series and the Bond and Income Series—will be organized. Shares of each series of Select Fund are currently offered only for purchase by separate accounts of Pacific Mutual Life Insurance Company ("Pacific Mutual") to serve as an investment medium for annuity contracts and for variable life insurance policies issued by Pacific Mutual. Pacific Mutual serves as investment adviser to each series of Select Fund. Pacific Mutual and three of its separate accounts (the "Pacific Select Separate Accounts") currently own all of the outstanding shares of Select Fund.

3. Pacific Mutual and the Insurance Commissioner of the State of California, as conservator of First Capital Life Insurance Company—In Conservation ("First Capital"), entered into an agreement regarding the rehabilitation of First Capital (the "Rehabilitation Plan"). In connection with the Rehabilitation Plan, Pacific Mutual established a wholly-owned subsidiary, Pacific Corinthian Life Insurance Company ("Pacific Corinthian"), as a stock life insurance company incorporated under the laws of the State of California.

4. As part of the Rehabilitation Plan, Pacific Corinthian assumed, among other things, the life insurance policies and annuity contracts issued by First Capital, including certain flexible premium deferred annuity and variable accumulation contracts (the "Variable Contracts") for which the Variable Fund serves as investment medium. Also pursuant to the Rehabilitation Plan, the assets of a separate account of First Capital that had funded the variable accumulation option under the Variable Contracts were transferred intact to a separate account designated as the Pacific Corinthian Variable Separate Account.

5. The Pacific Corinthian Variable Separate Account funds individual flexible premium deferred annuity and variable accumulation contracts, formerly offered by First Capital, which were assumed by Pacific Corinthian pursuant to the Rehabilitation Plan. The Pacific Corinthian Variable Separate Account invests exclusively in Variable Fund; each of the eight subaccounts of the Pacific Corinthian Variable Separate Account invests in a distinct series of Variable Fund. Pacific Corinthian Variable Separate Account owns all of the outstanding shares of Variable Fund.

6. Variable Fund—formerly, Shearson VIP Fund—is incorporated under the laws of the State of California. Variable Fund consists of eight series: (i) The Money Market Series: (ii) The Equity

[7] 17 CFR 200.30-3(a)(12) (1994).

Series; (iii) The Bond and Income Series; (iv) The Government Securities Series; (v) The Directions Value Series; (vi) The Equity Income Series; (vii) The Diversified Low P/E Series; and (viii) The Balanced Series. Pacific Mutual currently serves as investment adviser to each series of Variable Fund.

7. Pacific Mutual and the Pacific Select Separate Accounts currently own 100 percent of the outstanding shares of Select Fund. Pacific Mutual also owns 100 Percent of the outstanding shares of Pacific Corinthian. Pacific Corinthian is the depositor of the Pacific Corinthian Variable Separate Account, the sole shareholder of Variable Fund. As a result of these relationships, Select Fund and Variable Fund may be deemed to be under the common control of Pacific Mutual. In addition, the Applicants may be deemed to be affiliates of an affiliated person (*i.e.*, Pacific Mutual).

8. Under the Reorganization, Variable Fund will convey, transfer, and deliver to Select Fund all of the existing assets of each series of Variable Fund. In consideration thereof, Select Fund will agree: (i) To assume and pay certain liabilities of Variable Funds; and (ii) to deliver to Variable Fund full and fractional share of beneficial interest of Select Fund having an aggregate net asset value equal to the aggregate value of the net assets of the Variable Fund series exchanged therefor.

9. The Reorganization will be performed in such a manner that the assets and certain liabilities of The Money Market Series of Variable Fund become the assets and liabilities of The Money Market Series of Select Fund; the assets and certain liabilities of The Equity Series of Variable Fund become those of the proposed Equity Series of Select Fund; the assets and certain liabilities of The Bond and Income Series of Variable Fund become the assets and liabilities of the proposed Bond and Income Series of Select Fund; the assets and certain liabilities of The Government Securities Series of Variable Fund become the assets and liabilities of The Government Securities Series of Select Fund; the assets and certain liabilities of The Directions Value Series, The Diversified Low P/E Series, and The Equity Income Series of Variable Fund become the assets and liabilities of The Equity Income Series of Select Fund; and the assets and certain liabilities of The Balanced Series of Variable Fund become the assets and liabilities of The Multi-Strategy Series of Select Fund.

10. The rate of exchange will be determined based on the relative net asset value per share of each Variable Fund series compared to the net asset value of the corresponding Select Fund series as of the close of business on the day immediately proceeding the effective date of the proposed Reorganization. For the recently created Select Fund series (*i.e.*, the Bond and Income Series and the Equity Series), the net asset value per share will be established as an amount equal to the net asset value per share for the Variable Fund Bond and Income Series and Equity Series as of the close of business on the business day immediately preceding the effective date of the Reorganization. Thus, the rate of exchange will be on a one-to-one basis. However, it is possible that the proposed Equity Series and Bond and Income Series of the Select Fund may offer their shares to the public prior to the effective date of the Reorganization, in which case the rate of exchange for these series will be determined in the manner described above for the currently operational series of Select Fund.

11. Immediately after the Reorganization, the value of each Variable Contract will be equal to the value of each such Contract immediately before the Reorganization. Applicants represent that, apart from the fact that the future each value of Variable Contracts issued through the Pacific Corinthian Variable Separate Account will reflect the investment performance of a series of the Select Fund instead of a series of the Variable Fund, the Reorganization will have no material economic impact on Variable Contract values.

12. On the effective date of the Reorganization, Variable Fund will close its stock transfer books permanently and distribute pro rata to its shareholders the Select Fund shares it received pursuant to the Reorganization. Thereafter, the Variable Fund will be completely liquidated. Such liquidation and distribution will be accompanied by the establishment of an open account on the share records of Select Fund in the name of each shareholder of Variable Fund representing the respective pro rata number of Select Fund shares due that shareholder, designated by series. Select Fund will register the shares of each of its series issued pursuant to the Reorganization under the Securities Act of 1933, using the Form N–14.

13. Pacific Mutual, Select Fund, and Variable Fund will pay all of the costs of the Reorganization. Variable Fund and Select Fund shall bear any such expenses only to the extent that the board of director/trustees of each fund, including a majority of the independent directors/trustees, determines that for the Fund to bear such expenses is in the best interests of its respective shareholders.[1] Applicants represent that in no event will Select Fund and Variable Fund, in the aggregate, bear more than two-thirds of the total expenses of the Reorganization. The Applicants do not expect that the Reorganization will entail any significant liquidation expenses because the corresponding series of Variable Fund and Select Fund will have substantially identical investment policies.

14. A plan that sets forth the terms and conditions necessary to implement the Reorganization (the "Reorganization Plan") will be submitted to the board of directors of Variable Fund and the board of trustees of Select Fund. In deciding to approve the terms of the Reorganization and recommend approval of such Reorganization to shareholders of each Fund, the directors of Variable Fund and the trustees of Select Fund (including the disinterested directors and trustees) have made an inquiry into a number of matters and consider the following factors, among others: (i) The reasonableness of advisory fees paid to Pacific Mutual following the Reorganization; (ii) expense rations and published information regarding Variable Fund and Select Fund; (iii) the comparative investment performance of each series of Variable Fund and each series of Select Fund; (iv) the terms and conditions of the Reorganization, and whether the Reorganization will result in dilution of shareholder or Variable Contract owner interests; (v) the advantages of obtaining economies of scale, increased investment flexibility, and expanded allocation options resulting from acceptance of new premiums through the Reorganization; (vi) the compatibility of the investment objectives, policies and restrictions, and service features available to shareholders of each series of Variable Fund compared to the corresponding series of Select Fund; (vii) the costs to be incurred by Variable Fund and Select Fund as a result of the Reorganization; (viii) tax consequences of the Reorganization; and (ix) the potential for overreaching on the part of either Applicant or any affiliate thereof.

15. The Reorganization Plan will be submitted to shareholders of both the Variable Fund and the Select Fund for approval at a special meeting called for

[1] Applicants represent that no series of the Variable Fund or the Select Fund will bear any expenses of the Reorganization to the extent that the impact of such expense on the net asset value per share of a series equals of exceeds $0.01 per share.

that purpose. A majority of all votes of each operating series of Variable Fund and Select Fund entitled to be cast will be required to approve the Reorganization Plan and the Reorganization; the Reorganization Plan may be effected with respect to any Variable Fund or Select Fund series whose shareholders approve it. Variable Fund and Select Fund each will furnish to its respective shareholders a proxy statement/prospectus containing information relating to the Reorganization Plan and the Reorganization.

16. Pacific Corinthian will vote shares of each series of the Variable Fund, and Pacific Mutual will vote shares of each series held by it and each Pacific Separate Account, in accordance with instructions received from Variable Contract owners and owners of annuity contracts and variable life insurance policies issued by Pacific Mutual, respectively. Shares for which no voting instructions are received will be voted by Pacific Corinthian or Pacific Mutual, as appropriate, in the same proportion as it votes shares for which voting instructions were received.

17. In addition to shareholder approval, Applicants further condition the consummation of the Reorganization upon receipt from the Commission of the exemptive order requested herein, receipt of any necessary approval from the applicable state insurance commissions, and receipt by Select Fund and/or Variable Fund of a private letter ruling from the Internal Revenue Service or an opinion of tax counsel to the effect that the Reorganization will qualify as a tax-free reorganization under the Internal Revenue Code of 1986, as amended, and will not result in the recognition of any taxable gain or loss to any series of Select Fund or Variable Fund, or to any shareholders thereof.

Applicants' Legal Analysis

1. Under Section 2(a)(3) of the 1940 Act, one person is an "affiliated person" of another person if, among other things: The person directly or indirectly owns, controls, or holds with power to vote 5% or more of the other person's outstanding voting securities; 5% or more of the person's outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; or the person directly or indirectly controls, is controlled by, or is under common control with the other person.

2. Applicants may be deemed "affiliated persons" of one another within the meaning of Section 2(a)(3) of the 1940 Act as a result of their relationships to Pacific Mutual. Because of these relationships, the Reorganization may be deemed to violate Section 17(a) of the 1940 Act, which, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, from knowingly selling to or purchasing from such investment company any security or other property.

3. Section 17(b) of the 1940 Act authorizes the SEC to exempt any transaction from the provisions of Section 17(a) if: the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the transaction is consistent with the policy of each registered investment company concerned; and the transaction is consistent with the general purposes of the 1940 Act.

4. Applicants request an order of the Commission pursuant to Section 17(b) of the 1940 Act exempting the Reorganization from the provisions of Section 17(a) of the 1940 Act to the extent necessary to permit the various series of Select Fund to acquire the assets of the corresponding series of Variable Fund in exchange for shares of the Select Fund series.[2]

A. Reasonableness, Fairness, and the Absence of Overreaching

1. Applicants assert that the terms of the proposed Reorganization are fair and reasonable and do not involve overreaching on the part of any person concerned.

2. Applicants represent that the Reorganization will not be effected unless: (i) the board of directors of Variable Fund and the board of trustees of Select Fund—including a majority of the disinterested directors/trustees—separately have reviewed and approved the terms of the Reorganization set forth in the Reauthorization Plan, including consideration to be paid or received by all parties to the Reauthorization; and (ii) the board of directors of Variable Fund and the board of trustees of Select Fund independently have determined that the Reorganization will be in the best interests of the shareholders of each Fund's series, and that consummation of the Reorganization will not result in the dilution of the current interests of any shareholder or contract owner of Variable Fund or Select Fund.

3. Applicants note that the number of shares to be issued to Variable Fund by Select Fund will be determined on the basis of the relative net asset value per share of each series proposed to be combined.

4. Applicants represent that neither the board of directors of Variable Fund nor the board of trustees of Select Fund will make a recommendation to shareholders concerning the Reorganization Plan unless it has considered the expense ratios and published information regarding the fees and expenses of corresponding series of the Variable Fund and the Select Fund and those of similar funds, the terms and conditions of the Reorganization Plan, and whether the Reorganization Plan will result in the dilution of any shareholder interests. Applicants assert that no recommendation will be made unless the directors/trustees have considered: (i) The potential benefits of the Reorganization to shareholders of the series of the Variable Fund or the Select Fund, as appropriate, and the contract owners with contract values allocated to the Pacific Corinthian Variable Separate Account or the Pacific Select Separate Accounts, as appropriate; (ii) the compatibility of investment objectives, policies, restrictions, and investment holdings of the corresponding series of Variable Fund and Select Fund; (iii) the terms and conditions of the Reorganization Plan which might affect the price of outstanding shares of each series of Variable Fund or Select Fund, as appropriate, or interests of contract owners indirectly invested therein; and (iv) direct or indirect costs to be incurred by the series of Variable Fund or Select Fund, as appropriate, or shareholders thereof or contract owners who have allocated their variable contracts to separate accounts that invest in Variable Fund or Select Fund series.

5. If effected according to the Reorganization Plan, the Reorganization should result in an increase in the asset size of the Select Fund. Applicants represent that the larger aggregate net assets of Select Fund and certain of its series should enable the combined entity to realize significant benefits associated with economies of scale.

6. Applicants represent that, because Pacific Corinthian no longer accepts new premiums from existing owners of the Variable Contracts and no longer solicits new applications for new Variable Contracts, the Variable Fund faces the potential of limited (or no)

[2] Applicants posit that Congress did not intend Section 26(b) of the 1940 Act to apply to transactions such as the Reorganization and, therefore, have requested neither a Commission order pursuant to Section 26(b) before proceeding with the Reorganziation, nor Commission approval of their decision to proceed with the Reorganization without a Commission order pursuant to Section 26(b).

growth and continued diminution of asset size. Consequently, the expense ratios of certain Variable Fund series may increase, Variable Fund series may experience difficulty in achieving their investment objectives, service providers may find it less profitable to render services to Variable Fund series, and it may become difficult for the Variable Fund series to retain qualified service providers. Applicants assert that the Reorganization will provide an opportunity for the owners of the Variable Contracts to invest in an underlying fund with greater assets that has the potential for growth in assets.

7. Applicants represent that, under the advisory agreement with Select Fund, Pacific Mutual renders the types of advisory and non-advisory services that are substantially similar to the types of advisory services currently rendered to Variable Fund by Pacific Mutual and the management services rendered to Variable Fund by Pacific Corinthian. Applicants anticipate that, after completion of the Reorganization, the investment advisory fees paid by the series of Select Fund involved in the Reorganization will be comparable to the advisory fees and management fees paid by the corresponding series of Variable Fund.

8. Applicants represent that, generally, the expense ratios for Select Fund are lower than those of the corresponding series of Variable Fund, and the Reorganization should result in a benefit to contract owners in that the investment-related expenses that bear indirectly are likely to decrease.

9. Applicants represent that the Reorganization will not be effected until the board of directors of Variable Fund: (i) Has considered and compared the relative investment performance of each series of Variable Fund and all series of Select Fund and, in the case of pertinent series of Select Fund for which new portfolios managers are proposed, investment performance for comparable portfolios managed by such proposed portfolio managers; and (ii) determines whether performance and investment flexibility may be enhanced if assets of Variable Fund series are combined with assets of Select Fund series in accordance with the Reorganization Plan.

10. Applicants further represent that the Reorganization will not have adverse tax consequences for any Variable Fund or Select Fund shareholder.

B. Consistency With Applicant's Policies and the General Purposes of the 1940 Act

1. Applicants represent that the Reorganization will not be approved unless the boards of each Fund have determined that the investment objectives and policies of the corresponding series of Variable and Select Fund are compatible. Applicants assert that no significant differences exist between Variable Fund and Select Fund regarding investment policies, borrowing and lending limitations, permitted transactions, or quality of investments.[3]

2. Rule 17a–8 under the 1940 Act exempts from the prohibitions of Section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors/trustees, and/or common officers. Because the Applicants may be affiliated with one another for reasons for reasons other than sharing an investment adviser, directors/trustees, and officers, Applicants may not be able to rely on Rule 17a–8.

3. Applicants have agreed, nevertheless, to comply with the substantive requirements of the Rule 17a–8. Applicants represent that: (i) The directors of Variable Fund have determined that the Reorganization will be in the best interests of the shareholders of each Variable Fund series, and will not result in the dilution of the current interests of any such shareholder or Variable Contract owner; and (ii) the trustees of Select Fund have determined that the Reorganization will be in the best interests of the shareholders of each Select Fund series, and will not result in the dilution of the current interests of any such shareholder or contract owner having contract value allocated through the Pacific Select Separate Accounts.

4. Moreover, Applicants assert that, although the nature of the affiliations may preclude them from relying on the exemption afforded by Rule 17a–8 under the 1940 Act, the directors/trustees of each fund, including the disinterested directors/trustees, have made the findings required by Rule 17a–8.

5. Applicants also represent that the Reorganization is consistent with the general purposes of the 1940 Act, and does not present any of the conditions or abuses that the 1940 Act was designed to mitigate or eliminate. In particular, Section 1(b)(6) of the 1940 Act provides that the national public interest and the interest of investors are adversely affected when investment companies are recognized without the consent of their security holders. Applicants submit that the Reorganization Plan must receive the approval of shareholders of each series of Variable Fund and the pertinent series of Select Fund (the shares of both Funds being voted in proportion to the instructions received from contract owners having a voting interest in each series of each Fund). Variable Contract owners will receive a proxy statement/prospectus containing all material disclosures, including a description of all material aspects of any proposed Reorganization Plan, and a copy thereof. Likewise, contract owners with contract value allocated to the variable accounts of the Pacific Select Separate Accounts that invest in the pertinent series of Select Fund will receive a proxy statement containing, among other things, information relating to the Reorganization Plan and the transactions contemplated therein, and will have an opportunity to vote on the Reorganization.

Conclusion

Applicants request an order of the Commission pursuant to Section 17(b) of the 1940 Act exempting the Reorganization from the provisions of Section 17(a) of the 1940 Act. Applicants submit that, for the reasons set forth above, the terms of the Reorganization, as set forth in the Reorganization Plan, including the consideration paid and received, are reasonable and fair to shareholders of each series of Variable Fund and Select Fund, and to contract owners invested therein, and do not involve overreaching on the part of any person concerned. Applicants further submit that the proposed Reorganization will be consistent with the policies of Variable Fund and Select Fund and each series thereof, as well as with the general purposes of the 1940 Act.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[3] Applicants note that there are differences between the stated objectives of each Fund's Equity Income series. However, Applicants represent that, while the two series have investment objectives that are stated somewhat differently, there is a great deal of commonality in their stated investment policies.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

October 12, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Cabletel Communications Corporation Common Shares, No Par Value (File No. 7–13088)

This security is listed and registered on one or more other national securities exchanges and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 2, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–25643 Filed 10–17–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34821; International Series Release No. 729; File No. SR–Amex–94–24]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing and Trading of Warrants on the Nikkei Stock Index 300

October 11, 1994.

I. Introduction

On June 17, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade warrants on the Nikkei Stock Index 300 ("Nikkei 300 Index" or "Index"). On September 7, 1994, the Exchange filed Amendment No. 1 to the proposed rule change.[3]

Notice of the proposed rule change appeared in the **Federal Register** on July 20, 1994.[4] No comments were received on the proposed rule change. This order approves the proposed rule change and Amendments No. 1 thereto.

II. Description of the Proposal

The Amex proposes to list index warrants based on the Nikkei 300 Index, and index comprised of 300 representative stocks of the first section[5] of the Tokyo Stock Exchange ("TSE"). On August 11, 1994, the Commission approved a proposal by the Exchange to list and trade options and full-value and reduced-value long-term options on the Index.[6]

A. Composition and Maintenance of the Index

The Nikkei 300 Index was designed by Nihon Keizai Shimbun, Inc. ("NKS"). The Amex represents that Index component stocks were selected by NKS for their high market capitalizations, and their high degree of liquidity, and are representative of the relative distribution of industries within the broader Japanese equity market.

As of July 8, 1994, the total capitalization of the Index was approximately US$2.47 trillion.[7] Market capitalization of the individual stocks in the Index ranged from a high of US$83.8 billion to a low of US$1.03 billion, with a median of US$3.56 billion and a mean of US$8.25 billion. In addition, the average daily trading volume of the stocks in the Index, for the six-month period ending June 30, 1994, ranged from a high of 4,740,000 shares to a low of 6,000 shares, with a mean and median of approximately 676,000 and 417,000 shares, respectively. The highest weighted component stock in the Index accounts for 3.39 percent of the Index. The five largest Index components account for approximately 14.9 percent of the Index's value. The lowest weighted component stock comprises 0.042 percent of the Index, and the five smallest Index components account for approximately 0.25 percent of the Index's value.

The Index is maintained by NKS. To maintain the continuity of the Index, NKS will adjust the Index divisor to reflect certain events relating to the component stocks. These events include, but are not limited to, changes in the number of shares outstanding, spin-offs, certain rights issuances, and mergers and acquisitions. The Amex represents that NKS reviews the composition of the Index periodically.

B. Calculation of the Index

The Nikkei 300 Index is capitalization-weighted and reflects changes in the prices of the Index component securities relative to the base date of the Index (October 1, 1982). The value of the Index is calculated by multiplying the price of each component security by the number of shares outstanding of each such security, adding the products, and dividing by the current Index divisor. The Index divisor is adjusted to reflect certain events relating to the component stocks.[8] The Index had a closing value of 299.47 on July 13, 1994.

Because trading does not occur on the TSE during the Amex's trading hours, the daily dissemination of the Index value is calculated by the Amex once each day based on the most recent official closing price of each Index component security as reported by the TSE. This closing value is disseminated throughout the trading day on the Amex.

C. Warrant Listing Standards and Customer Safeguards

The Exchange proposes to trade Nikkei 300 Index warrants pursaunt to Section 106 of the Amex Company Guide ("Section 106"). Under Section

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1993).

[3] In Amendment No. 1, the Amex represented that (1) the Amex will advise its member firms that Index warrants may only be sold to investors whose accounts have been approved for options trading pursuant to Amex Rule 921; (2) Index warrants will, for margin purposes, be treated as if they were option contracts subject to Amex Rule 462(d); (3) the Amex will use the same surveillance procedures that it currently has in place for index warrants listed and traded on the Exchange to surveil trading in warrants on the Index; and (4) the Exchange is currently negotiating with the Tokyo Stock Exchange to obtain a surveillance sharing agreement and expects to have such an agreement in place prior to the listing and trading of Index warrants. See Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Derivatives Regulation, Division of Market Regulation, Commission, dated September 7, 1994.

[4] See Securities Exchange Act Release No. 34365 (July 13, 1994), 59 FR 37106 (July 20, 1994).

[5] First section stocks are distinguished from second section stocks by more stringent listing standards.

[6] See Securities Exchange Act Release No. 34526 (August 11, 1994), 59 FR 42610 (August 18, 1994).

[7] Based on the July 8, 1994 exchange rate of Y98.2 per US$1.00.

[8] See supra Section II.A. The Index divisor was set to give the Index a value of 100 on its base date.

106, the Amex may approve for listing warrants on established foreign and domestic market indexes. The Commission has previously approved the listing and trading on the Amex of certain foreign index warrants based on the Nikkei Stock Average,[9] the FT-SE 100 Index,[10] the CAC–40 Index,[11] and the Hong Kong 30 Index,[12] all listed in accordance with Section 106.

The Amex represents that the Index warrant issues will conform to the index warrant listing guidelines contained in Section 106. Specifically, the listing guidelines of the Amex will require that (1) the issuer thereof shall have assets in excess of $100,000,000 and otherwise substantially exceed the size and earnings requirements of Amex Company Guide Section 101(a);[13] the term of warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants, together with a minimum of 400 public holders, and a minimum aggregate market value of $4,000,000.

The Amex has proposed applying the same margin treatment as it requires for Amex-listed options, as wet forth in Amex Rule 462(d), to the purchase of Index warrants.[14]

The Amex also proposes that Nikkei 300 Index warrants will be direct obligations of their issuer, subject to cash settlement in U.S. dollars, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Because warrants are derivative in nature and closely resemble index options, the Amex has proposed safeguards that are designed to meet the investor protection concerns raised by the trading of index options. First, the Exchange represents that it will require that Index warrants only be sold to investors whose accounts have been approved for options trading pursuant to Amex Rule 921.[15] Second, pursuant to Amex rule 411, Commentary .02, the Exchange's options suitability standards contained in Amex Rule 923 shall apply to recommendations in Index warrants. Third, pursuant to Amex Rule 421, Commentary .02, discretionary orders in Index warrants must be approved and initialled on the day entered by a Senior Registered Options Principal or a Registered Options Principal. Finally, the Amex, prior to commencement of trading in Index warrants, will distribute a circular to its membership to call attention to the specific risks associated with Index warrants.

D. Surveillance

The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index warrants to monitor trading in Index warrants. The Exchange represents that it is currently negotiating with the TSE to obtain a surveillance sharing agreement and expects to have such an agreement in place prior to the listing and trading of Index warrants.[16]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[17] Specifically, the Commission finds that the trading of warrants based on the Nikkei 300 Index will serve to protect investors, promote the public interest, and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with the Japanese equity market and provide a surrogate instrument for trading in the Japanese securities market.[18] The trading of warrants based on the Nikkei 300 Index should provide investors with a valuable hedging vehicle that should reflect accurately the overall movement of the Japanese equity market.

In addition, the Commission believes, for the reasons discussed below, that the Amex has adequately addressed issues related to customer protection, index design, surveillance, and market impact of Nikkei 300 Index warrants.

A. Customer Protection

Due to the derivative nature of index warrants, the Commission believes that Nikkei 300 Index warrants should only be sold to investors capable of evaluating and bearing the risks associated with trading in such instruments and that adequate risk disclosure be made to investors. In this regard, the Commission notes that the rules and procedures of the Exchange that address the special concerns attendant to the secondary market trading of index warrants will be applicable to the Nikkei 300 Index warrants. In particular, by imposing the special suitability, account approval, disclosure, and compliance requirements noted above, the Amex has adequately addressed potential public customer problems that could arise from the derivative nature of Nikkei 300 Index warrants. Moreover, the Amex plans to distribute a circular to its members identifying the specific risks associated with warrants on the Nikkei 300 Index and, pursuant to the Amex's listing guidelines, only substantial companies capable of meeting their warrant obligations will be eligible to issue Nikkei 300 Index warrants.

B. Index Design and Structure

The Commission finds, as it did in approving Nikkei 300 Index options, that it is appropriate and consistent with the Act to classify the Index as a broad-based index. Specifically, the Commission believes the Index is broad-based because it reflects a substantial segment of the Japanese equity market, and, among other things, contains a large number of stocks that trade in that market. First, the Index consists of 300 actively-traded stocks traded on the first section of the TSE, representing 36 different industry groups in Japan. Second, the market capitalizations of the stocks comprising the Index are very large. Specifically, the total capitalization of the Index, as of July 8, 1994, was US$2.47 trillion, with the market capitalizations of the individual

[9] See Securities Exchange Act Release No. 27565 (December 22, 1989), 55 FR 376 (January 4, 1990).

[10] See Securities Exchange Act Release No. 27769 (March 6, 1990), 55 FR 9380.

[11] See Securities Exchange Act Release No. 28544 (October 17, 1990), 55 FR 42792 (October 23, 1990).

[12] See Securities Exchange Act Release No. 33036 (October 8, 1993), 58 FR 53588 (October 15, 1993).

[13] Section 101(a) requires the issuer to have stockholders' equity of at least $4,000,000 and pre-tax income of at least $750,000 in its last fiscal year, or in two of its last three fiscal years.

[14] See Amendment No. 1, *supra* note 3.

[15] See Amendment No. 1, *supra* note 3.

[16] See Amendment No. 1, *supra* note 3.

[17] 15 U.S.C. § 78f(b)(5) (1988).

[18] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

stocks in the Index ranging from a high of US$83.8 billion to a low of US$1.03 billion, with a medium value of US$3.56 billion and a mean of US$8.25 billion. Third, no one particular stock or group of stocks dominates the Index. Specifically, no single stock comprises more than 3.39 percent of the Index's total value, and the percentage weighting of the five largest issues in the Index accounts for 14.9 percent of the Index's value. Accordingly, the Commission believes it is appropriate to classify the Index as broad-based.

C. Surveillance

As a general matter, the Commission believes that comprehensive surveillance sharing agreements between the relevant foreign and domestic exchanges are important where an index product comprised of foreign securities is to be traded in the United States. In most cases, in the absence of such a comprehensive surveillance sharing agreement, the Commission believes that it would not be possible to conclude that a derivative product, such as a Nikkei 300 Index warrant, was not readily susceptible to manipulation.

Although the Amex and the TSE do not yet have a written comprehensive surveillance sharing agreement that covers the trading of Nikkei 300 Index warrants,[19] a number of factors support approval of the proposal at this time. First, while the size of an underlying market is not determinative of whether a particular derivative product based on that market is readily susceptible to manipulation, the size of the market for the securities underlying the Nikkei 300 Index makes it less likely that the proposed Index warrants are readily suceptible to manipulation.[20] In addition, the Commission notes that the TSE is under the regulatory oversight of the Japanese Ministry of Finance ("MOF"). The MOF has responsibility for both the Japanese securities and derivatives markets. Accordingly, the Commission believes that the ongoing oversight of the trading activity on the TSE by the MOF will help to ensure that the trading of Nikkei 300 Index warrants will be carefully monitored with a view toward preventing unnecessary market disruptions.

Finally, the Commission and the MOF have concluded a Memorandum of Understanding ("MOU") that provides a framework for mutual assistance in investigatory and regulatory matters.[21] Morever, the Commission also has a longstanding working relationship with the MOF on these matters. Based on the longstanding relationship between the Commission and the MOF and the existence of the MOU, the Commission is confident that it and the MOF could acquire information from one another similar to that which would be available in the event that a comprehensive surveillance sharing agreement were executed between the Amex and the TSE with respect to transactions in TSE-traded stocks related to Nikkei 300 Index warrant transactions on the Amex.[22]

Nevertheless, the Commission continues to believe strongly that a comprehensive surveillance sharing agreement between the TSE and the Amex covering Nikkei 300 Index warrants would be an important measure to deter and detect potential manipulations or other improper or illegal trading involving Nikkei 300 Index warrants. Accordingly, the Commission believes it is critical that the TSE and the Amex continue to work together to consummate a formal comprehensive surveillance sharing agreement to cover Nikkei 300 Index warrants and the component securities as soon as practicable.[23]

D. Market Impact

The Commission believes that the listing and trading of Nikkei 300 Index warrants on the Amex will not adversely impact the securities markets in the United States or in Japan. First, the existing index warrant surveillance procedures of the Amex will apply to warrants on the Index. In addition, the Commission notes that the Index is broad-based on diversified and includes highly capitalized securities that are actively traded on the TSE.

IV. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication on notice of filing thereof in the **Federal Register**. Amendment No. 1 is consistent with Section 6(b)(5), in that it contains representations by the Exchange, concerning margin, options approved accounts, and surveillance, which serve to protect investors and the public interest, promote just and equitable principles of trade, and prevent fraudulent and manipulative acts and practices. Further, these representations are consistent with those which were made in connection with the Amex's proposal to list warrants on the Hong kong 30 Index.[24] That proposal was published for the full 21-day comment period, and no comments were received. Therefore, the Commission finds that no new regulatory issues are raised by Amendment No. 1. Accordingly, the Commission believes it is consistent with Sections 19(b)(2) and 6(b)(5) of the Act to approve Amendment No. 1 on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the foregoing that are filed with the Commission, and all written communications relating to the foregoing between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W. Washington, D.C. Copies of such filings also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–Amex–94–24, and should be submitted by November 8, 1994.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[25] that the

[19] The Amex and the TSE, however, currently have a surveillance sharing agreement in place that covers other derivative products traded on the Amex. That agreement has been previously amended by the Amex and the TSE to include new products, such as the trading of Japan Index options. The Exchange represents that it currently is pursuing a comprehensive surveillance sharing agreement with the TSE with respect to Nikkei 300 Index Warrants.

[20] In evaluating the manipulative potential of a proposed index derivative product, as it relates to the securities that comprise the index and the index product itself, the Commission has considered several factors, including (1) the number of securities comprising the index or group; (2) the capitalizations of those securities; (3) the depth and liquidity of the group or index; (4) the diversification of the group or index; (5) the manner in which the index or group is weighted; and (6) the ability to conduct surveillance on the product. See Securities Exchange Act Release No. 31016 (August 11, 1992), 57 FR 37012 (August 17, 1992).

[21] See Memorandum of United States Securities and Exchange Commission and the Securities Bureau of the Japanese Ministry of Finance on the Sharing of Information, dated May 23, 1986.

[22] It is the Commission's expectation that this information would include transaction, clearing, and customer information necessary to conduct an investigation.

[23] See supra note 19.

[24] See supra note 12.

[25] 15 U.S.C. 78s(b)(2) (1988).

proposed rule change (SR–Amex–94–24), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25726 Filed 10–17–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34820; File No. SR–Amex–94–27]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing and Trading of Basic Industry Portfolio Index Term Notes

October 11, 1994.

I. Introduction

On August 8, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19B-4 Thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to list and trade Indexed Term Notes ("Notes"), the return on which is based upon a portfolio of securities issued by companies involved in "basic" industries[3] ("Basic Industry Portfolio"). The Exchange filed Amendment No. 1 to the proposal on August 24, 1994.[4] Notice of the proposal, as amended, appeared in the **Federal Register** on August 31, 1994.[5] No comment letters were received on the proposed rule change. This order approves the proposal, as amended.

II. Description of the Proposal

Under Section 107 of the Amex Company Guide ("Guide"), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[6] The Amex now proposes to list for trading, under Section 107A of the Guide, Notes whose value is based in whole or in part on a static index composed of twenty-six actively-traded equity securities issued by companies involved in Basic Industries.[7]

The Notes are non-convertible debt securities of Lehman Brothers, Inc. ("Lehman Brothers") and will conform to the listing guidelines under Section 107A of the Guide.[8] Although the specific maturity date will not be established until immediately prior to the time of the offering, the Notes will provide for maturity within a period of not less than one nor more than seven years from the date of issue. The Notes provide for a single payment at maturity, and will bear no periodic payments of interest. Basic Industry Portfolio Notes will entitle the owner at maturity to receive an amount based upon the percentage change between the "Original Portfolio Value" and the "Ending Average Portfolio Value;" provided, however, that: (1) the amount payable at maturity will not be less than 90% of the principal amount of the Notes; and (2) the issuer may place a cap on the amount to be paid on the Notes at maturity.[9] The "Original Portfolio Value" is the value of the Basic Industry Portfolio on the date on which the issuer prices the Notes for the initial offering to the public. The "Ending Average Portfolio Value" is the average of the closing prices of the Basic Industry Portfolio securities for a specified number of days prior to maturity of the Notes.[10] The Ending Average Portfolio Value will be used in calculating the amount owners will receive upon maturity.[11]

If the market value of the Basic Industry Portfolio has declined, the owners of the Basic Industry Portfolio Notes will receive at least 90% of the principal amount of the Notes. The payment at maturity is based on changes in the value of the Basic Industry Portfolio, subject to any cap on appreciation that may be included by the issuer, but does not reflect the payment of dividends on the securities that comprise the portfolio. Basic Industry Portfolio Notes are cash-settled in that they do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio securities, although the return on the investment is based on the aggregate value of the Basic Industry Portfolio securities.

According to the Amex, Basic Industry Portfolio Notes will allow investors to combine the protection of a portion of the principal amount of the Notes with a potential additional payment based upon the performance of a portfolio of securities representing 26 highly capitalized companies engaged in Basic Industries. In particular, the proposed Basic Industry Portfolio Notes will provide at least 90% principal protection with the opportunity to participate in any upside appreciation of the underlying Basic Industry Portfolio, subject to any cap on appreciation that may be included by the issuer.

The Basic Industry Portfolio consists of securities of 26 companies that

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[26] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1992).

[3] Basic industries would include such industries as chemicals, steel, aluminum, paper, and oil ("Basic Industries").

[4] In Amendment No. 1 to the proposed rule change, the Exchange proposes to: (1) provide that at maturity, holders of the indexed term notes will receive a minimum of 90% of the principal amount of the indexed term notes; and (2) amend the listing standards regarding foreign securities and American Depository Receipts ("ADRs") represented in the index underlying the indexed term notes. See Letter from Benjamin Krause, Senior Vice President, Capital Markets Group, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated August 24, 1994.

[5] See Securities Exchange Act Release No. 34597 (August 25, 1994), 59 FR 45048 (August 31, 1994).

[6] See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990).

[7] The specific components of the Basic Industry Portfolio are: Alcan Aluminum; American Barrick Resources; Bethlehem Steel; Cyprus Amax Minerals; Dow Chemical; Du Pont (E.I.) De Nemours; Echo Bay Mines; Geneva Steel; Georgia Gulf; Georgia Pacific; IMC Fertilizer; Inco; International Paper; Kerr McGee; Kaiser Aluminum; Lyondell Petrochemical; Monsanto; Morton International; Northwestern Steel; Nucor; Phelps Dodge; Placer Dome; Reynolds Metals; USX–U.S. Steel Group; Weirton Steel; and Weyerhaeuser.

[8] Specifically, the Notes must have: (1) A minimum public distribution of one million trading units; (2) a minimum of 400 holders; (3) an aggregate market value of at least $4 million; and (4) a term of at least one year. Additionally, the issuer of the Notes (*i.e.*, Lehman Brothers) must have assets of at least $100 million, stockholders' equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. As an alternative to these financial criteria, the issuer must have either: (1) assets in excess of $200 million and stockholders' equity in excess of $10 million; or (2) assets in excess of $100 million and stockholders' equity in excess of $20 million.

[9] For example, Lehman Brothers could place a cap on the amount to be received at maturity as a stated percentage of the issuance price, *e.g.*, 150% of the issuance price. Alternatively, a cap could be in the form of a participation rate whereby a holder of the Notes would participate in a stated percentage of the total percentage change between the Ending Portfolio Value and the Original Portfolio Value, *e.g.* 80% of the total appreciation of the Basic Industry Portfolio during the term of the Notes. The Commission notes that these examples are by way of illustration, not of limitation, as to how a cap on the amount to be paid to holders of the Notes at maturity could be constructed by Lehman Brothers.

[10] Specifically, the Ending Average Portfolio Value will equal the average of the closing prices for the Basic Industry Portfolio securities for the first 10 of the last 20 trading days prior to maturity of the Notes. Telephone conversation between Benjamin Krause, Senior Vice President, Capital Markets Groups, Amex, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on October 5, 1994.

[11] The Basic Industry Portfolio Notes will entitle a holder at maturity to receive not less than 90% of the original issue price for the Notes. Additionally, holders of the Notes may not receive the full amount of the change between the Ending Portfolio Value and the Original Portfolio Value.

collectively, at the time of issuance,[12] will satisfy the generic listing requirements approved by the Commission for the listing and trading of options on newly established narrow-based indexes.[13] Specifically, the component securities of the Basic Industry Portfolio satisfy the following criteria: (1) A minimum market capitalization of $75 million, except that up to 10% of the component securities may have a market capitalization of not less than $50 million; (2) trading volume in each of the six months prior to the offering of the Notes of not less than one million shares, except that up to 10% of the component securities may have a trading volume in each of the six months prior to the offering of the Notes of not less than 500,000 shares, (3) at least 90% of the component securities will meet the then current criteria for standardized options trading set forth in Exchange Rule 915; (4) all components of the Basic Industry Portfolio will be listed on the Amex or the New York Stock Exchange, or will be National Market securities traded through Nasdaq; (5) all components of the Basic Industry Portfolio will be subject to last sale reporting pursuant to Rule 11Aa3–1 of the Act; and (6) no more than 20% of the weight of the Basic Industry Portfolio shall be represented by foreign securities or ADRs for which the Exchange does not have in place a comprehensive surveillance sharing agreement with the appropriate regulatory organization(s) in such country(ies).[14]

At the outset, each of the securities in the Basic Industry Portfolio will have equal representation. Specifically, each security included in the Basic Industry Portfolio will be assigned a multiplier on the date of issuance so that the security represents an equal percentage of the value of the entire portfolio on the date of issuance. The multiplier indicates the number of shares (or fraction of one share) of a security, given its market price on an exchange or through Nasdaq, to be included in the calculation of the portfolio. Accordingly, each of the 26 companies included in the Basic Industry Portfolio will represent approximately 3.85 percent of the total portfolio at the time of issuance.

The multiplier for each security in the Basic Industry Portfolio will generally remain unchanged except for limited adjustments that may be necessary as a result of stock splits or stock dividends.[15] There will be no adjustments to the multipliers to reflect cash dividends paid with respect to a portfolio security. In addition, no adjustments of any multiplier of a portfolio security will be made unless such adjustment would require a change of at least 1% in the multiplier then in effect.

If the issuer of a security included in the Basic Industry Portfolio no longer exists, whether for reason of a merger, acquisition or similar type of corporate control transaction, then Lehman Brothers will assign to that security a value equal to the security's final value for the purposes of calculating portfolio values. For example, if a company included in the portfolio is acquired by another company, Lehman Brother shall thereafter assign a value to the shares of the acquired company's securities equal to the value per share at the time that the acquisition takes place.

If the issuer of a Basic Industry Portfolio security is in the process of liquidation or subject to a bankruptcy proceeding, insolvency, or other similar adjudication, such security will continue to be included in the Basic Industry Portfolio so long as a market price on an exchange or through Nasdaq for such security is available. If such a market price is no longer available for a portfolio security, including, but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, the value of the portfolio security will be assigned a value of zero in connection with calculating the daily portfolio value and the closing portfolio value of the Basic Industry Portfolio, for so long as no such market price exists for that security.[16]

The value of the Basic Industry Portfolio will be calculated continuously by the Amex and will be disseminated every 15 seconds over the Consolidated Tape Association's Network B. The portfolio value will equal the sum of the products of the most recently available market prices and the applicable multipliers for the portfolio securities.

The Notes may not be redeemed prior to maturity and are not callable by the issuer. Holders of Basic Industry Portfolio Notes will be able to cash-out of their investment by selling the security on the Amex. The Exchange anticipates that the trading value of the security in this secondary trading market will depend in large part on the value of the securities comprising the Basic Industry Portfolio and also on such other factors as the level of interest rates, the volatility of the value of the Basic Industry Portfolio, the time remaining to maturity, dividend rates, and the creditworthiness of the issuer, Lehman Brothers.

Because Basic Industry Portfolio Notes are linked to a portfolio of equity securities, the Amex's existing equity floor trading rules will apply to the trading of Basic Industry Portfolio Notes. First, pursuant to Amex Rule 411, the exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading Basic Industry Portfolio Notes.[17] Second, consistent with Amex Rule 411, the Exchange will further require that a member or member firm specifically approve a customer's account for trading Basic Industry Portfolio Notes prior to, or promptly after, the completion of the transaction. Third, Basic Industry Portfolio Notes will be subject to the equity margin rules of the Exchange. Fourth, the Exchange will, prior to trading Basic Industry Portfolio Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in Basic Industry Portfolio Notes and highlighting the special risks

[12] The Commission notes that because the Basic Industry Portfolio is a static portfolio, the Amex will not make adjustments subsequent to issuance of the Notes for purposes of maintaining compliance with these standards.

[13] See Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994).

[14] The Exchange has represented that Lehman Brothers may conclude prior to issuance of the Notes, based on changes in its market research and investment strategy, that the composition of the Basic Industry Portfolio should be altered. In such an event, Lehman Brothers would be allowed, with the concurrence of the staff of the Commission, to replace component securities accounting for up to 10% of the number of components of the Basic Industry Portfolio (*i.e.*, two components) provided that with the replacement components, the Basic Industry Portfolio still satisfies the requirements for the listing and trading of options on newly established narrow-based indexes. *Id.* If Lehman Brothers determines to make any changes to the Basic Industry Portfolio that do not satisfy these conditions, the Exchange would be required to obtain approval from the Commission pursuant to Section 19(b) of the Act before listing Notes based on the altered Basic Industry Portfolio.

[15] Lehman Brothers will adjust the multiplier of any portfolio security if the security is subject to a stock split or reverse split to equal the product of the number of shares issued with respect to one share of the portfolio security and the prior multiplier. In the case of a stock dividend, the multiplier will be adjusted so that the new multiplier will equal the former multiplier plus the product of the number of shares of such portfolio security issued with respect to one share of the portfolio security and the prior multiplier.

[16] Lehman Brothers will not attempt to find a replacement stock or to compensate for the extinction of a security due to bankruptcy or a similar event.

[17] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

and characteristics of the Basic Industry Portfolio Notes.[18]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[19] Specifically, the Commission believes that providing for exchange-trading of Basic Industry Portfolio Notes will offer a new and innovative means of participating in the market for securities of companies involved in Basic Industries.[20] In particular, the Commission believes that Basic Industry Portfolio Notes will permit investors to gain equity exposure in such companies, while at the same time, limiting the downside risk of the original investment. For the reasons discussed in the MITTS Approval Orders, the Commission finds that the listing and trading of Basic Industry Portfolio Notes is consistent with the Act.[21]

As with the MITTS products, Basic Industry Portfolio Notes are not leveraged instruments. Their price, however, will still be derived and based upon the underlying linked securities. Accordingly, the level of risk involved in the purchase or sale of Basic Industry Portfolio Notes is similar to the risk involved in the purchase or sale of traditional common stock. Nonetheless, the Commission has several specific concerns with this type of product because the final rate or return of the Notes is derivatively priced, based on the performance of the underlying securities. The concerns include: (1) Investor protection concerns, (2) dependence on the credit of the issuer of the security, (3) systemic concerns regarding position exposure of issuers with partially hedged positions or dynamically hedged positions, and (4) the impact on the market for the underlying linked securities.[22]

The Commission believes the Amex has adequately addressed each of these issues such that the Commission's regulatory concerns are adequately minimized.[23] In particular, by imposing the listing standards, suitability, disclosure, and compliance requirements noted above, the Amex has adequately addressed the potential public customers concerns that could arise from the hybrid nature of the Notes.[24] Further, the Commission believes that the listing standards and issuance restrictions should help to reduce the likelihood of any adverse market impact on the securities comprising the Basic Industry Portfolio.

The Commission realizes that Basic Industry Portfolio Notes are dependent upon the individual credit of the issuer, Lehman Brothers. To some extent this credit risk is minimized by the Exchange's continued listing standards which require issuers to maintain an aggregate market value of $1 million for its publicly-held shares.[25] In addition, the Exchange's hybrid listing standards further require that Basic Industry Portfolio Notes have at least $4 million in market value.[26] In any event, financial information regarding Lehman Brothers, in addition to the information on the issuers of the underlying securities comprising the Basic Industry Portfolio, will be publicly available.[27]

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (File No. SR-Amex-94-27), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-25727 Filed 10-17-94; 8:45 am]

BILLING CODE 8010-01-M

[18] The circular shall also highlight any cap on appreciation, if any, that the issuer includes in the Notes.

[19] 15 U.S.C. 78f(b)(5) (1988).

[20] The Commission Notes that the Basic Industry Portfolio Notes are very similar in structure to several Market Index Target-Term Securities ("MITTS") recently approved for listing on the New York Stock Exchange, Inc. ("NYSE"). See Securities Exchange Act Release Nos. 34692 (September 20, 1994), 59 FR 49267 (September 27, 1994), 34691 (September 20, 1994), 59 FR 49264 (September 27, 1994), and 34655 (September 12, 1994), 59 FR 47966 (September 19, 1994) ("MITTS Approval Orders").

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] The Exchange will also distribute a circular to its membership, in a form approved by the Commission, calling attention to the specific risks associated with Basic Industry Portfolio Notes.

[25] See Amex Company Guide § 1003(b).

[26] See Amex Company Guide § 107A.

[27] The companies that comprise the Basic Industry Portfolio are reporting companies under the Act.

[28] 15 U.S.C. 78s(b)(2) (1988).

[29] 17 CFR 200.30-3(a)(12) (1993).

[Investment Company Act Release No. 20610; 812-9058]

Van Kampen Merritt Equity Opportunity Trust; Notice of Application

October 11, 1994.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Van Kampen Merritt Equity Opportunity Trust.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3).

SUMMARY OF APPLICATION: Applicant seeks a conditional order on behalf of itself and certain subsequent series (collectively, the "Series") to permit each Series to invest up to 10% of its total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATES: The application was filed on June 20, 1994, and amended on September 22, 1994.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing on the application 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 November 7, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Van Kampen Merritt Inc., One Parkview Plaza, Oakbrook Terrace, Illinois 60181.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942-0581, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Each Series will be a series of Van Kampen Merritt Equity Opportunity Trust, a unit investment trust registered under the Act. Van Kampen Merritt Inc. ("VKM") is applicant's depositor. VKM currently intends to offer a new Series at about the time each Series terminates.

2. Each Series' investment objective is to provide total return through a combination of potential capital appreciation and current dividend

income. Each Series will invest approximately 10%, but in no event more than 10.5%,[1] of the value of such Series' total assets in the ten common stocks of the Dow Jones Industrial Average ("DJIA") having the highest dividend yields. Dividend yields will be calculated by annualizing the last quarterly or semi-annual ordinary dividend distributed on that security and dividing the result by the market value of the security at the close of the New York Stock Exchange no more than three business days prior to such Series' initial date of deposit.

3. The DJIA comprises 30 widely-held common stocks listed on the New York Stock Exchange which are chosen by the editors of The Wall Street Journal. the DJIA is the property of Dow Jones & Company, Inc., which is not affiliated with VKM or any Series and does not participate in any way in the creation of any Series or the selection of its stocks.

4. The securities deposited in each Series will be chosen solely according to the formula described above. VKM will have no discretion as to which securities are purchased. Securities deposited in a Series may include securities of issuers that derived more than 15% of their gross revenues in their most recent year from "securities related activities," as defined in rule 12d3–(d)(1) under the Act.

5. During the 90-day period following the initial date of deposit, VKM may deposit additional securities, maintaining to the extent practicable the original proportionate relationship among the number of shares of each stock in the portfolio. Subsequent deposits made after the 90-day period following the initial date of deposit must, subject to certain limited exceptions set forth in the trust agreement, replicate exactly the proportionate relationship among the face amounts of the securities comprising the portfolio at the end of the initial 90-day period, whether or not a stock continues to be among the 10 highest dividend yielding stocks.

6. The Series' portfolios will not be actively managed. Sales of portfolio securities will be made in connection with redemptions and at the termination of the trust. VKM will have no discretion as to when securities will be sold except in certain limited situations specified in the trust agreement.[2] The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Series' portfolio.

[1] The objective for each Series is to purchase securities so that each of the ten common stocks represents approximately 10% of the value of the Series' total assets on the initial date of deposit. VKM generally purchases the securities for each Series in 100 share lots, and on occasion in 50 share lots. Buying securities in this manner permits VKM to obtain the best price for the securities while allowing each of the 10 stocks to represent close to 10% of the value of a Series' total assets. To accommodate these purchase requirements, some stocks may represent up to 10.5% of the value of the Series' assets, while others may represent less than 10%.

[2] For example, the trust agreement provides that VKM may, but need not, direct the trustee to dispose of an equity security in certain events such as the issuer having defaulted on the payment on any of its outstanding obligations or the price of an equity security has declined to such an extent or other such credit facts exist so that in the opinion of VKM the retention of such securities would be detrimental to the Series.

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act generally prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 exempts from section 12(d)(3) purchases by an investment company of securities of an issuer (except the company's investment adviser, promoter, or principal underwriter, or any affiliated person of any of the foregoing) that derived more than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than 5% of the value of its total assets in securities of the issuer. Applicant and each subsequent Series agree to comply with all the provisions of rule 12d3–1, except for the 5% limitation imposed by paragraph (b)(3) thereof.

2. Applicant seeks an exemption to permit any Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in securities of an issuer that derives more than 15% of its gross revenues from securities related activities, provided that such securities represent one of the ten highest dividend yielding stocks in the DJIA as determined by the objective formula described above.

3. Applicant asserts that section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risk of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses.

4. One potential conflict could occur if an investment company purchased securities of or other interests in a broker-dealer to reward that broker-dealer for selling shares, rather than solely on investment merit. Applicant argues that this concern does not arise in connection with its application because neither applicant nor VKM has discretion in choosing the securities or percentage amount purchased. The security must first be included in the DJIA which is unaffiliated with VKM and applicant, and must also qualify as one of the 10 highest dividend yielding securities as calculated by the objective formula described above.

5. Applicant states that the effect of a Series' purchase on the stock of parents of broker-dealers would be *de minimis*. Applicant asserts that the common stocks of securities related issuers represented in the DJIA are generally widely held, have active markets, and that potential purchases by any Series would represent an insignificant amount of the outstanding common stock and the trading volume of any of these issues. According to applicant, it is highly unlikely that purchases of these securities by a Series would have any significant impact on the market value of any such securities.

6. Another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though the broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant and each Series agree, as a condition of this application, that no company held in the portfolio of a Series nor any affiliated person thereof will act as broker for any Series in the purchase or sale of any security for its portfolio.

7. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if and to the extent 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 standards set forth in section 6(c).

Applicant's Condition

Applicant and each subsequent Series agree that the requested exemptive order may be conditioned upon no company held in the Series' portfolio nor any affiliated person thereof acting as broker for any Series in the purchase or sale of any security for the Series' portfolio.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-25645 Filed 10-17-94; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-2012; File No. 812-9038]

The Woodward Funds et al.; Notice of Application

October 11, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 ("the Act").

APPLICANTS: The Woodward Funds (the "Trust"), NBD Bank, N.A. ("Adviser"), First of Michigan Corporation ("FoM"), and Essex National Securities, Inc. ("Essex").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act exempting applicants from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain investment companies to issue multiple classes of shares representing interests in the same portfolios of securities and assess, and under certain circumstances waive, a contingent deferred sales charge ("CDSC") on redemptions of shares.

FILING DATE: The application was filed on June 6, 1994, and amended on August 29, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 7, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicants: the Trust, c/o NBD Bank, N.A., P.O. Box 7058, Troy, Michigan 48007; the Adviser, 611 Woodward Avenue, Detroit, Michigan 48226; and FoM, 100 Renaissance Center, 26th Floor, Detroit, Michigan 48243; Essex, 215 Gateway Road West, Napa, California 94558.

FOR FURTHER INFORMATION CONTACT: Bradley W. Paulson, Staff Attorney, at (202) 942-0147 or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations:

A. The Multiple Class Distribution System

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. The Trust offers fifteen series representing interests in separate investment portfolios. The Adviser serves as investment adviser, transfer agent, and custodian for each of the Trusts's portfolios. FoM and Essex are the Trust's sponsors and co-distributors. Applicants request relief on behalf of future portfolios of the Trust and other investment companies for which the Adviser in the future serves as investment adviser or, if and when permitted under applicable law, distributor. The Trust and investment companies that in the future are advised or distributed by the Adviser are collectively referred to as the "Companies." The Trust's portfolios and the portfolios of all investment companies that in the future are advised or distributed by the Adviser are collectively referred to as the "Portfolios."

2. Applicants propose that each Company be permitted to offer an unlimited number of classes of shares in the Portfolios. These classes might be offered (a) in connection with plans adopted pursuant to rule 12b-1 under the Act; (b) in connection with non-rule 12b-1 administrative plans (together with rule 12b-1 distribution plans, "Plans"); (c) in connection with certain retirement plans; (d) in connection with the allocation of expenses attributable only to certain classes ("Class Expenses"), which are set forth in condition 1, below; (e) subject to varying front-end sales charges; (f) subject to varying CDSCs; and/or (g) subject to certain conversion features. With respect to each class, a Company would pay its distributor or other organization for expenses, services, and assistance in accordance with the terms of the particular Plan. The expense of such payments would be borne entirely by the beneficial owners of the class of the Portfolio to which these payments relate.

3. Expenses of a Company that are not attributable directly to any one Portfolio ("Company Expenses") would be allocated to each Portfolio based on the relative net assets of such Portfolio or as otherwise determined under the supervision of the Company's trustees. All shares representing interests in the same Portfolio would bear such Portfolio's portion of Company Expenses allocated to each of the Portfolio's classes based on the relative net asset value of the Portfolio's respective classes. Expenses that are attributable to one Portfolio but not another ("Portfolio Expenses") would be allocated to each class within a Portfolio based on the relative net asset value of the respective classes to which the expenses are attributable. Class Expenses are those expenses, in addition to payments made pursuant to a Plan, that are attributable only to a particular class and are allocated to that class exclusively. Class Expenses would be allocated equally to each outstanding share representing an interest in the class.

4. The Adviser, FoM, Essex, or other service contractors may waive or reimburse Class Expenses on certain classes on a voluntary, temporary basis. The amount of Class Expenses waived or reimbursed may vary from class to class. Class Expenses are by their nature specific to a given class and may vary from one class to another. Applicants believe that it is acceptable and consistent with shareholder expectations to waive or reimburse Class Expenses at different levels for different classes.

5. In addition, the Adviser, FoM, Essex, or other service contractors may waive or reimburse Company Expenses and/or Portfolio Expenses (with or without a waiver or reimbursement of Class Expenses). These expenses may be waived or reimbursed only if the same proportionate amount of Company Expenses or Portfolio Expenses is waived or reimbursed for each class of a Portfolio. Any waived or reimbursed Company Expenses would be credited to each Portfolio of the Company according to the relative net assets of each Portfolio, and, in turn, credited to each class of each Portfolio according to the relative net asset values of each class.

6. The gross income of each Portfolio will be allocated on a pro rata basis among the Portfolio's classes according to the relative net asset value of the

Portfolio's classes. Because Plan payments and Class Expenses may differ among classes, the per share net income of each class may differ from the net income of other classes of shares of a Portfolio.

7. Share exchange privileges may be available under which shareholders might exchange shares of one Portfolio (including shares with a CDSC) for shares with similar characteristics of another Portfolio; exchange shares of a non-money market Portfolio for shares of a money market Portfolio (or vice versa); and/or exchange shares of one class of a Portfolio for shares of another class of the same Portfolio. All exchanges will comply with rule 11a–3 under the Act.

B. The CDSC

1. Applicants also propose that they, except for investment companies that do not use the amortized cost method of valuation under Rule 2a–7 of the Act, be permitted to issue shares of certain classes subject to the imposition of a CDSC. CDSCs will not be imposed with respect to: (1) The portion of redemption proceeds attributable to appreciation in the value of the shares, (2) shares acquired through the reinvestment of income dividends or capital gain distributions, or (3) shares held longer than a designated time after their purchase. In determining whether a CDSC would be payable, it would be assumed that shares, or amounts representing shares, that are not subject to a CDSC would be redeemed first, and other shares or amounts would be redeemed in the order purchased.

2. No CDSC would be imposed on any shares purchased before the effective date of the requested order or before the amendment of the affected Portfolio's prospectus disclosing the CDSC arrangement. The sum of any front-end load, asset-based sales charge, and CDSC will not exceed the maximum sales charge provided for in article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

3. Applicants request relief to permit each Company to waive or reduce the CDSC in certain circumstances. Any waiver or reduction will comply with the conditions in paragraphs (a) through (d) of rule 22d–1 of the Act.

4. Shares of certain CDSC classes ("Convertible CDSC Shares") could automatically convert into shares of non-CDSC classes ("Non-CDSC Shares") after a prescribed period following the purchase of the Convertible CDSC Shares. Shares acquired through the reinvestment of dividends and other distributions paid with respect to Convertible CDSC Shares will also be Convertible CDSC Shares. Such Convertible CDSC Shares will convert to Non-CDSC Shares on the earlier of a prescribed period following the date of such reinvestment or the conversion date of the most recently purchased Convertible CDSC Shares that were not acquired through the reinvestment of dividends or other distributions.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 18(f)(1), 18(g), and 18(i) of the Act of the extent that the proposed issuance and sale of multiple classes could be deemed to result in a "senior security" within the meaning of section 18(g) and, therefore, be prohibited by section 18(f)(1); and to violate the equal voting provisions of section 18(i). Applicants believe that by implementing the multiple class distribution system, the Companies can facilitate the distribution of their shares and provide a broad array of services without assuming excessive accounting and bookkeeping costs. Applicants also believe that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. The proposed arrangement does not involve borrowings, and does not affect the Companies' existing assets or reserves. The proposed arrangement also will not increase the speculative character of the shares of a Company.

2. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder permitting applicants to assess and, under certain circumstances, waive a CDSC on redemptions of shares. Applicants believe that the proposed CDSC arrangement is fair and in the best interests of their shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares representing interests in the same Portfolio of a Company will be identical in all respects, except as set forth below. The only differences between the classes of shares of the same Portfolio will relate solely to: (a) The impact of (i) expenses assessed to a class pursuant to a Plan, (ii) other Class Expenses which would be limited to (A) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares, (B) fees and expenses of a Company's administrator that are identified and approved by the Company's board of trustees as being attributable to a specific class of shares, (C) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders of a class, (D) blue sky registration fees incurred by a class of shares, (E) SEC registration fees incurred by a class of shares, (F) the expense of administrative personnel and services as required to support the shareholders of a specific class, (G) litigation or other legal expenses or audit or other accounting expenses relating solely to one class of shares, and (H) trustees' fees incurred as a result of issues relating to one class; and (iii) any other incremental expenses subsequently identified that should be properly allocated to one class and which are approved by the SEC pursuant to an amended order; and/or (b) the fact that the classes will vote separately with respect to a Portfolio's Plans or other matter submitted to shareholders relating to Class Expenses, except as provided in condition 16 below; and/or (c) the different exchange privileges of certain classes of shares; and/or (d) certain conversion features offered by some of the classes; and/or (e) the designation of each class of a Portfolio.

2. The board of trustees of a Company, including a majority of the independent trustees, will approve the offering of different classes of shares under the multiclass distribution system. The minutes of the trustees' meetings concerning the trustees' deliberations on the approvals necessary to implement a multiclass system will reflect in detail the reasons for the trustees' determination that the proposed multiclass system is in the best interests of both the Company involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of trustees of a Company, including a majority of the trustees who are not interested persons of the Company. Any person authorized to direct the allocation and disposition of monies paid or payable by a Company to meet Class Expenses shall provide to the board of trustees, and the trustees shall review, at least quarterly, a written report of the amounts so expanded and the purposes for which such expenditures were made.

4. On an ongoing basis, the trustees of a Company, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Portfolio having a multiclass system for the

existence of any material conflicts among the interests of the various classes of shares. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A Portfolio's investment adviser and distributor will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, a Portfolio's investment adviser and/or distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.[1]

5. Any non-rule 12b–1 administrative plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

6. The trustees of a Company will receive quarterly and annual statements concerning the expenditures under each Plan complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class will be used to justify any distribution or servicing expenditure charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

7. Dividends paid by a Portfolio with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that payments made pursuant to a Plan relating to each respective class and the Class Expenses relating to each class will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes in any Portfolio having a multiclass distribution system and the proper allocation of expenses among the various classes in each such Portfolio have been reviewed by an expert. The expert has rendered a report to the Company involved, which report will be provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the expert, or an appropriate substitute expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Company involved that the calculations and allocations are being made properly. The reports of the expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the expert with respect to such reports, following request by the Company involved (which the Company agrees to provide), will be available for inspection by the SEC staff upon written request to the Company for such work papers by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the expert is a "Report on Policies and Procedures Placed in Operation,"and the ongoing reports will be "Reports on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness" as defined and described in the Statement of Auditing Standards No. 70 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the classes of shares. This representation will be concurred with by the export in the initial report referred to in condition 8, above, and will be concurred with by the expert, or an appropriate substitute expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8. Applicants will take immediate corrective measures if this representation is not concurred with by the expert or an appropriate substitute expert.

10. The prospectuses of each Portfolio having a multiclass system will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares of a Portfolio shares may receive different compensation with respect to one particular class over another in the same Portfolio.

11. The Distributor for a Company having a multiclass system will adopt compliance standards for any Portfolio that has a multiclass system, which standards will relate to when each class may appropriately be sold to particular investors. Applicants will require all persons selling shares of a Portfolio having a multiclass system to agree to conform to such applicable standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees with respect to the multiclass system will be set forth in guidelines that will be furnished to the trustees of a Company having a multiclass system.

13. Each Portfolio having a multiclass system will disclose the respective expenses, performance data, distribution arrangements, services, fees, front-end sales loads, CDSCs, and exchange privileges applicable to each class in a Portfolio in every prospectus relating to such Portfolio, regardless of whether all classes of shares are offered through each prospectus. Each such Portfolio will disclose the respective expenses and performance data applicable to all classes of shares in a Portfolio in every shareholder report relating to such Portfolio. Shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Portfolio as a whole generally (not on a per class basis). Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of the Portfolio's shares. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by the applicants for publication in any newspaper or similar listing of any Portfolio's net asset value and public offering price will present each class of shares separately.

14. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Portfolios may make pursuant to a Plan in reliance on the exemptive order.

15. If a CDSC arrangement is implemented with respect to shares of a Portfolio, the applicants will comply with the provisions of proposed rule 6c–

[1] If a Portfolio's adviser is a bank, the obligations of such adviser to take such remedial action may be limited by applicable law, such as the Glass-Steagall Act, which has been interpreted to prohibit banks from acting as a sponsor or distributor of an open-end investment company.

10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988) as currently proposed and as it may be reproposed, adopted or amended.

16. Any class with a conversion feature will convert into another class on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to asset-based sales charges and service fees (as those terms are defined in article III, section 26 of the National Association of Securities Dealers' Rules of Fair Practice), if any, that in the aggregate would be less than any asset-based sales charges and service fees to which the CDSC shares were subject prior to the conversion.

17. If a Company implements any amendment to its rule 12b–1 distribution plan (or, if presented to shareholders, adopts or implements any amendment to a non-rule 12b–1 administrative plan) that would increase materially the amount that may be borne by the Non-CDSC Shares under the Plan, exiting Convertible CDSC Shares will stop converting into the Non-CDSC Shares unless the Convertible CDSC Shares, voting separately as a class, approve the proposal. The trustees shall take such action as it necessary to ensure that Convertible CDSC Shares are exchanged or converted into a new class ("New Non-CDSC Shares"), identical in all material respects to the Non-CDSC Shares as they existed before implementation of the proposal, no later than the date such shares previously were scheduled to convert into Non-CDSC Shares. If deemed advisable by the trustees to implement the foregoing, such action may include the exchange of all existing Convertible CDSC Shares for a new class ("New Convertible CDSC Shares"), identical to the existing Convertible CDSC Shares in all material respects except that the New Convertible CDSC Shares will convert into New Non-CDSC Shares. New Non-CDSC Shares or New Convertible CDSC Shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the trustees reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Non-CDSC Shares or New Convertible CDSC Shares shall be borne solely by the Company's adviser and the distributor. Convertible CDSC Shares sold after the implementation of the proposal may convert into Non-CDSC Shares subject to the higher maximum payment, provided that the material features of the Non-CDSC Share plan and the relationship of such plan to the Convertible CDSC Shares are disclosed in an effective registration statement.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–25644 Filed 10–17–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat- mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 94–7–36 established the currently effective two-month SFFL applicable through September 30, 1994.

In establishing the SFFL for the two-month period beginning October 1, 1994, we have projected non-fuel costs based on the year ended June 30, 1994 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 94–10–9 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic	1.3340
Latin America	1.3873
Pacific	1.9269
Canada	1.4707

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

Dated: October 13, 1994.

By the Department of Transportation.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 94–25769 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–62–P

Notice of Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS–109, implemented by Regulation ER–1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 94–7–37, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning October 1, 1994, we have projected non-fuel costs based on the year ended June 30, 1994 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 94–10–8 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic—1.1444
Western Hemisphere—1.1309
Pacific—1.4808

For further information contact: Keith A. Shangraw (202) 366–2439.

Dated: October 13, 1994.

By the Department of Transportation.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 94–25770 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[GGD–94–086]

National Boating Safety Advisory Council Subcommittee Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council's Subcommittees on Inflatable Personal Flotation Devices (PFDs), Personal Watercraft Definition and Requirements, Emergency Flags, Multiple-Use Waterways, Mandatory Education and Boarding Ladders will meet to discuss various issues related to these topics. The meetings will be open to the public.

DATES: The meetings will be held on November 12 and 13, 1994, from 1 p.m. to 5 p.m. on November 12 and from 8:30 a.m. to 11 a.m. on November 13, 1994. Written material should be submitted not later than November 4, 1994.

ADDRESSES: The meetings will be held at the Holiday Inn Hotel & Conference Center Old Town Scottsdale, 7353 E. Indian School Road, Scottsdale, Arizona 85251–3942. Written material should be

submitted to Mr. Albert J. Marmo, Executive Director, Commandant (G-NAB), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1077.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App.2, Section 1 et seq. The agenda for the meetings will be to discuss various issues related to the topics listed in the "Summary".

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director listed above under **ADDRESSES**, no later than the day before the meeting. Written material may be submitted at any time for presentation to the Committee. However, to ensure advance distribution to each Committee member, persons submitting written material are asked to provide 25 copies to the Executive Director no later than November 4, 1994.

Dated: October 11, 1994.

P.A. Penington,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 94-25722 Filed 10-17-94; 8:45 am]

BILLING CODE 4910-14-M

[GGD-94-085]

National Boating Safety Advisory Council Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) will meet to discuss various issues related to recreational boating safety. Agenda items include personal watercraft, boating education, propeller guards, nautical charting and lifesaving devices. The meeting will be open to the public.

DATES: The meeting will be held on November 14 and 15, 1994, from 8:30 a.m. to 5 p.m. daily. Written material should be submitted not later than November 2, 1994.

ADDRESSES: The meeting will be held at the Holiday Inn Hotel & Conference Center Old Town Scottsdale, 7353 E. Indian School Road, Scottsdale, Arizona 85251-3942. Written material should be submitted to Mr. Albert J. Marmo, Executive Director, Commandant (G-NAB), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1077.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App.2, Section 1 et seq. The agenda will include discussion of the following topics:

1. Review of action taken at the 53rd meeting of the Council.
2. Executive Director's Report.
3. Boat Standards Update.
4. Boating Safety Education and Awareness Update.
5. Multiple-Use Waterways Subcommittee Report.
6. Personal Watercraft Definition and Requirements Subcommittee Report.
7. Inflatable Personal Flotation Devices (PFDs) Subcommittee Report.
8. Update on Personal Flotation Device Issues.
9. Mandatory Education Subcommittee Report.
10. Emergency Flag Subcommittee Report.
11. Boarding Ladder Subcommittee Report.
12. Presentation on Propeller Protection Issues.
13. Hull Identification Number Discussion.
14. Report on Environmental Outreach Program.
15. Report on Status of NOAA Nautical Chart Program.
16. National Association of State Boating Law Administrators Report.
17. Chairman's Session.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director listed above under **ADDRESSES**, no later than the day before the meeting. Written material may be submitted at any time for presentation to the Council. However, to ensure advance distribution to each Council member, persons submitting written material are asked to provide 25 copies to the Executive Director no later than November 2, 1994.

Dated: October 11, 1994.

G.A. Penington,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 94-25723 Filed 10-17-94; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; All-Weather Operations Working Group

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of establishment of All-Weather Operations Working Group.

SUMMARY: Notice is given of the establishment of an All-Weather Operations Working Group by the Aviation Rulemaking Advisory (ARAC). This notice informs the public of the activities of the ARAC.

FOR FURTHER INFORMATION CONTACT: Mr. Quentin J. Smith, Jr., Executive Director for Air Carrier Operations Issues, Flight Standards Service (AFS-200), 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267-8166, FAX: (202) 267-5230.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established an Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230, February 19, 1993). One area that the ARAC deals with is air carrier operations. Other working groups in this area have dealt with issues such as autopilot takeoff minimum altitudes, fuel requirements, controlled rest on the flight deck, noise abatement, and flight crewmember fight/rest/duty requirements. The All-Weather Operations Working Group is being established to pursue the elimination of differences between the Joint Aviation Authorities' and the FAA's regulations and advisory materials in areas such as certification criteria and operational authority and criteria. The All-Weather Working Group will forward recommendations to the ARAC, which will then determine whether to forward them to the FAA.

Specifically, the Working Group's task is as follows:

To review and revise FAA advisory material associated with the certification and operational approval for all-weather operations, in particular lower weather minimums, in conjunction with the FAA/JAA harmonization work program.

A recommendation in the form of an Advisory Circular, or rulemaking, as appropriate, must be submitted in a format prescribed by the FAA. Other recommendations may be submitted in a format appropriate to the recommendation. All recommendations should be fully justified, and the justification should be submitted as part of the recommendation.

The Working Group should recommend time line(s) for completion of the task, including the rationale, for consideration at the meeting of the ARAC to consider air carrier operations issues held following publication of this notice.

The Working Group will give a status report on the task at each meeting of the ARAC held to consider air carrier operations issues.

The All-Weather Working Group will be comprised of experts from those organizations having an interest in the tasks assigned. A Working Group member need not necessarily be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with the ARAC Assistant Chair for Air Carrier Operations and the Chair of the All-Weather Working Group, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation of use of the ARAC are necessary in the public interest in connection with the performance of duties of the FAA by law. Meetings of the ARAC to consider air carrier operations issues will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the All Weather Working Group will not be open to the public except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC on October 7, 1994.

Quentin J. Smith, Jr.,

Assistant Executive Director for Air Carrier Operations Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–25773 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–62–M

[Summary Notice No. PE–94–37]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission or information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 7, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and 9g) of § 1127. of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, D.C., on October 11, 1994.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27157
Petitioner: Dornier
Section of the FAR Affected: 14 CFR 25.562
Description of Relief Sought: To extend Exemption No. 5704, as amended, which has been applied to the petitioner's Dornier 328 airplane. Exemption No. 5704 provided a partial exemption from the floor track misalignment test requirements of § 25.562 for the captain and first officer seats. Exemption No. 5704A extended the compliance time on the original exemption. The petitioner has now requested an additional extension, until June 30, 1995, for compliance with § 25.562.

Docket No.: 27435
Petitioner: Air France
Section of the FAR Affected: 14 CFR 129.18(a)
Description of Relief Sought: To extend Exemption No. 5799, as amended, which allows Air France to continue to operate its Concorde aircraft that are not equipped with an approved traffic alert and collision avoidance system (TCAS II) between the United States and France.

Docket No.: 27721
Petitioner: University of North Dakota
Section of the FAR Affected: 14 CFR 61.187(b)
Description of Relief Sought: To permit the University of North Dakota to use flight instructors that have a minimum of 1 year of experience and 500 hours of flight instruction to instruct flight instructor certificate applicants.

Docket No.: 27857
Petitioner: American Eurocopter Corporation
Section of the FAR Affected: 14 CFR 21.195(a)
Description of Relief Sought: To permit American Eurocopter Corporation to apply for an experimental certificate for its EC135 helicopter for the purpose of conducting market surveys, sales demonstrations, or customer crew training.

Docket No.: 27862
Petitioner: Regional Airline Association
Section of the FAR Affected: 14 CFR 135.225(d)
Description of Relief Sought: To permit Regional Airline Association member airlines and other similarly situated airlines operating under part 135 to use alternative requirements to the increased decision height and visibility limitations specified in § 135.225(d) for pilots in command of multiengine, turbine powered airplanes that require two pilots who have not yet accumulated 100 hours in the type of aircraft being operated.

Docket No.: 22473
Petitioner: Trans World Express (RBD)
Sections of the FAR Affected: 14 CFR 93.123, 93.125, and 93.129
Description of Relief Sought/Disposition: To extend Exemption No. 3752, which granted scheduled air taxi operators relief from §§ 93.123, 93.125, and 93.129 of the FAR to the extent necessary to permit them to conduct operations at Washington National Airport (DCA) using portions of runways for short takeoff and landing (STOL) aircraft, subject to certain conditions and limitations. The subject STOL slots were originally slots held by Pan American Express, Inc. RBD received these slots from Pan American Express on December 3, 1991.

Grant, September 9, 1994, Exemption No. 3752D

Docket No.: 22473
Petitioner: Piedmont Airlines
Sections of the FAR Affected: 14 CFR 93.123, 93.125, and 93.129
Description of Relief Sought/Disposition: To extend Exemption No. 3752, which granted scheduled air taxi operators relief from §§ 93.123, 93.125, and 93.129 of the FAR to the extent necessary to permit them to conduct operations at Washington National Airport (DCA) using portions of runways for short takeoff and landing (STOL) aircraft, subject to certain conditions and limitations.
Grant, September 9, 1994, Exemption No. 3752E

Docket No.: 23492
Petitioner: United States Hang Gliding Association, Inc.
Sections of the FAR Affected: 14 CFR 103.1(a) and (b)
Description of Relief Sought/Disposition: To extend Exemption No. 4721, as amended, which allows individuals authorized by the United States Hang Gliding Association, Inc., to operate unpowered ultralight vehicles that are less than 155 pounds with another occupant for the purpose of sport, training, or recreation.
Grant, September 16, 1994, Exemption No. 4721D

Docket No. 25677
Petitioner: Servico Aereo Leo Lopez, S.A. de C.V. (SALLSA)
Sections of the FAR Affected: 14 CFR 61.77(a)
Description of Relief Sought/Disposition: To extend and amend Exemption No. 4978, as amended, which permits pilots employed by SALLSA to be issued special purpose pilot certificates to operate U.S.-registered Metroliner II model SA226TC and U.S.-registered Metroliner III model SA227AC aircraft without either airplane having a passenger seating configuration of more than 30 seats or a payload capacity of more than 7,500 pounds. The amendment further adds deHavilland Dash 8 series model DHC–8–100, DHC–8–200, and DHC–8–300 aircraft to the exemption.
Grant, September 12, 1994, Exemption No. 4978C

Docket No.: 26695
Petitioner: Comair Aviation Academy
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/Disposition: To extend Exemption No. 5523, as amended, which permits Comair Aviation Academy to recommend graduates of its approved certification course for flight instructor certificates and ratings without taking the FAA written test.
Grant, September 12, 1994, Exemption No. 5523A

Docket No.: 26855
Petitioner: Academics of Flight
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/Disposition: To extend Exemption No. 5524, as amended, which permits Academics of Flight to recommend graduates of its approved certification course for airline transport pilot certificates and ratings without their taking the FAA written test, in accordance with the provisions of subpart D of part 141.
Grant, September 16, 1994, Exemption No. 5524A

[FR Doc. 94–25777 Filed 10–17–94; 8:45 am]
BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 94–36; Notice 2]

Solectria Corporation; Grant of Petition for Temporary Exemption From Four Federal Motor Vehicle Safety Standards

Solectria Corporation of Arlington, Massachusetts, has petitioned to be exempted from four Federal motor vehicle safety standards for passenger cars that it converts to electric power. The basis of the petition is that compliance with the standards would cause substantial economic hardship to a manufacturer that has tried to comply with the standards in good faith.

Notice of receipt of the petition was published on July 18, 1994, and an opportunity afforded for comment (59 FR 36484). This notice grants the petition.

Previously, petitioner received NHTSA Exemption No. 92–2 covering Geo Metro passenger cars that it converts to electric power and markets under the name "Solectria Force." Its petition seeks renewal of the exemption from four Federal motor vehicle safety standards which expired on May 1, 1994. As the petition was not received until after the expiration date of the previous exemption, the matter must be considered de novo, and not as the renewal of a previous exemption. NHTSA notes that the petitioner is also manufacturing electric truck conversions under NHTSA Temporary Exemption No. 94–2.

Petitioner has sold 45 Solectria Forces under its previous exemption. This exemption extended to seven Federal motor vehicle safety standards. During the exemption period, Petitioner has been able to ensure conformance of the Force with three of these standards. The Geo Metros to be converted have been certified by their original manufacturer to conform to all applicable Federal motor vehicle safety standards. However, petitioner determined that the vehicles may not conform with all or part of four Federal motor vehicle safety standards after their modification. The standards for which exemptions are requested are discussed below.

1. Standard No. 204, *Steering Control Rearward Displacement*

The conversion affects the ability to meet paragraph S4.2, although the petitioner is confident that it will be able to certify compliance for perpendicular frontal impact under the conditions of S5 of Standard No. 208.

2. Standard No. 208, *Occupant Crash Protection*

The conversion affects the ability to meet paragraph S4.1.4. Solectria has completed certification testing for a perpendicular frontal barrier test, but has yet to complete testing for an angled barrier test, side-impact test or roll-over test. [NHTSA note: Paragraph S4.1.4 does not require manufacturers to certify compliance with the side-impact or rollover tests if the vehicle is equipped with seat belts at every seating position.]

3. Standard No. 214, *Side Door Strength*

The modifications will affect compliance with the requirements of S3.1.3 and S3.2.3 requiring a minimum peak crush resistance based on the vehicle curb weight. Solectria is confident that the Force will meet this standard though it has not recertified the vehicle. In addition, the Geo Metro may not have been certified by its original manufacturer to meet the dynamic side impact test due to the phase-in provision of this portion of the standard.

4. Standard No. 216, *Roof Crush Resistance*

According to the petitioner, the modifications will affect the requirements in S4(a) which specifies a maximum crush force based on the vehicle curb weight. However, the petitioner is confident that the vehicle is capable of meeting Standard No. 216.

Exemption was requested from these four standards for a period of eight months.

Petitioner argued that to require immediate compliance would create substantial economic hardship. As of September 30, 1993, the company had cumulative net losses of $107,300. It estimates that the total cost of testing for compliance with the four standards would be $122,825. If modifications

appear indicated, further testing would be required. An exemption would permit vehicle sales and the generation of cash permitting testing and full certification of compliance while the exemptions are in effect. It anticipates orders for 50 additional Forces while the exemption is in effect. A denial of the petition would remove the Force from production for a year, with total revenue losses of $1,300,000. It could result in discontinuing production altogether.

According to the petitioner, granting the exemption would be in the public interest and consistent with 49 U.S.C. Chapter 301 Motor Vehicle Safety because it "will be able to make a substantial contribution to the country's transportation needs both in themselves and as precursor to future electric vehicles." The petitioner believes that "it is critical that low-emission electric vehicles be brought to market as quickly as possible to advance the field and relieve the environmental and economic problems associated with pollution and dependence on fossil fuel."

No comments were received on the petition.

In 1991 when it filed its initial hardship petition, Solectria's lifetime net income was less than $16,000. Two years later, as of September 30, 1993, its cumulative net losses totaled $107,300. Although the cost of testing for compliance with seven standards is now estimated at a lower figure of $123,000 to test for four standards, it seems clear that requiring immediate compliance would cause the petitioner substantial economic hardship within the statutory meaning.

The petitioner has been able to certify compliance with three standards from which it was previously exempted, which NHTSA regards as a good faith effort to meet the requirements of the Federal motor vehicle safety standards. Further, NHTSA is aware that the vehicle converted by Solectria, the Geo Metro will be an all new car for 1995. Since the car has not been introduced, it is likely that the petitioner has not yet obtained an example to review its conversion compliance status. The time afforded by the exemption should be sufficient for Solectria to accomplish this. NHTSA notes that the new Geo Metro will be certified to be in compliance with all applicable Federal motor vehicle safety standards (and possibly will remain in compliance after the modifications). For this reason, an exemption of a previously-certified vehicle (which may still conform) is consistent with the objectives of traffic safety. Finally, though the volume of production is small, the Solectria Force is a zero emissions vehicle, and an exemption would be in the public interest.

On the basis of the foregoing, it is hereby found that immediate compliance would cause the petitioner substantial economic hardship, that the petitioner has in good faith attempted to conform with the standards from which exemption is requested, and that an exemption would be consistent with the public interest and the objectives of 49 U.S.C. Chapter 301. Accordingly, Solectria Corporation is hereby granted NHTSA Temporary Exemption No. 94–5, expiring September 1, 1995, from the following standards or portions thereof: 49 CFR 571.204 Motor Vehicle Safety Standard No. 204 Steering Control Rearward Displacement; paragraph S4.1.4.1 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 Occupant Restraint Systems, 49 CFR 571.214 Motor Vehicle Safety Standard No. 214 Side Door Strength, and S4.(a) of 49 CFR 571.216 Motor Vehicle Safety Standard No. 216 Roof Crush Resistance.

(49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.)

Issued on October 12, 1994.

Ricardo Martinez,

Administrator.

[FR Doc. 94–25778 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 94–18; Notice 2]

Dow Corning Corporation; Grant of Petition for Determination of Inconsequential Noncompliance

Dow Corning Corporation (Dow) of Midland, Michigan determined that some of its brake fluid failed to comply with the requirements of 49 CFR 571.116, Motor Vehicle Safety Standard No. 116, *Hydraulic Brake Fluids*, and filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Dow also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*, now 49 U.S.C. 30118 and 30120) on the basis that the noncompliance was inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on March 23, 1994, and an opportunity afforded for comment (59 FR 13761). This notice grants the petition.

Paragraph S5.1.9, Water Tolerance, of Standard No. 116 states that:

At low temperature, after humidification, "(1) The [brake] fluid shall show no slugging, sedimentation, crystallization, or stratification; (2) Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds; (3) If cloudiness has developed, the wet fluid shall regain its original clarity and fluidity when warmed to room temperature."

Between September 4, 1992, and October 29, 1993, Dow produced and sold 11 lots of DOT 5 silicone base brake fluid (SBBF) that do not comply with Paragraph S5.1.9. These 11 lots were broken down into 191 55 gallon drums, 1,112 one gallon retail packages, 11,458 one quart retail packages, and 33,091 12 ounce retail packages.

At some point near the end of the low temperature portion of the water tolerance test, these lots contained a very small amount of a soft, slush-like crystallization. The crystallization usually formed around the top of the specimen, where the SBBF met the vial headspace. The smallest amount of warming made the crystallization flow back into a liquid state.

Dow supported its petition for inconsequential noncompliance with the following:

First, the low temperature portion of the water tolerance test was designed to [simulate] excessive water in non-SBBF brake fluids. But as applied to SBBF, the humidification step results in a water content level for test samples that is nearly double that of in-service SBBF. SBBF test samples clearly do not accurately represent in-service SBBF. [Dow believes] this built-in error results in unrealistic and excess water. During this portion of the test, that excess water becomes a seed for crystallization of the SBBF itself. Without the humidification step, SBBF does not crystallize.

Second, the soft, slush-like crystals are identical to the liquid SBBF; that is, 20 centistoke polydimethylsiloxane, some organic additives, and 350–400 [parts per million (ppm)] water. The SBBF crystals should not be considered as water-based "ice" crystals. These SBBF crystals do not exhibit any of the negative safety impacts that result from ice formation.

Dow also submitted the following additional material: (1) a 1982 petition for rulemaking it filed to amend this portion of the standard; (2) data to support this petition; (3) test data showing that the subject SBBF would pass the requirements of S5.1.9 when the humidification step is eliminated; and, (4) a statement by Ron Tecklenberg, Ph.D, a Dow chemist, supporting Dow's petition. This additional material was made available for review in the NHTSA Docket Section.

One comment was received on the petition, from Harley-Davidson, Inc., which supported it.

Although Standard No. 116 clearly forbids "crystallization" at the end of

the low temperature portion of the water tolerance test, Dow has argued that the slush-like crystallization which it experienced will readily disperse under slight agitation or warming and will not adversely affect brake system performance. In contrast are crystals that are either water-based ice, abrasive, or have the potential to clog brake system components. NHTSA accepts this distinction and concurs in the conclusion that the crystallization that occurred ought not to have an adverse effect upon braking.

In consideration of the foregoing, it is hereby decided that Dow has met its burden of persuasion and that the noncompliance with paragraph S5.1.9 of 571.116 Motor Vehicle Safety Standard No. 116 *Brake Fluids* is inconsequential to motor vehicle safety. Accordingly, Dow is exempted from the notification requirements of 49 U.S.C. 30118 and the remedy requirements of 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and NHTSA Order 800–2)

Issued on: October 12, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–25779 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, examptions from the Department of Transportation's Hazardous Materials Regulatins (49 CRF Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before November 17, 1994.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11314–N	Bleachmasters—Division of Burris Chemical, Inc., Charleston, SC.	49 CFR 176.67(i)	To authorize chlorine filled tank cars to remain attached to connectors without the physical presence of an unloader. (Mode 2.)
11315–N	Southern Pacific Lines, Houston, TX.	49 CFR 176.67(i)(j)(k)	To authorize diesel fuel, Class 3, filled tank cars to remain attached to connectors during unloading without the physical presence of an unloader. (Mode 2.)
11316–N	TRW Automotive, Queen Creek, AZ.	49 CFR 173.56	To authorize airbag inflators, classed in Division 1.4, 4.1 and Class 9, between sites using fire retardant trays strapped to aluminum pallets with 24' trailers acting as the outer packaging. (Mode 1.)
11320–N	AgrEvo USA Co., North Muskegon, MI.	49 CFR 174.67(i)	To authorize chlorine filled rail cars to remain attached to connectors without the physical presence of an unloader. (Mode 2.)
11322–N	Hydra Rig, Inc., Ft. Worth, TX.	49 CFR 173.320	To authorize the manufacture, marking and sale of non-DOT specification portable tanks, equipped with safety relief valves and rupture discs, made of type 304 stainless steel for use in transporting nitrogen, refrigerated liquid, Division 2.2. (Mode 3.)
11323–N	McDowell Manufacturing Co., Dubois, PA.	49 CFR 178.65–5(A)(4)	To authorize the manufacture, marking and sale of non-DOT specification nonrefillable cylinders built to Specification 39, for use in transporting various commodities authorized in Section 178.65. (Modes 1, 2, 3, 4, 5.)
11324–N	Certified Cylinder, Inc., Crossville, TN.	49 CFR 173.34	To authorize the replacement of bottoms on 4B, 4BA, 4BW cylinders for use in transporting Division 2.1 material (Mode 1.)
11325–N	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 177.848	To authorize the loading, transport, and storage of laboratory amounts of Division 6.1, Packing Group 1, Zone A liquids in the same transport vehicle with Class 3, 4, 5 or 8 materials. (Mode 1.)
11326–N	Composite Center, Inc., Haslet, TX.	49 CFR 173.302(a)(1), 173.304(a)(d), 175.3.	To authorize the manufacture, marking and sale of non-DOT specification cylinders designed to DOT FRP–1 standards for use in transporting material classed in Divisions 2.1 and 2.2. (Modes 1, 2, 3, 4, 5.)
11327–N	Medical Waste Associates, Inc., Baltimore, MD.	49 CFR 171.8, 172.101. Column (8c), 173.197.	To authorize the transportation of regulated medical waste in polyethylene carts mounted on bases with rolling casters transported in specially designed trucks. (Mode 1.)
11328–N	Dyno Nobel, Inc., Salt Lake City, UT.	49 CFR 176.76(a)(8)	To authorize an alternative stacking method of 5H3 bags containing Division 1.5 explosives when transported by cargo vessel. (Mode 3.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11329–N	Degesch America, Inc., Weyers Cave, VA.	49 CFR 172.500(f), 172.504	To authorize aluminum phosphide, Division 4.3, in private owned pest vehicles without placards. (Mode 1.)
11330–N	Autoransportes Ideal, S.A. de C.V., Gas Ideal de Reyosa, S.A., Mexico.	49 CFR 173.315	To authorize the manufacture, marking and sale of non-DOT specification cargo tanks comparable to MC–331 cargo vehicles for use in transporting LPG, Division 2.3. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 13, 1994.

Joseph T. Horning,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 94–25771 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new application for exemptions to facilitate processing.

DATES: Comments must be received on or before November 2, 1994.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Applicant	Renewal of exemption
9966–X	Hercules Incorporated, Magna, UT [1].	9977
10227–X	Caire, Inc., Bloomington, MN [2].	10227
11025–X	Mass Systems, Inc., Baldwin Park, CA [3].	11025

[1] To modify the exemption to authorize the transportation of additional designed rocket motors.

[2] To modify the exemption to provide for design changes to non-DOT specification cylinders used in transporting Division 2.2 material.

[3] To modify exemption to provide for one piece drawn cylinders equipped with welded fittings having 200 cubic inches maximum water capacity for transporting various Division 2.2 material.

Application No.	Applicant	Parties to exemption
6691–P	Walter Smith Welding Supplies, Inc., Kingston, NY.	6691
8273–P	Toyota Motor Sales U.S.A., Inc., Torrance, CA.	8273
8445–P	MKC Enterprises, Inc., Atlanta, GA.	8445
8451–P	Raymond Engineering, Inc., Middletown, CT.	8451
8723–P	Intermountain Ireco, Inc., Gillette, WY.	8723
9275–P	Pulg Perfumes, Inc., Hawthorne, NY.	9275
9275–P	H.L. Fragrances, Inc., Hawthorne, NY.	9275
9275–P	Bulgari Parfums USA, Inc., Piscataway, NJ.	9275
9723–P	MKC Enterprises, Inc., Atlanta, GA.	9723
9990–P	GenCorp Aerojet Ordnance, Chino Hills, CA.	9990
10251–P	Aztec Peroxides, Inc., Elyria, OH.	10251
10307–P	Alcoa Specialty Chemicals, Inc., Westlake, LA.	10307
10441–P	MKC Enterprises, Inc., Atlanta, GA.	10441
10441–P	Clean Harbors Environmental Services, Inc., Quincy, MA.	10441
10751–P	Conex, Inc., Derby, IN.	10751
10751–P	Piedmont Explosives, Inc., Statesville, NC.	10751
10751–P	IRECO of Florida, Inc., Miramar, FL.	10751
10751–P	Dyna-Blast, Inc., Nortonville, KY.	10751
10751–P	Alaska-Pacific Powder Company, Anchorage, AK.	10751
10933–P	REMAC USA, Inc., Silver Spring, MD.	10933
11050–P	Arrow Terminal Company, Industry, PA.	11050
11156–P	Quick Supply Co., Des Moines, IA.	11156
11156–P	Piedmont Explosives, Inc., Statesville, NC.	11156
11156–P	Cherokee Products, Inc. Jefferson City, TN.	11156
11156–P	El Dorado Chemical Company, St. Louis, MO.	11156
11156–P	Maurer & Scott Sales, Inc., Lehigh Valley, PA.	11156
11156–P	Buckley Powder Co., Englewood, CO.	11156
11189–P	Diamond-Star Motors, Normal, IL.	11189
11189–P	Breed Technologies, Inc., Lakeland, FL [1].	11189
11200–P	Hughes Space and Communications Company, Los Angeles, CA.	11200

Application No.	Applicant	Parties to exemption
11220–P .	Nalco/Exxon Energy Chemicals, L.P., Sugar Land, TX.	11220
11253–P .	McKenzie Tank Lines, Inc., Tallahassee, FL.	11253
11254–P .	Schlumberger Well Services, Houston, TX.	11254
11301–P .	Morton International, Inc., Ogden, UT.	11301

[1] Request party status and to modify exemption to authorize an additional Air Bag Inflator to be shipped as a Class 9.

NOTE: Notice of Application No. 10427–P Nalco Chemical Company/Exxon Energy Chemicals, L.P. that appeared at page 48358 of the Federal Register for September 20, 1994, should have appeared 10429–P.

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 13, 1994.

Joseph T. Horning,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 94–25772 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–60–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 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).

AGENCY: U.S. CONSUMER PRODUCT SAFETY COMMISSION WASHINGTON, DC 20207

TIME AND DATE: 10:00 a.m.; Thursday, October 20, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Naproxen

The Commission will consider a staff recommendation that the Commission propose a rule to require child-resistant packaging under the Poison Prevention Packaging Act for over-the-counter drugs containing 250 mg or more of naproxen per package.

2. FY 1995 Operating plan

The staff will brief the Commission on issues related to the Commission's Operating Plan for Fiscal year 1995.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: October 13, 1994.

Sadye E. Dunn,

Secretary.

[FR Doc. 94–25848 Filed 10–14–94; 9:54 am]

BILLING CODE 6355–01–M

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, October 20, 1994

The Federal Communications Commission will hold on Open Meeting on the subjects listed below on Thursday, October 20, 1994, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, DC.

Item No. Bureau, and Subject

1—Mass Media—Title: Review of the Prime Time Access Rule, Section 73.658(k) of the Commission's Rules. Summary: The Commission will consider initiating review of the Prime Time Access Rule (PTAR).

2—Mass Media—Title: Revision of Radio Rules and Policies (MM Docket No. 91–140, RM–8414). Summary: The Commission will consider petitions for reconsideration of the national and local radio ownership rules.

3—International—Title: Application of Orbital Communications Corporation for Authority to Construct, Launch and Operate a Non-Voice, Non-Geostationary Mobile-Satellite System (File Nos. 22–DSS–P–90(20), 9–DSS–LA–94, 10–DSS–AMEND–94). Summary: The Commission will consider action authorizing the first commercial U.S. low-Earth orbiting mobile-satellite system.

4—Common Carrier—Title: Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54–63.58 (CC Docket No. 87–266), and Amendments of Parts 32, 36, 61, 64, and 69 of the Commission's Rules to Establish and Implement Regulatory Procedures for Video Dialtone Service (RM–8221). Summary: The Commission will consider petitions regarding its rules and policies for local telephone company provision of video dialtone service.

5—Common Carrier—Title: Amendment of the Commission's Rules to Establish New Personal Communications Service (GN Docket No. 90–314, RM–7140, 7175 and 7618). Summary: The Commission will consider ten petitions seeking reconsideration of the Broadband PCS Memorandum Opinion and Order.

6—Common Carrier—Title: Implementation of Sections 3(n) and 332 of the Communications Act—Regulatory Treatment of Mobile Services (GN Docket No. 93–252). Summary: The Commission will consider whether resale agreements, management agreements and joint marketing arrangements should be considered attributable interests in the Commercial Mobile Radio Services.

7—Private Radio—Title: Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band (GN Docket No. 93–144, RM–8117, 8029, and 8030), and Implementation of Section 309(j) of the Communications Act—Competitive Bidding, 800 MHz SMR (PP Docket No. 93–253) . Summary: The Commission will consider action concerning wide-area licensing and the use of competitive bidding procedures for Specialized Mobile Radio in the 800 MHz band.

8—Office of Engineering and Technology—Title: Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use. Summary: The Commission will consider action concerning use of 50 MHz of spectrum being transferred from Federal Government to private sector use.

9—Office of Engineering and Technology—Title: Amendment of Parts 2 and 15 of the Commission's Rules to Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications (RM–8308). Summary: The Commission will consider action concerning operation at frequencies above 40 GHz.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Audrey Spivack or Susan Lewis Sallet, Office of Public Affairs, telephone number (202) 418–0500.

Dated: October 13, 1994.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 94–25864 Filed 10–14–94; 10:59 am]

BILLING CODE 6712–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: October 26, 1994 at 10:30 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. Nos. 731–TA–721 (Preliminary) (Wheel Inserts from Taiwan)—briefing and vote
5. Inv. No. 731–TA–683 (Final) (Fresh Garlic from China)—briefing and vote
6. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: October 13, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–25911 Filed 10–14–94; 2:00 pm]

BILLING CODE 7020–02–P–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 17, 24, 31, and November 7, 1994.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 17

Tuesday, October 18

10:30 a.m. and 1:30 p.m.

All Employees Meetings (Public Meetings) on "The Green" Plaza Area between buildings at White Flint
(Contact: Beth Hayden, 301–415–8200)

Thursday, October 20

10:00 a.m.
Briefing on Medical Use Program and Meeting with Advisory Committee on Medical Use of Isotopes (ACMUI) (Public Meeting)
(Contact: Janet Schlueter, 301–415–7894 or Torre Taylor, 301–504–1062)

12 noon
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 24—Tentative

Wednesday, October 26

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 31—Tentative

Monday, October 31

10:00 a.m.
Briefing on Status of DOE's HLW Program (Public Meeting)
(Contact: Malcolm Knapp, 301–415–7437)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 7—Tentative

Thursday, November 10

3:30 p.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: Dr. Andrew Bates (301) 504–1963.

Dated: October 13, 1994.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 94–25852 Filed 10–14–94; 10:30 am]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 59, No. 200
Tuesday, October 18, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

Alternate Foods for Meals; Enriched Macaroni Products With Fortified Protein; National School Lunch Program

Correction

In rule document 94-24902 beginning on page 51083 in the issue of Friday, October 7, 1994 make the following correction:

Appendix A to part 210 [Corrected]

On page 51087, in the 1st column, in Appendix A to part 210, in paragraph 3. (a)(2)(i)(H), in the 11th line remove the words "E:\GRAPHICS\ER07OC94.022", and replace them with the following equation:

$x=(a \times b)/c$

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV24-1-6585, WV24-1-6586; FRL-5057-2]
[WV9-1-6583, WV9-2-6584; FRL-5057-1]

Approval and Implementation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Redesignation of the Parkersburg and Charleston, WV, Ozone Nonattainment Area to Attainment and Approval of Area Maintenance Plans

Correction

1. In rule document 94-21948 beginning on page 45978 in the issue of Tuesday, September 6, 1994, make the following correction:

§ 52.2520 [Corrected]

On page 45979, in the third column, in § 52.2520, paragraph (c)(30) is correctly designated as paragraph (c)(31).

2. In rule document 94-21947 beginning on page 45985 in the same issue, make the following correction:

§ 52.2520 [Corrected]

On page 45986, in the third column, in § 52.2520, paragraph (c)(29) is correctly designted as paragraph (c)(32).

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

25 CFR Part 309

RIN 1090-AA45

Protection for Products of Indian Art and Craftsmanship

Correction

In proposed rule document 94-25357 beginning on page 51908 in the issue of Thursday, October 13, 1994, make the following correction:

On page 51910, in the third column, § 309.3 is corrected to read as follows:

§ 309.3 Enforcement.

(a) *Indian products.* The unmodified word "Indian" or an unmodified name of an Indian tribe, used in connection with an art or craft product, is interpreted to mean —

(1) That the maker is a member of an Indian tribe, or of the particular Indian tribe named; and

(2) That the art or craft product is an Indian product.

(b) *Products of Indians of foreign tribes.* The unmodified word "Indian" or an unmodified tribal designation, used in connection with an art or craft product, regardless of where it is produced and regardless of any country-of-origin marking on the product, is interpreted to mean —

(1) That the maker is a member of an Indian tribe, or of the particular Indian tribe named; and

(2) That the tribe is resident in the United States; and

(3) That the art or craft product is an Indian product; unless

(4) The name of the foreign country of tribal ancestry is also used with the product.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1310 and 1313

Elimination of Threshold for Ephedrine

Correction

In rule document 94-25070 beginning on page 51365 in the issue of Tuesday, October 11, 1994, make the following correction:

On page 51367, in the first column, in the second paragraph, in the fourth line, "not" should read "now".

BILLING CODE 1505-01-D

federal register

Tuesday
October 18, 1994

Part II

Department of Transportation

Coast Guard

46 CFR Parts 159 and 160
Inflatable Liferafts; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 159 and 160

[CGD 85–205]

RIN 2115–AC51

Inflatable Liferafts

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to completely revise its regulations for the approval and servicing of inflatable liferafts, and to add provisions for the approval of inflatable buoyant apparatus. These changes are intended to implement the 1983 Amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74/83), add provisions for approval of a new "Coastal Service" liferaft for use on certain uninspected fishing vessels, introduce requirements for the stability of inflatable liferafts, and reduce direct Coast Guard involvement in liferaft production and servicing inspections. The proposed rules would bring Coast Guard-approved liferafts into compliance with SOLAS 74/83, improve the seaworthiness of approved inflatable liferafts, and increase manufacturer flexibility in scheduling liferaft inspections while reducing the associated burden on Coast Guard personnel resources.

DATES: Comments must be received on or before February 15, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 85–205), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at room 1404, U.S. Coast Guard Headquarters.

The revised Chapter III of the Safety of Life at Sea Convention is published by the International Maritime Organization (IMO) in "SOLAS (Consolidated edition, 1992)" (IMO catalogue number IMO–110E). IMO also publishes the "Recommendation on Testing of Life-saving Appliances" (IMO Assembly Resolution A.689(17)) and the "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements" (IMO Assembly Resolution A.520(13)) in a document titled "Testing and Evaluation of Life-saving Appliances (1992 edition)" (IMO catalogue number IMO–982E). These publications, and other IMO documents referred to in this notice, are available from:

a. The International Maritime Organization, Publications Section, 4 Albert Embankment, London SE1 7SR, England, telephone 44 (Country Code) 71–735 7611.

b. New York Nautical Instrument Co., 140 West Broadway, New York, NY 10013, (212) 962–4522.

c. Southwest Instrument Co., 235 W. Seventh St., San Pedro, CA 90731, (213) 519–7800.

d. Marine Education Textbooks, 124 North Van Ave., Houma, LA 70360–3866, (504) 879–3866.

e. Baker-Lyman & Co., 308 Magazine St., New Orleans, LA 70130, (504) 522–0745.

Those interested in ordering publications should contact the suppliers listed above for current price and ordering information.

This notice refers to several technical reports. These reports have been placed in the docket for examination and copying. A limited number of single copies are available free of charge from Office of Marine Safety, Security, and Environmental Protection, Survival Systems Branch (G–MVI–3), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593–0001. The reports are:

a. "Inflatable Liferaft Stability Lift-Out Force Test", COR, Inc., April 1, 1986.

b. "Model Tests of Inflatable Life Rafts in Breaking Waves", U.S. Coast Guard Research and Development Center, February, 1990.

"Model Tests of Inflatable Life Rafts in Breaking Waves" is also available from the National Technical Information Service (NTIS). The accession number is ADA 229406. Orders may be placed by phone at (703) 487–4650, or by mail to the National Technical Information Service, Springfield, VA 22161.

Coast Guard publication "Equipment Lists" (COMDTINST M16714.3D) is available for sale through the Government Printing Office (GPO). The stock number is 050–012–00–306–8. Orders may be placed by phone at (202) 783–3238, or by mail from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Mr. Kurt J. Heinz, Office of Marine Safety, Security, and Environmental Protection, Survival Systems Branch (G–MVI–3), (202) 267–1444.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 85–205) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting these regulations are Mr. Kurt J. Heinz, Mr. Milton Daniels, and Mr. Robert Markle, Project Managers, Office of Marine Safety, Security, and Environmental Protection; and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

On June 17, 1983, the IMO Maritime Safety Committee approved SOLAS 74/83, including a new Chapter III, "Life-saving Appliances and Arrangements." Under the SOLAS "tacit amendment"

procedure, with no objections from any contracting government, SOLAS 74/83 was deemed to be accepted on January 1, 1986, and came into force for the United States and all other contracting governments on July 1, 1986. Ships whose keels were laid or which are at a similar stage of construction on or after that date must comply in order to qualify for a SOLAS Safety or Safety Equipment Certificate. Coast Guard-approved inflatable liferafts on these ships are required to meet the inflatable liferaft requirements of SOLAS 74/83. In addition, any ship with a SOLAS Safety or Safety Equipment Certificate replacing a liferaft on or after July 1, 1986 is required to replace the raft with one meeting SOLAS 74/83.

Implementation of SOLAS 74/83 has been the subject of previously published rulemaking documents. The Coast Guard held a series of meetings, announced in the **Federal Register** of July 30, 1984 (49 FR 30339) (CGD 84–051), with the U.S. Lifesaving Manufacturers Association (now the United States Marine Safety Association). The implications of the SOLAS 74/83 Chapter III requirements on Coast Guard-approved lifeboats, inflatable liferafts, and their launching equipment were discussed. Guidelines were also developed for lifesaving equipment manufacturers regarding the additions and deviations from current Coast Guard regulations that are necessary to meet the new SOLAS 74/83 Chapter III. The rules proposed in this notice reflect some of the discussions held at those meetings.

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) on December 31, 1984 (49 FR 50745) describing major changes under consideration for implementation of SOLAS 74/83. These changes included proposed revision of regulations involving inflatable liferafts, but that notice did not describe any revisions to liferaft regulations in detail.

On September 27, 1984, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) which proposed rules for the approval and production testing of lifeboats, liferafts, and lifeboat launching equipment (49 FR 38151)(CGD 83–030). A public hearing on the proposal was also held at Coast Guard Headquarters in Washington, DC on February 19, 1985.

The rules proposed in this notice include approval and production testing procedures which replace the proposals made for inflatable liferafts under CGD 83–030. Written comments submitted under CGD 83–030 and comments made at the public hearing were considered in developing the rules proposed in this notice. Separate rulemaking documents, to be published at a later date, will propose revisions to regulations involving inspection of lifeboats, rescue boats, davits and winches.

The system of periodic inspection and repair of inflatable liferafts at approved facilities is referred to as liferaft "servicing." Possible changes in servicing procedures were initially raised in an ANPRM on August 14, 1986 (51 FR 29117) (CGD 81–010), and discussed at public meetings held on January 27, 1987 and March 20, 1987. The primary objectives of the changes to inspection and servicing of liferafts were to minimize the role of Coast Guard inspectors while maintaining Coast Guard oversight for quality control, and to allow private industry the flexibility necessary to meet the changing needs of the marine industry. An additional objective was to update Coast Guard regulations by implementing the relevant SOLAS 74/83 requirements related to servicing. The proposals in this NPRM related to liferaft servicing address the issues discussed in the 1986 ANPRM, and the comments at the public meetings were considered in the development of these proposals.

Proposals concerning improved liferaft stability first appeared in an ANPRM in the **Federal Register** of June 29, 1981 (46 FR 33341) (CGD 80–113). That ANPRM presented a summary of research efforts, sea trials, and yachting casualties from this country and Europe, and invited comments from the public. A public hearing was held on September 1, 1981. A NPRM published on January 11, 1985 (50 FR 1558) summarized the comments received on the ANPRM, and also proposed specific design and testing requirements to improve stability of inflatable liferafts. The proposals in this notice are a further refinement of the proposals in the January 11, 1985 NPRM, and are based, in part, on the comments received in response to that NPRM.

In light of continuing developments since the time of the previous rulemakings, only a portion of the comments received are discussed in detail in this NPRM. However, all the comments received were considered in developing this proposal.

Discussion of the Proposed Regulations

Changes Implementing SOLAS 74/83

SOLAS 74/83 includes detailed performance requirements for inflatable liferafts. IMO Resolution A.689(17) adopts the "Recommendation on Testing of Life-Saving Appliances," set out in the annex to the resolution, which describes approval and production tests for inflatable liferafts meeting the SOLAS 74/83 requirements. This NPRM proposes to incorporate by reference IMO Resolution A.689(17). The United States delegation to IMO participated fully in negotiations which developed these performance and test requirements. This proposal attempts to conform the U.S. Coast Guard approval requirements as closely as possible to the SOLAS 74/83 standards. The proposed rules refer directly to the SOLAS 74/83 and Resolution A.689(17) provisions required to be met. Additional clarifications, details, requirements or testing conditions are included in the proposed regulatory language only in those instances where the relevant SOLAS 74/83 regulation or Resolution A.689(17) provisions are silent or ambiguous.

The new requirements that would be established due to the proposed incorporation by reference of SOLAS 74/83 and Resolution A.689(17) are discussed below, along with the various additional requirements explicitly set forth in the regulatory language of this NPRM.

1. Proposed § 160.151–15(f) would require liferafts to be fitted with retroreflective material. [SOLAS 74/83, Chapter III, Regulation 30, Paragraph 2.7 (shortform citation for SOLAS 74/83 to be used throughout this rulemaking: Regulation III/30.2.7)].

2. Proposed § 160.151–15(h) would require that instead of the current 400 lb weight limit, most inflatable liferafts would be limited to 185 kg (407 lb), but there would be no weight limit on rafts intended to be stowed ready for immediate drop-launching without lifting, rafts launched by approved launching appliances, or rafts otherwise not required to be "portable." [Regulation III/38.2.2]

3. Under proposed §§ 160.151–15(k) and 160.151–37(a)(9)–(10) an inflatable liferaft would be approved for a specified maximum stowage height above the waterline, which would correspond with a drop test height, length of painter, and container markings. [Regulations III/38.1.2, III/38.3.2, III/39.7.3.7, and III/39.7.3.8 and paragraph 1/5.1 of Resolution A.689(17)].

4. With the proposed adoption of the requirements of Regulation III/38 in § 160.151–7(b), a viewing port in the canopy would be required. [Regulation III/38.1.5.5]

5. Prior to the 1990 SOLAS amendments implementing the Global Maritime Distress and Safety System (GMDSS), Regulation III/38.3.2 of SOLAS 74/83 required arrangements for

siting and securing a portable lifeboat radio antenna. However, the 1990 amendments, which included mandatory carriage of Emergency Position Indicating Radio Beacons (EPIRB's) and Search and Rescue Transponders (SART's), eliminated the requirement for portable lifeboat radios on vessels required to comply with SOLAS 74/83, effective August 1, 1993. Consequently, these proposed rules would not require that liferafts be provided with portable lifeboat radio antenna siting and securing arrangements.

6. Proposed § 160.151–17(b) would require at least one entrance on SOLAS A and SOLAS B liferafts to be fitted with a boarding ramp of sufficient size and buoyancy to support a person weighing 100 kg (220 lb). [Regulation III/39.4.1]

7. "Ocean service" and "Limited service" equipment packs would be replaced by "SOLAS A" and "SOLAS B" packs, as specified in Regulation III/38.5.1. Notable differences include:

a. SOLAS 74/83 requires a buoyant safety knife, rather than a jackknife. An additional knife, which may be a jackknife, is required to be carried in inflatable liferafts accommodating 13 persons or more. [Regulation III/38.5.1.2]

b. SOLAS 74/83 requires sea anchors to be fitted with swivels and a tripping line. However, under proposed § 160.151–21(e), swivels would not be required if the towing test demonstrates that the sea anchor is designed so that it does not rotate when streamed, and tripping lines would not be required if the towing test demonstrates that the sea anchors are of a design that allows them to be hauled in by one person. [Regulation III/38.5.1.5]

c. Proposed §§ 160.151–21 (j), (k), and (l) would require pyrotechnic distress signals to be approved by the Commandant as meeting the specified requirements of part 160 and SOLAS 74/83. To meet the requirements of Regulations III/38.5.1.10–12 and III/38.5.3, four rocket parachute flares would be required in SOLAS A inflatable liferafts instead of the currently required two; two buoyant smoke signals also would be required; and the number of required hand flares would remain at six. These numbers would be halved for SOLAS B equipment packs. Both the rocket parachute flares and hand flares would be of the new higher-performance type approved by the Commandant as meeting the requirements of Regulations III/35 and III/36. [Regulations III/38.5.1.10–12 and III/38.5.3]

d. SOLAS 74/83 requires that the equipment pack include an "efficient" radar reflector. However, IMO circular MSC/Circ.447 allowed the radar reflector to be omitted because a suitable design for inflatable liferafts was not available. The Coast Guard still does not consider any available radar reflector design to be suitable. Therefore, proposed § 160.151–21(n) would allow the radar reflector to be omitted from the equipment pack provided that the liferaft container is marked to indicate that the equipment pack does not include a radar reflector. [Regulation III/38.5.1.14]

e. Section 160.151–21(u) proposes two options for the anti-seasickness medication required by regulation III/38.5.1.21. One option is a combination of ephedrine sulfate and promethazine hydrochloride, commonly known as meclizine, which the Coast Guard has found to be the most effective seasickness medication available at the present time. Meclizine is taken orally and must remain in the digestive system for several hours to be completely absorbed. According to its manufacturer, the other option, scopolamine in a transdermal patch, is significantly more effective in preventing seasickness than either dramamine or meclizine in clinical tests. Since its medication is released through the skin, it is not lost due to regurgitation as is oral medication. It takes four to six hours to become fully effective, and one patch provides about three days of effective medication. The patches remain effective when wet. Both medication options seem to be reasonably stable throughout a wide temperature range, but both would probably be damaged by extended storage at temperatures above 50–55°C (122–131°F). [Regulation III/38.5.1.21]

f. Proposed § 160.151–21(x) would require the thermal protective aids as described by Regulation III/38.5.1.24 to be approved by the Commandant as meeting the requirements of subpart 160.174 of this part.

8. With the incorporation by reference of Resolution A.689(17) in § 160.151–27(a), a number of new or revised approval tests would be required, including:

a. A towing test to be conducted at three knots instead of the previously required five knots. [Regulations III/38.1.4 and III/39.5.3 and paragraph 1/5.4 of Resolution A.689(17)]

b. A revised boarding test involving four attempts by different individuals after each has swum 100 m, instead of one boarding attempt by a fresh swimmer. [Regulation III/39.4 and paragraph 1/5.8 of Resolution A.689(17)]

c. A new stability test involving bringing a simulated unconscious person aboard the raft. [Paragraph 1/5.9.2 of Resolution A.689(17)]

d. A new maneuverability test requiring the inflatable liferaft to be paddled over a 25 m distance. The purpose of this test is to demonstrate the ability to maneuver the raft clear of the ship. There is no time requirement. [Paragraph 1/5.10 of Resolution A.689(17)]

e. A new test to determine the buoyancy of a packed liferaft. [Paragraph 1/5.13 of Resolution A.689(17)]

f. A new impact test for davit-launched liferafts, requiring an impact with a vertical surface at 3.5 m/sec, and dropping to the water from a height of 3 m. [Regulation III/38.4.1.1 and paragraphs 1/5.16.2 and 1/5.16.3 of Resolution A.689(17)]

g. A new test to determine speed of boarding and stability during boarding for davit-launched liferafts. Although there is no time requirement, the test is timed to allow estimation of total liferaft evacuation capacity within the allowable evacuation time for a ship. [Regulations III/38.4.2 and III/38.4.3 and paragraph 1/5.16.4 of Resolution A.689(17)]

h. A righting test involving four attempts by different individuals after each has swum 100 m, instead of one righting attempt by a fresh swimmer. [Regulation III/39.5.2 and paragraph 1/5.17.2 of Resolution A.689(17)].

i. A revised cold inflation test requiring storage of the liferaft at the test temperature for 24 hours instead of requiring the raft's internal temperature to reach the test temperature, which could take more than 24 hours. [Regulation III/39.2.3 and paragraph 1/5.17.5 of Resolution A.689(17)]

j. A revised hot inflation test requiring storage of the liferaft at the test temperature for 7 hours instead of requiring the raft's internal temperature to reach the test temperature, which might take longer than 7 hours. [Regulation III/39.2.3 and paragraph 1/5.17.6 of Resolution A.689(17)]

k. An over-pressure test at 3 times working pressure instead of 2.5 times working pressure. [Regulation III/39.2.4 and paragraph 1/5.17.7 of Resolution A.689(17)]

l. A strength test for davit-launched liferafts to require loading the suspended raft with a load equal to 4 times the weight of the rated capacity of persons. It would also require a test at low temperature with a load equal to 1.1 times the weight of the rated capacity of

persons. [Regulation III/39.9.1 and paragraphs 1/5.17.10 and 1/5.17.11 of Resolution A.689(17)]

m. A lowering test for davit-launched liferafts in which the raft is loaded with a weight equivalent to its heaviest equipment pack and the number of persons for which it is to be approved, and lowered in contact with a structure simulating the side of a ship at 20 degrees adverse list. [Paragraph 5.17.12 of Resolution A.689(17)]

9. Proposed § 160.151–27(a) would require that to obtain approval, each inflatable liferaft must pass specified tests described in IMO Resolution A.689(17). Additional conditions for testing are specified in paragraphs (c) and (d) of § 160.151–27 as follows:

a. With the proposed incorporation of Resolution A.689(17), the number of jumps required during the jump test would be equal to the number of persons the liferaft is approved to carry. Proposed § 160.151–27(c)(2) would require that half the jumps would be onto the canopy and half would be onto the floor. Currently, just one jump is required. [Regulation III/38.1.3 and paragraph 1/5.2 of Resolution A.689(17)]

b. With the proposed incorporation of Resolution A.689(17), a revised loading and seating test requiring a loaded freeboard of at least 300 mm (12 in) would be required. Proposed 160.151–27(c)(4) would require that the test be performed by persons wearing buoyant insulated immersion suits rather than lifejackets if the liferaft is not intended for use with a launching or embarkation appliance. [Paragraph 1/5.7 of Resolution A.689(17)]

c. With the proposed incorporation of Resolution A.689(17), a new canopy closure test would be required which involves washing down the inflatable liferaft with a large volume of water for 5 minutes, and examining the interior of the raft for water infiltration. Proposed § 160.151–27(c)(5) would require that this test be performed on SOLAS A and SOLAS B liferafts only, and provides additional instructions for davit launched liferafts. [Paragraph 1/5.12 of Resolution A.689(17)]

d. Proposed § 160.151–27(c)(7) would specify the method used to demonstrate compliance with the strength requirement in Paragraph 1/5.16.1 of Resolution A.689(17) for lifting components of davit-launched liferafts.

e. Proposed § 160.151–27(d) would require a functional test to ensure that a required boarding ramp is capable of supporting a sitting or kneeling 100 kg person without holding onto the liferaft.

10. Under proposed § 160.151–31(d), each inflatable raft would be required to pass the production tests described in the specified provisions of IMO Resolution A.689(17) under specified conditions. A number of new or revised production tests would be required as follows:

a. A relief valve operation test at 2.0 times the working pressure, instead of 140% as currently required. [Regulation III/39.2.4 and paragraph 2/5.1.4 of Resolution A.689(17) and proposed § 160.151–31(d)]

b. A 30-minute over-pressure test at a minimum of 1.5 times working pressure, instead of 10 minutes at 2.5 times working pressure [Paragraph 2/5.1.4 of Resolution A.689(17) and proposed § 160.151–31(d)]. However, the IMO Lifesaving, Search and Rescue Sub-Committee has tentatively approved the replacement of this test with the same "Necessary Additional Pressure" test required periodically during servicing. If this change is approved by the IMO Maritime Safety Committee as expected, it would be incorporated into the final rule.

c. A one-hour test of inflated floors allowing a 5% pressure drop (uncorrected) instead of six hours and a 10% pressure drop. [Paragraph 2/5.1.6 of Resolution A.689(17) and proposed § 160.151–31(e)(1)]

d. A new suspension test for davit-launched liferafts at a 10% overload condition. [Paragraph 2/5.2 of Resolution A.689(17) and proposed § 160.151–31(e)(1)]

e. Proposed § 160.151–31(f) would require measurement of the force required to pull the painter during the operational inflation test, with a maximum allowable force of 150 N. [Regulation III/39.6.1 and paragraph 2/5.1.1–2 of Resolution A.689(17)]

Additional Equipment Issues

Currently, 46 CFR 160.051–7(d)(3) requires inflatable liferafts to be equipped with a repair kit consisting of six sealing clamps meeting MIL-L–19496 for short term repair of buoyancy tube damage, along with patches, cement, and a roughing tool for more permanent repairs. SOLAS 74/83, regulation III/39.10.1.1 requires a repair outfit for repairing punctures, but does not specify its contents. For some years, the Coast Guard and other countries' maritime Administrations have been accepting serrated conical plastic or wooden plugs in SOLAS liferaft repair kits as substitutes for some or all of the sealing clamps. The Coast Guard has recently received reports, however, that these conical plugs may not be as effective in repairing leaks as sealing clamps. Although proposed § 160.151–21(y) would allow the use of either plugs or clamps, comments are requested on operational experience using serrated repair plugs and whether they should be permitted in repair outfits as substitutes for sealing clamps.

Neither 46 CFR 160.051 nor SOLAS 74/83 specifically require pressure relief valve plugs as part of a liferaft's equipment pack. However, where liferafts are fitted with pressure relief valves, these plugs or some other means of rendering the pressure relief valves inoperable are universally provided, and it is common practice to plug the relief valves as one of the first steps upon entering an inflated liferaft. The purpose is to prevent loss of gas from the inflation tubes in the event that the tubes buckle in a seaway. Proposed § 160.051–21(aa) would require plugs to be provided for each pressure relief valve fitted on a liferaft, unless the valves are of a type which can be rendered inoperable without plugs. Responding to reports that some pressure relief valve plugs are difficult to handle in emergency conditions, this section would require that the plugs be capable of being used with immersion suit gloved hands, and be either of a floating type or secured to the liferaft by a lanyard in order to prevent loss. Proposed § 160.051–21(w)(4) would require that the provided instructions for immediate action explain both the noise accompanying the operation of any relief valves, and the need to render the valves inoperative after they stop venting.

Approval and Production Inspection Procedures

The rules proposed in this notice would require an independent laboratory to conduct certain inspections during construction of prototype inflatable liferafts, and also at certain times during production of inflatable liferafts after they have been approved. Coast Guard inspectors would monitor all prototype testing required for approval. At the present time, the Coast Guard monitors the inspection and testing of each Coast Guard-approved inflatable liferaft when manufactured.

On September 27, 1984, the Coast Guard published an NPRM proposing that independent laboratories take over all of the inspections now performed by the Coast Guard. A public hearing on the proposal was held on February 19, 1985. The comments received in writing and at the public hearing in response to that notice were taken into account in the development of this proposal. Some of those comments are discussed below.

Comments on the NPRM were received from 29 different parties,

representing manufacturers of lifesaving equipment, independent laboratories, a classification society, shipowners and operators, liferaft servicing organizations, and two members of Congress. Ten comments from shipowners and operators, independent laboratories, and the classification society expressed support for the proposal. In general, the comments from this group indicated that delegating these inspections to independent third parties was appropriate, and that the laboratories were capable and would do a good job. Nine comments expressed opposition to the proposal, including comments from a ship operator and U.S. lifesaving equipment manufacturers. This group had two main concerns: The cost to the manufacturers for the services of the independent laboratory, and the impact of foreign-produced lifesaving equipment on U.S. producers.

Some of the proposals in this NPRM should reduce servicing costs, particularly those that would extend servicing periods, provide for servicing at remote sites, not limit Coast Guard approval of otherwise qualified servicing facilities to those franchised or authorized by the liferaft manufacturer, and eliminate the requirement that a Coast Guard inspector attend each servicing. The Coast Guard's position is that these changes, together with increased flexibility of scheduling of servicing due to reduced Coast Guard involvement in servicing inspections, would more than outweigh any added costs associated with occasional independent laboratory inspections.

It is difficult for Coast Guard personnel to perform some lifesaving equipment factory inspections outside the U.S. in locations not readily accessible to a Coast Guard inspector. Independent laboratories would ease the inspection problem for foreign manufacturers, potentially allowing greater use of foreign-manufactured equipment. Though some of the U.S. manufacturers raised questions about the quality of equipment produced and inspected outside the United States, at this time the Coast Guard has no evidence that foreign-made lifesaving equipment would necessarily be less safe than equipment produced in the United States. To be approved, foreign-made lifesaving equipment would be required to meet all of the applicable Coast Guard and international regulations. Foreign-made lifesaving equipment manufactured to a lesser standard would not be approved.

One member of Congress and one of the comments at the public hearing requested that the Coast Guard retain its oversight of lifesaving equipment inspections in an adequate manner and to make sure there would be no adverse impact on safety. Another comment asked that the Coast Guard continue to monitor approval testing. The Coast Guard intends to maintain adequate oversight. Under the procedure proposed in this notice, the Coast Guard would continue to review the manufacturer's design prior to approval. An independent laboratory would confirm conformance of the prototype liferaft with the plans submitted to the Coast Guard for pre-approval review. A Coast Guard inspector would then witness the approval testing of the prototype. After approval, the manufacturer's production quality control would be monitored by the independent laboratory, with annual summary reports submitted to the Coast Guard. In a procedure proposed in this notice for the first time for lifesaving equipment, the independent laboratory would also annually conduct a design audit or detailed technical review of production samples against the approved design. Finally, under these proposed rules, inflatable liferafts would continue to be inspected annually at approved servicing stations, which are themselves inspected by Coast Guard or other qualified third party inspectors. Liferaft design and long-term durability problems should be discovered during these inspections. The Coast Guard is confident that these procedures, taken together, will maintain the present quality level of this Coast Guard-approved equipment.

Inspection Frequency

A comment on the NPRM cited procedures used in the aerospace industry and suggested Coast Guard approval of a manufacturer's "proven quality control department". The comment did not include any other suggested standards for a "proven" quality control department. The Coast Guard has adopted this suggestion to some degree, since the rules proposed in this notice require only periodic inspection by the laboratory, and rely on the manufacturer's quality control procedures to maintain quality when the laboratory inspector is not present. Independent quality control inspection procedures often do include provisions for reduced inspection for manufacturers maintaining a high level of production quality, and increased inspections for manufacturers which have difficulty maintaining quality. However, the rules proposed in this notice do not include any such provisions, since those procedures lend themselves more readily to high quantity mass production. The liferafts produced under the rules in this notice are constructed essentially by hand on a low-volume basis. The Coast Guard solicits comments on the advisability of provisions to reduce or increase inspection frequency based on a manufacturer's quality control track record, and on what basis they could be incorporated.

An association of U.S. manufacturers stated that mass produced items could not be compared to lifesaving equipment which is more complicated and individually produced. Therefore, it could not be assumed that laboratories which had successfully inspected mass produced items would be capable of inspecting inflatable liferafts. The Coast Guard agrees that there are important differences between mass produced items and inflatable liferafts. However, that does not necessarily mean that independent laboratories are unable to handle these inspections. The Coast Guard considers that the established production tests and inspections that must be performed whether or not a third-party inspector is present are sufficient to ensure that new inflatable liferafts are suitable for their intended purpose. Their continued adequacy in the long term is assured by periodic servicing tests and inspections, which should also be able to identify any persistent production quality control problems. Also, since the Coast Guard will continue to witness approval testing, there is continued assurance that the basic design and construction of the equipment will be adequately tested.

Servicing of Inflatable Liferafts

The current requirements for periodic servicing of inflatable liferafts are contained in 46 CFR 160.051–6. Under the current system, each servicing facility is designated by the manufacturer, then formally approved by the Coast Guard after specified inspections and tests. After a facility is approved, a Coast Guard marine inspector attends the servicing of each liferaft taken from an inspected vessel.

These proposed rules would shift the focus of the Coast Guard's involvement in liferaft servicing from the individual liferafts to qualifications of the servicing facility and servicing technicians. A Coast Guard inspector would visit a servicing facility for the initial inspection for approval, examine the facility, and make sure that there is at least one servicing technician who has successfully completed a training or refresher course in servicing the liferafts for which the facility seeks approval. However, after approval of the facility, the Coast Guard would not regularly inspect servicing of individual liferafts.

This proposal also incorporates changes to liferaft servicing procedures to conform with IMO Assembly Resolution A.761(18), "Conditions for the Approval of Servicing Stations for Inflatable Liferafts." This new IMO recommendation on liferaft servicing and approval of servicing facilities updates, combines, and supersedes the three previous IMO recommendations which covered these subjects. Resolution A.761(18) is not proposed to be incorporated by reference, however the substance of the recommendation is included in the proposed requirements of this NPRM. Copies of Resolution A.761(18) may be obtained by contacting the Commandant (G-MVI-3) at the address indicated under ADDRESSES above.

Comments received in response to the ANPRM of August 14, 1986, and the public hearings held on January 27, 1987 and March 20, 1987 were also considered in the drafting of the changes proposed in this NPRM.

The proposed revised liferaft servicing procedures are contained in §§ 160.151–35 through 160.151–57. The proposed procedures differ from the present procedures in a number of important ways:

1. The Coast Guard would no longer attend the servicing of every raft taken from an inspected vessel. Under proposed § 160.151–53, the servicing facility would still have to notify the Coast Guard whenever such a raft was taken in for servicing, but the Coast Guard would have the option either of authorizing the facility to proceed without an inspector present, or requiring the servicing to be witnessed by a marine inspector. In cases where scheduling conflicts or resource limitations might prevent the OCMI from providing a Coast Guard marine inspector in a timely manner, the servicing facility would have the option, upon the authorization of the OCMI, to engage the services of an independent third-party inspector acceptable to the OCMI. This procedure is generally consistent with existing policy in Navigation and Vessel Inspection Circular (NVIC) 6–82 (Servicing and Inspection of Inflatable Liferafts Utilizing Voluntary Third Party Inspection Organizations), which allows for use of properly qualified third party inspection organizations for liferaft servicing inspections in cases where scheduling is critical and a marine inspector is not available in a timely manner. A significant difference is that under these proposed rules, OCMI's would evaluate and accept third party inspection organizations for liferaft servicing inspections within their zones, as opposed to acceptance being undertaken exclusively by the Commandant as specified in NVIC 6–82. The OCMI would evaluate the suitability of a prospective third party organization to witness liferaft servicing in accordance with 46 CFR 159.010. Although the OCMI would have the authority to accept third party organizations for inspections within his or her zone, there may be instances where acceptance of a large third party inspection organization of national scope would be undertaken by the Commandant (G-MVI). The OCMI would retain the option of continuing to send Coast Guard marine inspectors to witness liferaft servicing or to oversee the performance of third party inspectors.

2. Approval of servicing facilities would no longer be conditional upon designation by the liferaft manufacturer. A facility otherwise meeting all of the Coast Guard and manufacturer requirements for training, parts, tools, and servicing manuals could be approved without prior explicit manufacturer authorization.

3. A new "Necessary Additional Pressure" test and a Floor Seam test contained in IMO resolution A.761(18) have been added to the required test procedures in § 160.151–57. The time periods for some of the air-holding tests have been changed in conformance with the IMO recommendation.

Alternatives to Universal Coast Guard Inspection of Servicing

Since their inception, the Coast Guard's inflatable liferaft servicing procedures have required a Coast Guard marine inspector to inspect servicing facilities for approval, and then attend the servicing (overhaul, pneumatic testing, equipment inventory, and repacking) of each raft. In the majority of instances the Coast Guard has performed this service without charge. The requirement in existing regulations for a marine inspector to witness each raft's servicing is at least in part a consequence of the rapid expansion of liferaft servicing facilities in the 1960's. When inflatable liferafts first came into widespread use, the servicing facilities were primarily ship chandlers whose expertise in servicing inflatable liferafts was limited. The Coast Guard, recognizing this limitation and the general lack of experience concerning the use and servicing of inflatable liferafts on merchant vessels, was unwilling to permit the unsupervised servicing of these devices.

Although that system accomplished its purpose over the years, the increase in the number of inflatable liferafts used on inspected vessels over the last several decades has greatly increased the associated burden on Coast Guard personnel resources. Exacerbating the problem is the increased workload created by the Commercial Fishing Industry Vessel Safety Act, and the large increase in the number of liferafts under the Coast Guard's regulatory authority as a result of that Act. Since there has been no corresponding increase in the Coast Guard's personnel resources, the Coast Guard must find ways to utilize its existing resources more efficiently.

Incorporating suggestions made in several comments, these proposed rules would institute a system of periodic "spot checking" of servicing by the OCMI, with the frequency of the spot checks being at the OCMI's discretion.

Proposed § 160.151–53(a) would require a servicing facility to notify the OCMI each time it will service an inflatable liferaft under the facility's Coast Guard approval. The notification of the OCMI must be in sufficient time to allow a Coast Guard inspector to travel to the site where the servicing is to be performed. A timely telephone call to the OCMI, providing pertinent information concerning the raft(s) to be serviced, is all that would be required. The OCMI would then decide whether or not to attend some or all of the servicing of the raft. The decision might be based on the interest the OCMI has in the raft due to its age or perceived reliability, the confidence the OCMI has in the capabilities of the servicing facility, the time which has passed since the facility was last inspected, or any special tests (such as the fifth-year inflation test) required for the raft. This procedure does not represent any change from the current requirement for servicing facilities to notify the OCMI each time a liferaft is to be serviced.

There may be instances where the OCMI is notified of a raft taken in for service, and determines on the basis of the criteria discussed above that the servicing should be witnessed, but is unable to do so in a timely manner due to resource or schedule constraints. In such cases, where the Coast Guard inspector informs the owner or operator that he or she will not be available, these proposed rules would permit the servicing facility, upon the authorization of the OCMI, to utilize a third party inspection organization acceptable to the OCMI to witness the servicing on behalf of the OCMI. The owner of the servicing facility would be responsible for the cost of the third party inspector. The third party inspection organization could be an appropriately qualified independent laboratory inspector or an inspector or

surveyor from a classification society, working on a fee basis paid by the facility. For servicing facilities located outside the United States, it could also be the maritime safety administration of a foreign government.

Inspection and Approval of Servicing Facilities

These proposed rules would retain the requirement in the current regulations for a Coast Guard inspector to inspect each servicing facility and witness certain qualifying tests for the initial approval of the facility. Under proposed § 160.151–41(c), the inspector would witness the servicing of a liferaft and the inflation of that liferaft. This single inflation is a reduction from the present three inflations required for servicing facility approval. As one comment noted, with more attention paid to the quality and currency of training of servicing technicians by the manufacturer, as discussed in a later section, the practical testing of technicians at the servicing facility by the Coast Guard should become less important.

If the inspection and qualifying test are satisfactory, the facility would be approved by the Coast Guard to service inflatable liferafts for U.S. vessels. As under existing regulations, approval of the facility would be limited to servicing only those makes of liferafts for which the facility has been inspected. This procedure is similar to proposals made by several comments.

Continuation of the practice of conditioning Coast Guard approval of servicing facilities on manufacturer authorization was one of the subjects specifically covered at the public meetings. Sixteen comments supported the Coast Guard continuing to approve only servicing facilities authorized or inspected by the manufacturer. One stated that consultation and supervision of major repairs by the manufacturer was important, and two said that the issues should be the qualifications of the facility and the competence of the technician. Two comments stated that it was important for inspection and repair to be in accordance with the manufacturer's manual. Two comments stated that the Coast Guard should approve qualified independent servicing facilities, and that a servicing facility should not be subject to loss of approval except for cause.

In a departure from the present regulations, approval of a servicing facility by the Coast Guard would not be conditional upon explicit authorization by the liferaft manufacturer under the rules proposed in this notice. This would allow the Coast Guard to focus on the technical qualifications of the servicing facility, and not the facility's business arrangements with the manufacturer. If a facility has currently trained servicing technicians and all of the parts, tools, and manuals necessary to properly service a particular make of raft, possession of documentation of a satisfactory business relationship with the liferaft manufacturer would have no bearing on whether a facility would be approved by the Coast Guard. Consultation and supervision of major repairs by the manufacturer should not generally be necessary, since the manufacturer's techniques on major repairs should be covered in servicing technician training and in the servicing manual.

Proposed §§ 160.151–35(b)(3) and 160.151–35(b)(4) would require that current manuals, as well as unique parts and tools, be made available to qualified servicing technicians servicing that manufacturer's liferafts and that a manufacturer have a training program for certification of servicing technicians. Current information indicates that repair parts, tools, and survival equipment are generally available, but comments are specifically requested on the proposed provision that would require the manufacturers, as a condition of their approval, to make any unique parts and servicing tools available, at a reasonable cost determined by the manufacturer, to certified technicians servicing that manufacturer's liferafts.

The ANPRM discussed the possibility of requiring manufacturers to inspect servicing facilities annually, and be responsible for their quality, in addition to Coast Guard and third party inspections. The Coast Guard has decided not to propose a requirement for manufacturer inspections since the business relationship between the manufacturer and the servicing facility could interfere with such inspections, and the cost of such a requirement could be excessive for a manufacturer with a large network of servicing facilities world-wide. However, proposed § 160.151–35(b)(5) would require manufacturers to notify the OCMI whenever they become aware, by whatever means, of servicing technicians at approved servicing facilities servicing rafts incorrectly, or of any falsification of required documents relating to servicing by an approved facility.

Servicing Manuals

Present regulations require the liferaft manufacturer to produce a servicing manual. The manual has instructions on opening, inspecting, testing, repairing, and repacking of each of the manufacturer's approved liferafts. The present regulations do not specifically require the manufacturer to keep this manual current, but a system of service bulletins is normally used to alert facilities of any changes to procedures in the manual. With time, these bulletins accumulate and can be lost or mislaid. This can result in questions about whether or not a servicing facility's servicing manual is current. To make sure that the manuals are kept current, proposed § 160.151–35(b)(2) would require manufacturers to update their manuals at least annually, and would require the manufacturer to issue a list of each servicing manual revision and bulletin in effect at least once each year. The manufacturer would be required to make available the servicing manual and service manual revisions to each technician who has successfully completed the manufacturer's training described in § 160.151–39(a) or (b) within the periods specified in § 160.151–41(e). The manufacturer could accomplish the annual manual update by reissuing a complete corrected manual, by issuing revised pages along with a list of current manual pages, by providing an annual listing of service bulletins and manual revisions in effect, or simply by sending out a letter that says no changes have been made to the manual in the last year, to each certified servicing technician that received a servicing manual from the manufacturer. Under proposed § 160.151–45(c), each servicing facility would be required to have a current copy of the servicing manual, including all servicing bulletins and manual revisions in effect as indicated on the current annual list. Servicing technicians would be required to maintain a current copy of the manual and all revisions and bulletins issued by the manufacturer.

Training of Servicing Technicians and Inspectors

The existing regulations at 46 CFR 160.051–6(d)(2) require approved servicing facilities to be staffed by one or more persons documented to have satisfactorily completed a factory training course in the servicing of approved inflatable liferafts. However, the regulation contains no requirement for currency of training or refresher training. Lack of current training has been identified as a contributing factor in several incidents of improper liferaft servicing.

The Coast Guard has determined that there is a need for refresher training. A number of reports of deficient servicing over the past several years have been

attributable to lack of currency or proficiency by the servicing technicians involved. The fact that a technician has "continuous experience" in servicing a particular type of raft does not necessarily mean that the rafts were serviced correctly, and a technician may service some makes of rafts only infrequently.

Under these proposed rules, manufacturers would be required to establish and maintain a training program for certification of servicing technicians, including both initial training and refresher training. Each trainee would be evaluated at the end of the course, and only those successfully completing the evaluation would be given a certificate indicating their competence to service the manufacturer's liferafts. This rule does not propose to mandate who must receive training or that the manufacturer must provide training on demand. The Coast Guard requests comments on whether the industry foresees problems with training availability.

Also to be considered is the manner in which the training is delivered. Nothing in these regulations would limit training locations to the U.S. or to the manufacturer's factory. Manufacturers could conduct training wherever there is sufficient demand for it. Training could even be conducted at individual servicing facilities for one or two technicians at a time. The training could be provided directly by the manufacturer in a vocational-type classroom setting. Training might also be conducted for one or more manufacturers by a commercial training organization or other educational organization.

Servicing of Unapproved Liferafts

On August 14, 1991, the Coast Guard published a final rule containing new safety regulations for uninspected fishing vessels (56 FR 40364). These rules at 46 CFR part 28 require many fishing vessels to carry inflatable liferafts for the first time. The regulations include "grandfathering" provisions to allow fishing vessels which carried unapproved liferafts prior to the effective date of the regulations to continue to carry those liferafts as long as they were serviced annually at a Coast Guard-approved servicing facility. Under proposed § 160.151–35(c), manufacturers of unapproved liferafts could establish a system of Coast Guard-approved servicing facilities. If a manufacturer of unapproved liferafts was unwilling to participate, the Coast Guard could recognize another appropriately qualified corporation or individual as a substitute manufacturer for the purposes of Coast Guard-approved servicing. This corporation or individual would have to perform all of the functions of a manufacturer related to servicing, including maintaining servicing manuals and providing service technician training. Such a procedure could also be followed for "orphaned" liferafts of manufacturers who leave the liferaft manufacturing business. Three comments expressed concern about such an occurrence. The rules proposed in this notice would make it easier for rafts on uninspected vessels to be serviced at approved facilities, since Coast Guard marine inspectors would not be required to be present at every servicing.

Coast Guard approval of servicing facilities for unapproved liferafts would mean that the Coast Guard could also oversee the inspection and servicing of liferafts approved by the maritime administrations of other countries. Many foreign ships call at U.S. ports and need to have their liferafts serviced here. The Coast Guard has occasionally overseen such inspections at the specific request of a foreign maritime safety administration. However, the procedure proposed in this notice would make such inspections by Coast Guard or third party inspectors routine, and would, in effect, allow reciprocal servicing inspections with those countries which oversee the servicing of liferafts from U.S. vessels taking place in their countries. International Maritime Consultative Organization (IMCO) Maritime Safety Committee (MSC) Circular 300 "Recommendation On Servicing Of Inflatable Liferafts", dated February 2, 1981, recommended that maritime safety administrations oversee the inspection and servicing of all inflatable liferafts in their countries. A participant in one of the public meetings made the same suggestion, and one comment on the ANPRM was in favor of Coast Guard monitoring of inflatable liferaft servicing in the U.S. for foreign vessels.

The Coast Guard solicits comments on the issue of servicing of unapproved liferafts, and the resolution of problems which might arise from such a procedure. Included in this issue is the handling of Coast Guard-approved liferafts from uninspected vessels which have either not been serviced regularly, or have been serviced at an approved facility but without an inspector present.

Unauthorized Liferaft Servicing

The danger presented by unauthorized servicing organizations is that they may not have all of the manufacturer's servicing and repair information, they may not have access to the necessary tools and repair parts, and they may not know with certainty the correct method of packing a liferaft in its container so that it inflates properly when needed. Each manufacturer's liferafts and containers are different, so a servicing organization that is fully qualified to service one particular make of liferafts is not necessarily qualified to service the rafts of another manufacturer.

Because Coast Guard-approved rafts used on merchant vessels are presently inspected by a Coast Guard marine inspector when they are serviced, and because servicing records are often checked by another Coast Guard inspector when the raft is installed on the vessel, unauthorized servicing is an infrequent problem on inspected vessels. It may become more of a problem if the Coast Guard reduces its frequency of inspections at the servicing facility. A more serious problem concerns rafts on uninspected vessels, where a servicing organization that is Coast Guard-approved to service certain rafts on inspected vessels attempts to service other rafts, for which they are not approved, from uninspected vessels.

Proposed §§ 160.151–47(e) and (f) would require an approved servicing facility to specify which makes of liferafts it is approved to service when it represents itself as approved by the U.S. Coast Guard, and not service any liferaft for a U.S. registered commercial vessel unless it is approved by the Coast Guard to service that make of liferaft. Under proposed § 160.151–55, Coast Guard servicing facility approval may be withdrawn for any organization found to service liferafts for which it is not approved. The regulation may serve to discourage unqualified servicing by denying U.S. Coast Guard approval to unauthorized servicing facilities. However, the proposed provisions for remote site servicing are flexible enough to allow for servicing of any liferaft at any approved facility, as long as a servicing technician qualified for that make of liferaft is brought in to do the work and the necessary tools and repair parts are available.

Remote Site Servicing

The present regulations were written for vessels that move cargo or passengers from one port to another and call at U.S. ports where servicing facilities are readily available. They assume that while the vessel is involved in cargo operations or otherwise detained in port, the liferaft(s) can be removed from the vessel, taken to an approved facility to be serviced, and

then returned to the vessel before it leaves port.

Currently, vessels may operate away from the United States for extended periods, sometimes in areas where Coast Guard-approved liferaft servicing is not readily available. This is particularly true for mobile offshore drilling units (MODU's) and the vessels that attend them. The present regulations require that a liferaft be serviced at an approved servicing facility. Since these vessels may not enter ports where such facilities are available, the inflatable liferafts must be shipped back and forth from the vessel to a distant facility. Since the vessel may remain in operation, it may be necessary to obtain a substitute liferaft to have available while the vessel's liferaft is being serviced. Since these vessels typically have a number of liferafts that have to be shipped away for servicing, this can be an expensive and time-consuming procedure. Delays in foreign ports have also been experienced since the rafts contain pressurized cylinders, pyrotechnics, and other materials whose shipment is often limited or controlled by local laws.

A similar problem may be experienced by some container ships, RO/RO vessels, and fast turnaround tanker operations, where the ship may not remain in a port long enough to conveniently send the liferafts away to be serviced.

To address these problems, proposed § 160.151–49 would provide for servicing liferafts at remote sites, provided that the facility has made the appropriate arrangements to ensure that each remote servicing site meets the applicable requirements for a servicing facility. All of the requirements for notification of the OCMI and the OCMI's decision on whether to inspect the facility during servicing of the liferaft, would apply to a remote site. The servicing facility would have to assemble a portable assortment of test equipment, spare parts, and replacement survival equipment to accompany the individual doing the servicing. The technician doing the servicing would have to make sure that the space provided and the equipment available meet the regulatory requirements for servicing. A participant at one of the public meetings stressed that remote site servicing should be an additional endorsement in the approval of a servicing facility, since it would be necessary to have special portable equipment. The Coast Guard agrees, and this is included in the procedure proposed.

Servicing With Computer-Aided Devices

The ANPRM discussed the concept of a computer-aided servicing system. The system discussed in the ANPRM includes the functions of a servicing manual and much of the test equipment. The system's software could effectively include all of the requirements for a servicing manual and lead the person servicing the liferaft through the servicing procedure. Transducers could be connected to the computer to read weight, temperature, and barometric pressure measurements. The system may be particularly well-suited for remote-site servicing arrangements.

The regulations proposed in this notice do not specifically include such a system, but would not prohibit the use of such a system as a tool by a servicing facility. If the system offers significant operational efficiencies for servicing facilities, it will be voluntarily adopted by them. It is the position of the Coast Guard that the system does not eliminate the need for inspections, since the system does not monitor all parts of the overall servicing procedure.

Detection of Aging Structural Connections

The current fifth-year CO_2 inflation test of a raft checks the gas tightness of the seams of a raft's buoyancy tubes, but does not focus on structural connections, which, while holding the major components of the raft together, do not not come in contact with the inflation gas. It is possible that the cold-cure cements now commonly used in the fabrication of rafts have produced seams that suffer deterioration at a faster rate than the raft fabric. The rafts recovered from the loss of the drill rig "Ocean Ranger" in February 1982 showed extensive deterioration in their hinge tapes and floor supports.

Under proposed § 160.151–37(a)(2), the servicing manual would be required to contain instructions on checking the raft for deteriorated seams and joints. In addition, proposed § 160.151–57(l) adds a test of the integrity of the seam connecting the floor to the buoyancy tube. This is identical to the Floor Seam Test specified in the new IMO liferaft servicing recommendation.

Necessary Additional Pressure (NAP) Test

The new IMO recommendation on liferaft servicing addresses the problem of detecting unsatisfactory older rafts by the addition of a "Necessary Additional Pressure" (NAP) Test, incorporated into this notice as proposed § 160.151–57(k). This test would require inflating the liferaft to the lesser of twice the working pressure or the pressure necessary to produce a tensile load in the inflatable tube fabric of 20% of its required minimum tensile strength, then checking for qualitative signs of seam or material failure. The test would be required to be performed at each servicing for rafts over ten years old, except in those years when the raft is subjected to the gas inflation test.

Liferaft Painter Length

At present, SOLAS Regulation III/38.3.2 specifies a painter length of the greater of 15 meters or twice the stowage height. As part of the amendment of SOLAS Chapter III currently in development, the IMO Lifesaving, Search and Rescue Sub-Committee has tentatively approved a change to this regulation to reduce the required painter length to the greater of 15 meters or the stowage height plus 10 meters. If this change is approved by the IMO Maritime Safety Committee as expected, it would be incorporated into the final rule.

Stowage Height and Equipment Pack Markings on Containers

The 1983 SOLAS Amendments changed the requirements related to the height above the waterline at which a liferaft can be stowed. The maximum stowage height is the lesser of one-half of the length of the painter, or the height at which the raft was drop-tested by the manufacturer. Since different liferafts will have different maximum stowage heights, this information should be marked on the liferaft container. Also required to be marked on the container is a description of the type of emergency equipment pack.

Proposed § 160.151–37(a)(12) would require the servicing manual to contain information on the proper marking of the maximum permitted stowage height above the waterline, and the "SOLAS A" and "SOLAS B" equipment pack provided. Since manufacturers may choose to qualify rafts for different stowage heights, the marking on the container is the best way to prevent a raft from being installed in an inappropriate location. Servicing facilities must be responsible for this marking, since containers may be interchanged or replaced in servicing, and since the servicing facility could effectively alter the stowage height by changing the painter length in accordance with the servicing manual.

Inspection and Replacement of Survival Equipment

The possibility of using equipment other than Coast Guard-approved

equipment was one of the subjects specifically covered at the public meetings.

The Coast Guard has not adopted the suggestions to allow the use of equipment approved to the SOLAS 74/83 requirements by other countries. SOLAS 74/83 does not contain complete performance, design, or quality control requirements for all such equipment. In fact, for many items of survival equipment, SOLAS 74/83 does not contain any design or performance requirements, so that inferior equipment not complying with U.S. requirements can be accurately claimed to meet applicable SOLAS 74/83 requirements. On the other hand, there are many items approved by other maritime administrations which are of high quality, and may even exceed the requirements for Coast Guard-approved equipment. These proposed rules would allow those items to be substituted in some limited instances as discussed below. In the future, maritime regulatory reform efforts may lead to a greater degree of acceptance of foreign approval of lifesaving equipment on a reciprocal basis.

The rules proposed in this notice address the issue of survival equipment in two ways. First, under proposed § 160.151–45(o), a servicing facility must have a complete stock of survival equipment, except for items which may be procured quickly. Second, under proposed § 160.151–53(d), the servicing facility may request that the OCMI authorize deviation from the established servicing procedure when necessary. This deviation could include authorization to substitute equipment when the required Coast Guard-approved equipment is unavailable. Any deviation approved by the OCMI on this basis would be noted on the OCMI's servicing documentation for reference at subsequent servicings. The OCMI's decision on the deviation would be based, in part, on what is known about the equipment that the servicing facility proposes in substitution.

A participant in one of the public meetings suggested that the OCMI's would need some guidance on what survival equipment could be accepted in these situations. Since there is no international registration of approved equipment, such guidance would be difficult to provide in general form. Each instance would have to be considered on a case-by-case basis, but would generally be based on the OCMI's determination of whether a particular piece of equipment would be equivalent to applicable Coast Guard requirements.

The rules proposed in this notice do not envision the substitution of liferafts approved by other countries for liferafts approved by the Coast Guard. Each SOLAS 74/83 signatory country is responsible for the quality and performance of lifesaving equipment on its vessels. There are no "SOLAS" or "IMO" approvals. However, one result of the 1983 SOLAS Amendments has been an "internationalization" of liferaft design. Some manufacturers produce the same liferaft for the approval of many different countries, including the United States, so that finding Coast Guard-approved liferafts in foreign ports should become easier. These issues may be addressed as part of the Maritime Regulatory Reform initiative.

Date of Servicing and Servicing Expiration Date

Proposed § 160.151–57(m)(3) would require that a sticker be affixed to each liferaft container. Information on the sticker would include the expiration date. This would replace the system of stamping the servicing date on a metal plate on the container. A sticker bearing an expiration date should be easier to use and more informative for vessel operators and inspectors. This is especially true when the required date for servicing is extended because the raft has been stored under controlled conditions, as provided for in proposed § 160.151–57(n). Section 160.151–57(n) would allow a raft stored for up to 6 months from date of manufacture to be placed in service without further servicing. The first servicing would be due no later than one year from the date of installation on board a vessel. Section 160.151–57(n) adopts the policy currently provided for in Navigation and Vessel Inspection Circular (NVIC) 12–61. Section 160.151–57(n) also proposes to allow new liferafts to go for two years before their first servicing. The two year servicing extension would not apply to liferafts used on vessels with SOLAS 74/83 certificates, since Regulation III/19.8.1 of SOLAS 74/83 requires annual liferaft servicing.

The Coast Guard has provided for limited servicing date extensions in this proposal. In general, however, the Coast Guard position is that annual inspections are required. Raft containers can become laden with moisture in a marine environment, accelerating the deterioration of the raft and its equipment, even though some of the equipment has a nominal storage life of three to five years. Raft containers can be damaged during vessel operations or cargo handling and permit water intrusion, thereby accelerating deterioration. Temperature and humidity cycles can lead to deterioration and corrosion of inflation system components, leading to failure of the inflation system. Some manufacturers have suggested that vacuum packing of the liferaft in a plastic package inside the container can extend servicing time. If proposed by a manufacturer, the Coast Guard will consider the data provided and decide if the procedure warrants an extension of the servicing expiration date.

Currently, under NVIC 12–61, rafts stored under controlled conditions from 6 months to 1 year from the date of manufacture are opened by an approved servicing facility in the presence of a marine inspector to visually check the condition of the raft, check and weigh the CO_2 cylinder(s), and replace the flashlight batteries. This procedure effectively waives the 2-hour inflation test which would otherwise be required during servicing. After checking, the raft is repacked by the approved servicing facility and marked as having been serviced on the date of this inspection, with regular annual servicing due one year from date of the stamp. Rafts in storage longer than one year have to undergo the full servicing procedure.

This policy on storage has been in effect for almost 25 years without any evidence that liferafts stored and serviced under this procedure have been any less satisfactory than those serviced annually. Instead of limiting the procedure to newly produced liferafts held in controlled conditions between manufacture and installation on ship, these proposed rules would extend it to all liferafts that have been fully serviced and then stored under controlled conditions (§ 160.151–57(n)(3)).

There have been cases reported where a liferaft that was sent for servicing was suspected of not having been inspected and serviced at all. Since the liferaft is stored in its container, out of sight of the owner, an unscrupulous organization might be tempted to simply mark the raft container with the indication that it had been serviced without removing the raft from the container. In this way the full servicing fee could be collected without the servicing organization having to do any work. In order to place the date and identification of the servicing facility on the raft itself, the raft would have to be unpacked and repacked, guaranteeing that at least that much had been done. Any doubt about whether or not a facility had even opened the raft could be resolved by examining the raft. Proposed § 160.151–57(m)(1) would require that the canopy or buoyancy tubes be marked with information regarding servicing including the servicing date and identification and location of the servicing facility.

Servicing Stickers and Servicing Certificates

As discussed above, proposed § 160.151–57(m)(3) would require the liferaft container or valise to have a servicing sticker affixed to it. The use of a standard servicing sticker is intended to discourage liferaft servicing by unapproved facilities, and to ease enforcement of safety regulations by Coast Guard enforcement personnel. One comment stated that such a system, if adopted, would have to be consistent between all servicing facilities and manufacturers. The Coast Guard has already accepted a standard servicing sticker design prepared by industry, for optional use at present. These stickers would meet the proposed requirements of this NPRM. The sticker would be required to be approximately 4 by 6 inches, with the last digit of the year of expiration superimposed over a background color that changes for each inspection year. The required color for each inspection year would correspond to the colors specified for recreational boat number validation stickers in 33 CFR 174.15(c). The sticker would be required to be marked with the Coast Guard identifying insignia described in 33 CFR 23.12(a), which should make it easier to prosecute unapproved servicing facilities using the sticker (or copies of it) in violation of the terms of its acceptance by the Coast Guard. Any person desiring to reproduce the Coast Guard identifying insignia must obtain approval from the Commandant in accordance with 33 CFR 23.12(c). Under these proposed rules, the sticker would replace the current system of stamping the servicing date on a metal plate on the container.

As discussed earlier, NVIC 12–61 currently allows rafts stored up to 6 months from date of manufacture to be placed in service without further servicing, with the first servicing due no later than one year from the date of installation on board the vessel. In order to help identify a raft in this category, the raft manufacturer furnishes the master of the vessel with a copy of the bill of sale showing the manufacturer's name and address, the serial number of the raft, the date of manufacture, and the sale date. In addition, an affidavit is to be provided showing the date the raft was installed on the vessel. Both the affidavit and bill of sale are to be retained on board the vessel. All of this paperwork is unnecessary with the sticker system. Any servicing certificate the servicing facility issues could be endorsed to indicate that this special inspection procedure was used, and the sticker would indicate the expiration of the servicing period.

If liferaft manufacturers develop other ways to extend servicing expiration dates, the servicing sticker will accommodate those extensions more easily than if the date of servicing is stamped on the metal plate. The servicing facilities would be responsible for obtaining the stickers. A servicing facility or a group of servicing facilities might print their own, manufacturers may offer stickers to facilities that service their rafts, or an industry organization might arrange for their printing.

These rules would not require the sticker to be placed over the joint in the liferaft container. The ANPRM discussed this possibility, so that the sticker would be broken whenever the raft is opened. This would be an immediate indication of unauthorized tampering, should such tampering occur. There are several problems with placing the sticker over the joint, including difficulty in adhering to the joint gasket material, exposed location possibly resulting in inadvertent damage, and movement between container parts while the raft is being moved, which might break the sticker even though the container has not been opened.

The ANPRM discussed the possibility that the sticker could replace the servicing certificate. In that case, servicing facilities could continue to issue servicing certificates even if Coast Guard regulations did not include such a requirement. The rules proposed in this notice would still require the servicing certificate, but comments are requested on whether or not the certificate requirement should be removed if the servicing sticker is retained in the final rules.

Issuance of Unique Code to Each Approved Servicing Facility

In 1981, IMCO (the predecessor of the IMO) issued "MSC Circular 300" which recommended the issuance of an identification number to each approved servicing facility. In 1992, the Coast Guard assigned such numbers to all existing liferaft manufacturers and servicing facilities, for optional use on servicing stickers. The purpose of the code is to enable quick and positive identification of a servicing facility as one that has been approved by the Coast Guard. Proposed § 160.151–57(m)(3)(iv) would require that the servicing facility mark its approval code on the servicing sticker.

Raft Markings as an Aid to Search and Rescue (SAR)

Another reason for marking the raft with the identification of the servicing facility and date is its potential use in search and rescue.

When a liferaft is found at sea with no one aboard, SAR forces want to know what vessel the raft came from as soon as possible. For this reason, the 22nd session of the IMO Lifesaving, Search and Rescue Sub-Committee in February 1991 prepared a draft Assembly resolution (subsequently approved by the 18th IMO Assembly in October 1993 as Assembly resolution A.759(18)) recommending that liferafts be fitted with a means of identifying the vessel on which a raft is installed. Specifically, in recognition of the fact that liferafts are sometimes moved from one ship to another outside of the normal servicing cycle, the recommendation calls for a means of identification which can be easily changed without the necessity of unpacking the raft. An example would be a water resistant card inside a waterproof canister with a threaded lid, attached to the raft by a cord or webbing and secured to the outside of the raft container. This recommendation is incorporated in these proposed rules in § 160.151–17(c) as an equipment requirement for new rafts, and in § 160.151–57(m)(2) as a servicing requirement for existing rafts. If the name of a vessel is not known when the raft is serviced, the information could be added when the serviced raft is installed on a vessel.

Fifth-Year Inflation Test

The current special fifth-year inspection requirements for liferaft servicing require the liferaft to be inflated with its own inflation system. This test is performed by removing the folded raft from its container and then operating the fitted gas inflation system. A recent problem suggests that this test should be done with the raft still in its container with all retaining bands in place.

The problem concerned a hose coupling that broke when a raft was inflated in its container during the sample lot inflation test required for new liferafts. The manufacturer also discovered that the hose failure did not occur when the raft was inflated in its folded condition, but outside of its container. This occurrence indicates that the forces on parts of the liferaft can be significantly different when the inflating raft breaks out of its storage container.

This particular occurrence was discussed in the ANPRM. A

requirement to include the hoses in the annual inflation test has been proposed in § 160.151–57(b)(2). However, other parts of the raft may also be stressed more severely when the raft breaks out of its container, as compared to inflating in the folded condition. For this reason, proposed § 160.151–57(g) would require the fifth year inflation test to be initiated with the raft inside its storage container, with any retaining bands in place.

After CO_2 inflation, these proposed rules would allow the raft to be deflated and refilled with air to check the integrity of the inflated buoyancy tubes. Air is used to check new liferafts, and raft fabrics are somewhat more permeable to CO_2 than they are to air. Testing with CO_2 may therefore result in a false indication of raft fabric porosity, if pressure loss slightly exceeds the permissible percentage. Such rafts would probably pass an air inflation test, and would be perfectly serviceable. This procedure is not specifically addressed in the existing regulation.

IMO Recommendations on Servicing of Inflatable Liferafts

Several revisions to the servicing requirements are proposed in order to be consistent with International Maritime Organization (IMO) Resolution A.761(18) "Conditions For The Approval Of Servicing Stations For Inflatable Liferafts" dated July 20, 1993, and IMO Maritime Safety Committee (MSC) Circular 300 "Recommendation On Servicing Of Inflatable Liferafts" dated February 2, 1981. Resolution A.761(18) updates, combines, and supersedes the previous IMO Recommendations in resolutions A.273(VIII), A.333(IX), and A.693(17).

Eight comments favored alignment with IMO Recommendations, with one adding that it would increase the availability of liferaft servicing facilities for U.S. vessels worldwide. One comment stated that alignment with IMO Recommendations would not be practical, but did not explain why it would not be practical. The Coast Guard's position is that most currently approved servicing facilities would meet these standards, which include the following:

1. Servicing would be required to take place in fully enclosed spaces (indoors). The space would be required to be ventilated, but free of drafts, and smoking would not be permitted (§§ 160.151–43(a)(2), (9) and (10)).

2. Sufficient space would have to be available for the number of liferafts expected to be serviced at any one time. The ceiling would have to be high enough to hold a fully inflated liferaft of the largest size to be serviced (§§ 160.151–43(a)(3) and (4)). The ANPRM discussed a requirement consistent with the previous IMO Recommendation, which would have required a ceiling high enough to allow overturning of the largest liferaft to be serviced with the liferaft inflated. Two comments stated that this was unnecessary. The new Recommendation in resolution A.761(18) does not require that the ceiling be high enough to overturn the raft, but does require that an equally efficient means of facilitating the inspection of bottom seams be furnished. This requirement has been incorporated in the NPRM (§ 160.151–43(a)(4)). For example, the liferaft could be partially deflated and overturned to gain access to the bottom of the liferaft. Although a lower ceiling height may be an inconvenience for the servicing facility, it would not prevent approval of a facility.

3. The floor would have to be covered or coated with a surface that can be cleaned (§ 160.151–43(a)(5)). However, carpets would not be prohibited as was proposed in the ANPRM. The prohibition on carpets in the old IMO Recommendation was intended to protect natural rubber coated liferafts from copper oxidation, a destructive process which can arise from contact with brass debris from inflation hardware caught in the carpet fibers. Such debris can be very difficult to remove completely. Two comments pointed out that many servicing facilities do not service natural rubber coated liferafts, and therefore, can or should use a carpeted service area. The Coast Guard agrees and has not included a prohibition on carpet in these proposed rules.

4. The temperature, and where necessary, the relative humidity in the servicing space would have to be sufficiently controlled to ensure that servicing can be carried out (§ 160.151–43(a)(7)). One comment suggested that the rules include a requirement for temperature and humidity controlled servicing environments. One comment suggested that the temperature be controlled to within 5 °F during the test period. The proposed regulation would require the ability to maintain an even temperature during servicing. The specific suggestion to require environmental control to within 5 °F was not adopted, since it would incorrectly imply that the inspector must verify the operation of the heating, ventilating, and air conditioning system. The working pressure leakage test procedure does specify that (mathematical) compensation must be made for temperature variations during each test, but does not limit the range in which the temperature may vary during the test. Comments are invited on whether or not a temperature range limit should be specified during the working pressure leakage test.

5. Separate areas would have to be provided for various functions to ensure that servicing can be carried out efficiently (§ 160.151–43(b)). The Coast Guard has not included a definition of "separate area" as suggested by one comment. The separate areas can be separate rooms or just designated parts of the same room. As long as servicing can be carried out in the space in an orderly manner, the separate areas would not have to meet specific standards. Another comment suggested that storage of pyrotechnics in accordance with local safety codes would be satisfactory as long as they are stored away from the servicing area. No special requirement is included for pyrotechnic storage, such as a "safe and secure magazine, in accordance with local safety codes" as discussed in the ANPRM. Such a requirement would be related to the safety of the facility and its employees, rather than to the quality of liferaft servicing. Servicing facilities will be located in many different jurisdictions, all with their own local requirements for storage of materials of this type.

6. The liferaft storage area would have to provide for rafts to be stored no more than two high, and not subjected to excessive loads (§ 160.151–43(a)(8)). The wording of the proposed paragraph is intended, as two comments suggested, to make it clear that the two high stacking limit refers to stacking rafts on top of each other, and does not limit the height of any rack or shelf system.

7. A source of pressure to inflate the rafts and a vacuum source to deflate them would be required (§ 160.151–45(g) and (h)).

8. Facilities that service davit-launched liferafts would be required to be equipped with appropriate means for conducting the load test (§ 160.151–45(p)).

9. Small raft servicing tools would be required to be stored on a tool board that clearly indicates where each tool is to be stowed, or an equivalent means to make sure that no tools are left in the liferaft when it is repacked (§ 160.151–45(r)).

10. IMO resolution A.761(18) states that "statistical records should be prepared on all liferafts serviced, indicating, in particular, defects found, repairs carried out and units condemned and withdrawn from service. Such statistics should be available to the Administration." This information would be used by the

Administration (the Coast Guard in this case) to determine if any particular type(s) or make(s) of liferafts show an unusual or dangerous pattern of defects. Proposed § 160.151–57(r) would implement this recommendation, requiring that the specified records be forwarded to the local OCMI annually. This information would be used to correct the problems identified either by requiring the manufacturers to modify their equipment or to correct their servicing procedures. Similar information on defects is now collected by Coast Guard inspectors as they observe the servicing of individual liferafts. The OCMI files an "Equipment Failure Report" with the Commandant when significant problems are found.

Since Coast Guard inspectors would not attend the servicing of every liferaft under the procedures proposed in this notice, the report on defects by the servicing facility is necessary. Reports on defects do not have to be in any particular form to be useful, so the Coast Guard does not presently intend to develop a special defect reporting form. However, a standard form might be helpful in identifying critical areas and repetitive failures, and could reduce the time spent in reporting defects to the Coast Guard. Comments concerning the desirability of a standard form for reporting defects are solicited. As an alternative, manufacturers might wish to include a suggested defect report format in their servicing manuals.

One comment suggested that servicing facilities send a report listing discrepancies noted to the servicing facility that previously serviced the liferaft. Proposed § 160.151–57(r) requires the servicing facility to notify the OCMI immediately of any critical defects it finds which may affect other liferafts. The OCMI can then take steps to notify the previous servicing facility if this is appropriate. The Coast Guard has no objection to servicing facilities voluntarily notifying each other of discrepancies. This could be an excellent way for the industry to police itself.

A related requirement is located in proposed § 160.151–57(q). The servicing facility would be required to keep a record of each Coast Guard-approved inflatable liferaft it services for at least five years. This time period is specified in the IMO recommendation on liferaft servicing, and would ensure that the special fifth year servicing record would be available for every liferaft, if it is needed.

Requirements for Improved Inflatable Liferaft Stability

The Coast Guard published an ANPRM on inflatable liferaft stability in the **Federal Register** on June 29, 1981 (46 FR 33341) (1981 ANPRM). The 1981 ANPRM presented a summary of research efforts, sea trials, and yachting casualties from this country and Europe, and invited comments on suggested areas of consideration that the Coast Guard saw as relevant to regulatory action. A public hearing on the 1981 ANPRM was held on September 1, 1981 at U.S. Coast Guard Headquarters in Washington, DC.

The Coast Guard published an NPRM on inflatable liferaft stability in the **Federal Register** on January 11, 1985 (50 FR 1558) (1985 NPRM). That 1985 NPRM presented, for the first time, several specific design and testing requirements for improving stability that the Coast Guard proposed for inclusion in revised approval requirements for inflatable liferafts.

Partly as a result of the comments on the 1985 NPRM, as well as the results of further model testing at the Coast Guard Research and Development Center in 1989, this NPRM proposes modifications to the stability requirements different from the ones proposed in the 1985 NPRM.

The Coast Guard received comments on the proposed stability regulations from 14 different parties, representing inflatable liferaft manufacturers, vessel operators, designers and inventors, another Federal agency, and a foreign maritime safety administration. Most of the comments agreed that some stability improvement was needed, although some had objections to the specifics of the proposal, or made alternative proposals. Two comments opposed the proposals on the basis that heavily ballasted liferafts were untried and unproven, or that a heavy ballast system could result in damage to an inflatable liferaft.

For the reasons discussed in both the 1981 ANPRM and the 1985 NPRM, the Coast Guard's position is that liferaft stability improvement is necessary. Heavily ballasted liferafts have been in service for 15 years or more, and have been successfully used in a number of casualties. Tests sponsored by the governments of the United Kingdom and Iceland, which were also discussed in the previous rulemakings, make it clear that increased water ballast will improve heavy weather liferaft stability. The experiences of survivors in heavily ballasted liferafts, which were recounted with some of the comments and at the public hearing, make it clear that heavily ballasted liferafts can be designed so that they are effective and yet can withstand the most severe conditions without damage. The Coast Guard has, therefore, concluded that stability improvement through the use of heavy ballast systems is needed and is practical. The remaining issues which the Coast Guard must address are what kind of stability improvements should be required, and what kind of design, performance, and test requirements should be imposed. The purpose of the heavy ballast stability proposals in this notice is to refine the proposals made in the 1985 NPRM.

There are several heavy ballast designs competing to be recognized as the most appropriate and effective. The three most common are the hemispherical, toroidal, and UK/Icelandic ballast systems. These varying designs were illustrated and discussed at some length in both the 1981 ANPRM and 1985 NPRM, and will not be repeated here in detail.

The inventor and manufacturer of the hemispherical ballast system and another comment supported the hemispherical system as the most effective. One comment was critical of the hemispherical system. Another doubted that the hemispherical system could pass the 3 m drop test required of inflated davit-launched inflatable liferafts. Three comments urged the Coast Guard to adopt the same standards as the United Kingdom and Iceland (referred to hereinafter as the UK/Icelandic system). This system relies not only on large evenly-distributed water pockets, but on an improved sea anchor as well.

The only conclusive way to determine the best stability system is through comparative testing. The best full-scale testing of this type was conducted by the United Kingdom and Iceland in 1980 and 1981. This test series was discussed fully in the 1981 ANPRM and the 1985 NPRM. This testing clearly showed how increased water ballast could improve liferaft stability, and formed the basis for the UK/Icelandic stability requirements. Unfortunately, as one comment pointed out, the test series did not include liferafts with either the hemispherical or toroidal stability systems. The UK/Icelandic system uses less water ballast than either the hemispherical or toroidal systems, and in addition it depends upon an improved sea anchor as an essential part of the stability system.

Several comments addressed the use of sea anchors. Two comments suggested that sea anchors were important and that the Coast Guard did not place sufficient importance on the

contribution of sea anchors to liferaft stability.

The proposed stability requirements in this NPRM do not rely solely on sea anchors for stability because, although a sea anchor streams upwind of the liferaft, waves may come from different directions in a storm. The sea anchor becomes increasingly less effective as the angle between wind direction and wave direction increases. At angles of 90° or more, a sea anchor is virtually ineffective.

Recent comparative testing in the United States has focused on model testing. In 1979, the Coast Guard sponsored rigid model tests in a wind tunnel. These tests were discussed in the 1981 ANPRM. In 1989, the Coast Guard Research and Development Center (R&D Center) completed a series of model tests using a rigid liferaft body with flexible stability appendages in a wave tank. The liferafts modeled included a conventional liferaft with very small water pockets, a toroidal stability system, and a hemispherical stability system. The waves generated consistently capsized the conventional liferaft model, but rafts with both the hemispherical and toroidal stability system did not capsize. Both models appeared to pass through the waves in a similar manner. A copy of the R&D Center test report has been placed in the docket for inspection and copying, and is available for sale through the National Technical Information Service (see ADDRESSES section of this NPRM).

The Coast Guard has decided to base its stability proposals at this time on the hemispherical and toroidal stability systems, although neither design will be mandated. In spite of the claims and theories advanced so far on the merits of the particular systems, there are no test results to date that conclusively indicate the superiority of one system over the other. The 1985 NPRM proposed several requirements and tests to determine liferaft stability. These included a minimum water volume for stability appendages, requirements for distribution and arrangement of the stability appendages, a lift-out force test, a maneuverability test, a helicopter rescue compatibility test, and an at-sea test. In this NPRM the Coast Guard proposes all of these requirements in a modified form, with the exception of the helicopter rescue compatibility test.

Minimum Water Volume for Stability Appendages

The 1985 NPRM proposed a minimum volume of water-filled appendages equal to the volume of the principal buoyancy compartments of the raft (0.096 m^3 (3.4 ft^3) for each person the liferaft is approved to accommodate). Section 160.151–17(a)(2)(i) of this NPRM proposes a minimum volume of 0.08 m^3 (2.85 ft^3) times the number of persons which the liferaft is approved to accommodate. Although this appears to be a reduction in the minimum volume originally proposed, the previous NPRM did not take into account the reduction in the effective volume created by openings designed to admit water into the appendages. The volume is to be calculated using the bottom of the lowest opening in the appendage as the height of the appendage, and by deducting the volume of any objects inside the appendage. As in the 1985 NPRM, the minimum volume proposed by this NPRM is intended to be consistent with the volume of both the hemispherical and toroidal stability systems that are now part of some Coast Guard-approved liferafts.

The UK/Icelandic system uses a minimum stability appendage volume of about 0.02 m^3 times the number of persons which the liferaft is approved to accommodate, although a six-person liferaft must have as much as 0.042 m^3 per person. This proposal would, therefore, require two to four times the volume of water ballast required of the UK/Icelandic system.

The Coast Guard would prefer to use performance requirements wherever possible, but since the scientific investigation of liferaft stability is not complete, it is not possible to completely define liferaft stability systems in terms of performance requirements. The requirements for the UK/Icelandic system, specifying the shape, size, and number of stability appendages, are even more design restrictive than those proposed here.

The volume selected is intended to incorporate the two heavily ballasted designs now approved by the Coast Guard. The hemispherical system has a long and admirable record of saving lives, primarily in fishing vessel casualties. The toroidal system similarly has a long record of effectiveness, and has been used by the Coast Guard for over ten years on its search and rescue liferafts. As indicated by some of the comments, it is not known if the proposed minimum volume requirement represents the optimum in liferaft stability, but further revisions to the stability requirements may be proposed as scientific investigations into liferaft stability continue. It is known that heavy water ballast systems of this size are effective in improving stability, and can be made so that they will not damage the liferaft in heavy seas.

Requirements for Distribution and Arrangement of the Stability Appendages

Section 160.151–17(a) proposes several requirements for the design of the liferaft and the stability appendages. These requirements include the following:

—Each liferaft larger than 8-person capacity must have a waterplane of circular or elliptical outline; or, alternatively, a hexagonal, octagonal, or similar outline approximating a circular or elliptical shape.

—The appendages must be securely attached and evenly distributed around the periphery of the exterior bottom of the liferaft.

—A stability system must consist of at least two separate parts so that damage to one part will permit at least half of the required total volume to remain intact.

—The system must provide openings in or between the stability appendages to limit the formation of air pockets under the liferaft.

Larger liferafts with long straight sides are more susceptible to wind and wave effects than those rafts which more closely approximate a circular shape. This proposal was not part of the previous NPRM, but one comment addressed the effects of wind on stability. The Coast Guard agrees that wind effects are less significant on round liferafts. This proposed requirement is also consistent with generally accepted industry practice. Comments are requested on this proposed requirement, specifically, whether an alternative requirement would be more appropriate, such as requiring a minimum of six or eight sides on a polygonal liferaft, and a limitation on the length/width ratio.

The UK/Icelandic system requires 5 pockets in 4–8 person liferafts, 7 pockets in 9–16 person liferafts, and 11 pockets in 17–25 person liferafts. As discussed above, the proposed requirements in this notice are based on the performance of hemispherical and toroidal systems. While the toroidal system does use multiple sections, the hemispherical system operates successfully with one large chamber and a small toroidal section. Consequently these proposed rules do not propose to require a specific number of stability appendages.

This NPRM does not propose to require a continuous skirt around the liferaft to deflect wind and waves. To comply with the stability performance requirements proposed by this rule, a skirt might be needed only if the stability system allowed the liferaft to

lift out of the water and expose the underside of the liferaft to wind and waves. The hemispherical stability system is currently the only one which is intended to allow the liferaft to lift out of the water, and the skirt is an inherent part of this design.

Lift-Out Force Test

Proposed § 160.151–29(a) contains a lift-out force test. It makes several significant changes to the test proposed in the January 1985 NPRM. Several months after the close of the comment period on the 1985 NPRM, the Coast Guard contracted for an experimental lift-out force test with a variety of inflatable liferafts. The report of the test was not published as a formal document, but copies were distributed to liferaft manufacturers. A copy of the report has been placed in the docket for examination, and the Coast Guard Survival Systems Branch will provide one copy to each person requesting one (see **ADDRESSES** section of this NPRM).

The procedure published in the 1985 NPRM required the lift-out force to be at least equal to the theoretical vertical component of the capsizing moment created by hurricane force winds (63 knots). The results of the test were that all of the liferafts met the proposed criterion, including those with small conventional stability pockets. This was a result predicted by two comments. The Coast Guard concluded that the proposed lift-out force criterion was not adequate to discriminate between conventional and heavy ballast systems. The test results indicated that even lightly ballasted rafts could withstand a minimum hurricane force condition. This result is consistent with reports of heavily ballasted liferafts surviving storm conditions which significantly exceeded minimum hurricane force conditions. It was clear, however, that liferafts with heavy ballast systems had significantly higher lift-out forces than other liferafts.

The test results showed that the heavily ballasted liferafts meeting the volume criterion proposed in this NPRM had a lift-out force which increased with the size of the liferaft, but which was not linearly proportional to the number of persons the liferaft was approved to accommodate. For instance, a heavily ballasted 6-person liferaft had a lift-out force of just over 200 N (45 lb) per person, while a 20-person liferaft of essentially the same design had a lift-out force of just over 154 N (35 lb) per person. These test values were reduced by 10% to account for the variability inherent in the test procedure, and the resulting values used to develop the proposed minimum lift-out force criterion in proposed § 160.151–29(a)(7). The proposed criterion is $255+140\ P-0.7\ P^2$, where P is the number of persons for which the inflatable liferaft is to be approved, and the force is measured in Newtons ($58+32\ P-0.16\ P^2$ if the force is measured in pounds). This equation is a curve which results in a lift-out force which increases at a decreasing rate up to liferaft sizes of 100 persons. A 100-person liferaft is well above the size of any inflatable liferaft now contemplated. This criterion approximates the results of the testing, but further refinement is possible in the future.

As the Coast Guard gains more experience with the lift-out force test and becomes more confident in its results, this may become the only test needed to confirm stability characteristics. As a performance criterion, it could replace the design-restrictive volume criterion, and might make the at-sea test unnecessary. It also tests the structural integrity of the liferaft and its ballast system. Because of the limited experience with this test at the present time, the Coast Guard can not yet conclude that the test is an adequate substitute for any of the other tests or requirements. Comments are specifically solicited on this point.

After the Coast Guard's lift-out force test was completed, one manufacturer observed that the rafts with the toroidal ballast systems offered so much resistance when being pulled out of the water, that they buckled in such a way that only the end of the liferaft being lifted emerged from the water, with the rest of the raft remaining on the water surface. This behavior was compared with that of the hemispherically ballasted liferafts, which remained fairly rigid as they were lifted from the water. The comment suggested that this buckling should be cause for rejection. According to the comment, the hemispherical system allows one edge of the liferaft to lift and ride over the crests of the waves. A raft with the toroidal system would not do this, and would be crushed or buckled as it passed through a wave crest, resulting in loss of inflation gas through the pressure relief valves. The Coast Guard has not been able to verify this scenario. The possibility of loss of gas through the pressure relief valves is considered to be small since one of the first actions taken when entering a raft is to plug the pressure relief valves. In order to make sure that no adverse effects result from any buckling which does occur, proposed § 160.151–29(a)(7) includes a requirement that when the liferaft has been dropped back to the surface of the water after the lift-out force test, it must assume its design shape, and must show no evidence of damage or leakage.

A comment on the 1985 NPRM suggested that only the hemispherical system would prevent capsizing, and that other liferafts, even with heavy ballast, would be capsized by wind as their flatter bottom surfaces were exposed to the wind. It is unlikely that wind or waves would cause any liferaft with a heavy ballast system to rise out of the water and expose a bottom surface to the wind. This behavior appears to have been confirmed during the Coast Guard's recent model tests which showed that all of the heavy ballasted raft models rode similarly through the crests of the waves, rather than having an edge lifted above the water at the top of a crest. In addition, the Coast Guard has used toroidal system liferafts in several rescue situations, and no adverse performance of this type has been reported.

Maneuverability Test

The 1985 NPRM contained a paddled maneuvering test requiring the liferaft to be paddled 25 m in 2.5 minutes using the paddles provided in the emergency equipment pack. These proposed rules would require the liferaft to pass the maneuverability test in IMO Resolution A.689(17), paragraph 1/5.10, which also requires the liferaft to be paddled a distance of 25 m. However, in order to be consistent with the international requirement, the test proposed in this notice has no time limit for the 25 m test, and is intended only to demonstrate the maneuverability of the raft.

Helicopter Rescue Compatibility Test

The 1985 NPRM proposed a helicopter rescue compatibility test to determine whether a liferaft would be likely to be capsized by the surface winds generated by a helicopter in a rescue scenario. The Coast Guard HH–3 helicopter was proposed as the standard, but it would have been the responsibility of the manufacturer or test laboratory to find and pay for the helicopter. Although one comment acknowledged the importance of stability in wind conditions, four opposed the test for various reasons, including high cost, and lack of data indicating that winds generated by helicopters represent a credible capsizing risk for liferafts.

Tests conducted at the Coast Guard's Elizabeth City Air Station in 1977, in addition to similar independent tests reported by the governments of the United Kingdom and Japan, indicate that virtually any of the larger ballast system designs will prevent capsizing of

liferafts in winds generated by helicopters. For this reason, the Coast Guard has decided that the helicopter rescue compatibility test represents an unnecessary expense for any liferaft with a ballast system which meets the volume criterion and lift-out force test proposed in this notice. Consequently, since all rafts approved under these proposed rules would meet the proposed volume criterion and would have successfully completed the lift-out force test, no such test is proposed in this NPRM.

At-Sea Test

Proposed § 160.151–29(b) contains a six-hour at-sea test, similar to the one proposed in the 1985 NPRM, but with several revisions and clarifications. The test would have to be completed by one of the manufacturer's largest capacity inflatable liferafts for which approval is sought, for each different stability appendage design for which the manufacturer seeks approval. Until the test is completed, SOLAS A and SOLAS B liferafts incorporating the stability appendage design would be approved only up to and including 10-person capacity, if all of the other required tests have been successfully completed. The purposes of the at-sea test are to determine if the stability appendage design is adequate to prevent capsizing in the weather and sea conditions prescribed, and if the raft structure will withstand the forces of these conditions without damage. Since larger rafts have larger stability systems, these rafts would be expected to be subjected to greater stresses at sea.

Some comments were concerned with the requirement for and measurement of a "sea state 6" on the Douglas Scale of State of Sea, as proposed in the preceding NPRM. An alternative proposed in one comment was "Beaufort 9." Two other comments stated that measuring the sea state was too subjective, and that careful data collection was required. Determination of sea state is based on a visual observation of the sea. Sea state 6 is described as a "high sea", with wave heights of 12 to 20 feet. The Beaufort Scale is a wind scale. Beaufort 9 corresponds to a wind speed of 41 to 47 knots. In a "fully arisen" sea, Beaufort 9 roughly corresponds to sea state 6.

The criticisms of the sea state 6 criterion are valid, in that it relies on the subjective judgment of the observer. Wave heights of 12 to 20 feet can represent significantly different conditions. Therefore, in this NPRM, the Coast Guard is prescribing the minimum wave heights and wind speed directly, rather than rely on a sea state or wind scale. The proposed procedure in this NPRM would require minimum wave heights of at least 4.5 m (15 ft.) throughout the six-hour test period, and winds averaging at least 40 knots. Observations would be required to be made at least every 30 minutes during the test in order for the test conditions to be deemed suitable. If the required wind or wave height conditions cannot be observed or do not meet the minimum requirements during any 30-minute period, the test period may be extended until the accumulated time under the required conditions reaches six hours. During the six hours afloat, the liferaft could not capsize and could not sustain structural damage or show evidence of leakage. It would be required to retain or return to its design shape after any bending in waves and at the completion of the test.

Other Stability System Issues

One of the functions of the ballast system should be to prevent the liferaft from being blown away when it is first launched and inflates. The lift-out force test procedure proposed in this notice is intended to make sure stability appendages will deploy properly. The test does not permit the stability appendages to be pulled into place manually, but it does allow the raft to be agitated if necessary to cause the stability appendages to fill. This should adequately simulate wave action. If the stability appendages will not deploy on their own, the manufacturer would have to incorporate weights, or materials that have the effect of springs to make them deploy.

The Coast Guard has not proposed a specific time for the appendages to deploy because of the somewhat arbitrary nature of a filling time requirement, as well as the difficulty in determining when the appendage is full. The UK/Icelandic system, for example, requires that the pockets fill to approximately 60% of the capacity within 15–25 seconds of deployment. While understandable as a design objective, it is very difficult to actually determine in a test, and the UK/Icelandic system does not specify a test procedure.

The SOLAS 74/83 test requirements in resolution A.689(17) include a towing test at 3 knots. The test, which is virtually identical to the one proposed in the 1985 NPRM for heavily ballasted rafts, is included in this NPRM.

The Coast Guard has not proposed any self-righting requirement in this NPRM. The liferaft is required by SOLAS 74/83 to be capable of being righted by one person if it inflates in the inverted position. This becomes increasingly difficult for one person to accomplish as liferafts get larger. Larger liferafts may have to incorporate a canopy design which is self-righting or partially self-righting in order to meet the requirement. The Coast Guard is not requiring self-righting canopies because of the additional weight and increased sail area of a larger canopy. A requirement for self-righting after capsizing is not proposed in this NPRM since a liferaft which meets the proposed stability system requirements would be unlikely to capsize. The lift-out force test demonstrates that extremely high forces are required to lift the liferaft out of the water, which is a necessary requirement for capsizing. The buoyancy of a fully-inflated liferaft should ensure that it is not dragged under water and tumbled inside an ocean wave. An exception to this might occur in a large curl wave, such as may occur under some conditions at a beach However, such waves generally do not occur in the open ocean. Further comments on self-righting are invited.

The 1985 NPRM contained a discussion on the merits of requiring canopy entrances to be either open or closed. Open entrances allow rapid boarding by survivors, but closed entrances can help limit the entrance of water into the canopy if the raft inflates in an inverted position. This may make righting easier, and rapid boarding may still be possible if the canopy is arranged so that it can be rapidly opened by someone trying to get aboard. One comment supported open entrances and another supported closed entrances. Neither SOLAS 74/83 nor this NPRM contain a requirement for rafts to be packed with entrances either open or closed. Therefore, this is left up to the manufacturer of the liferaft. However, the righting approval test specified in section 1/5.17.2 of resolution A.689(17) (proposed § 160.151–27(a)) would require entrances to be open to make sure that the test is conducted under the most stringent conditions. The requirement to perform the righting test with the canopy full of water is included in resolution A.689(17), which is proposed to be incorporated by reference in this NPRM (§ 160.151–27(a)).

Coastal Service Inflatable Liferaft and Inflatable Buoyant Apparatus

This NPRM proposes requirements for two new inflatable liferafts which are intended for less severe conditions than the SOLAS 74/83 liferafts. The first is the "Coastal Service" inflatable liferaft. It is intended primarily for use on fishing vessels operating in warm waters or relatively near shore. The specific

conditions for which the Coastal Service liferaft is suitable are defined in the Commercial Fishing Industry Vessel regulations at 46 CFR 28.120. The second new category of raft is the "Inflatable Buoyant Apparatus." Unlike the other approved liferafts, it has no canopy, so it is suitable for use only in waters close to shore, or where large numbers of persons would have to board quickly. Specific conditions for use of the Inflatable Buoyant Apparatus are defined in the Commercial Fishing Industry Vessel regulations at 46 CFR 28.120, and their use on certain passenger vessels was proposed in NPRM's published on January 30, 1989 (54 FR 4412) and April 21, 1989 (54 FR 16198), and an SNPRM published on January 13, 1994 (59 FR 1994).

Coastal Service Inflatable Liferaft

The Coastal Service inflatable liferaft is intended to be simpler, lighter, and less expensive than the SOLAS A and SOLAS B liferafts. The purpose is to provide for an approved basic survival platform, primarily for commercial fishing vessels which do not venture far offshore or operate in cold waters. These liferafts would be constructed by the same methods and with the same materials as other approved inflatable liferafts, so that a good quality product is expected. However, it does not contain equipment for long term survival, distress signals, and design features for heavy seas or cold weather. Therefore, its use should be limited to those vessels which will not operate in severe weather, or far from shore.

The requirements for the Coastal Service inflatable liferaft are derived from those for SOLAS 74/83 liferafts, and are described in proposed subpart 160.151 of this NPRM as exceptions to the basic SOLAS 74/83 inflatable liferaft requirements. The proposed requirements are intended to be consistent with the "coastal" liferaft designs already offered by several manufacturers as unapproved liferafts for optional use on fishing vessels and by offshore sailors.

The special design features of the Coastal Service inflatable liferaft are described in proposed § 160.151–19 of this NPRM, and include:

1. A canopy which may be of a type which is furled when the inflatable liferaft inflates, and which may be of an uninsulated, single ply design.
2. No requirement for a rain water collection device.
3. A minimum carrying capacity of four persons.
4. A floor which may be of an uninsulated design.
5. No requirement for boarding ramps if the combined cross-section diameter of the buoyancy chambers is 500 mm (19.5 in) or less.
6. Smaller stability pockets than the SOLAS 74/83 liferafts (and no requirement for stability-related tests).
7. No lamp required inside of the liferaft.

The limited Coastal Service equipment pack is described in proposed § 160.151–23 of this NPRM, and includes:

1. A quoit and heaving line.
2. A knife of a type designed to minimize the chance of damage to the inflatable liferaft, secured with a lanyard.
3. A bailer.
4. A sponge.
5. A sea anchor.
6. Two paddles, which would not have to be as large as those provided in a SOLAS liferaft.
7. A whistle.
8. A flashlight with spare batteries.
9. A signalling mirror.
10. Survival and immediate action instructions.
11. A set of sealing clamps or plugs.
12. A pump or bellows.

The approval testing for the Coastal Service liferaft would be similar to that required for SOLAS 74/83 liferafts, except that proposed § 160.151–27(c)(1) would permit a drop test from a lesser height, if that height is the maximum stowage height marked on the liferaft container. Under proposed § 160.151–27(c)(4), the loaded freeboard would be required to be only 200 mm (8 in.). Under proposed § 160.151–27(c)(5), a canopy closure test would not be required for Coastal Service Liferafts.

This NPRM proposes that a Coastal Service liferaft be subjected to the same cold inflation test at −30°C as required for SOLAS liferafts in resolution A.689(17), section 1/5.17.5. Some other countries approve liferafts for equivalent service on the basis of a similar test at only −18°C (0°F), and some manufacturers have suggested that the Coast Guard should do the same. Comments are specifically requested on whether the Coast Guard should adopt the less stringent test for Coastal Service liferafts.

Inflatable Buoyant Apparatus

The Inflatable Buoyant Apparatus (IBA) is essentially a coastal service liferaft without a canopy. It also is not required to be fitted with stability pockets, and may be reversible. Like the Coastal Service liferaft, it does not contain equipment for long term survival, distress signals, or design features for heavy seas or cold weather. Also, as was done with the Coastal Service liferaft, the IBA is described in terms of modified SOLAS liferaft requirements. In this case, these requirements would be in a new § 160.010–3 in the subpart which also contains the approval requirements for rigid buoyant apparatuses. This was done because inflatable buoyant apparatuses are now being approved as substitutes for rigid buoyant apparatuses and life floats. They represent an improvement over rigid buoyant apparatuses and life floats because they keep survivors out of the water.

The special design features of the inflatable buoyant apparatuses would include:

1. No canopy.
2. Reversibility, except that buoyant apparatuses with a capacity for 12 or fewer persons could be one-sided if they can be readily righted.
3. A yellow color would be accepted in addition to orange, either as the basic color of the device, or on colored panels visible from above. Yellow is considered somewhat less desirable than orange for visual sighting of lifesaving equipment, but it is better than most other colors and would be satisfactory for these devices.
4. No requirement for boarding ramps if the combined cross-section diameter of the buoyancy chambers is 500 mm (19.5 in) or less.
5. Position indicating lights would be required on the uppermost surface of the inflatable buoyant apparatus, or each uppermost surface for a reversible apparatus.
6. Stability pockets would not be required, but could be provided at the manufacturer's option. They might also be needed to pass the boarding or stability tests in IMO Resolution A.689(17).
7. Since the open reversible design of inflatable buoyant apparatus can cause the larger sizes to take on a large amount of water when they first inflate, self-bailing floor drains would be required on inflatable buoyant apparatus of 25 persons capacity or larger.
8. Equipment would be limited to heaving lines and rescue quoits, safety knives, bailers (unless self-bailing drains are provided), sponges, paddles, a flashlight with spare batteries, sealing clamps or plugs, and a pump or bellows.

The swamp test would differ from that used for inflatable liferafts by requiring the inflatable buoyant apparatus to be loaded with persons equal to 150% of its rated capacity. The Coast Guard anticipates that these devices may be accepted for "overloads" of up to 50% over the rated capacity when they are used on certain

protected waters. This might require some people to sit on the laps of others, but in a short-term survival situation, this could be acceptable and perhaps even have some hypothermia benefits. Tests conducted in Canada have shown that inflatable buoyant apparatus can be safely overloaded to this extent under moderate wave conditions. Comments are welcome concerning the feasibility and desirability of testing and using inflatable buoyant apparatus in an overloaded condition.

Other Revisions

Title 46 CFR, part 159, subpart 159.005 contains the general approval procedures for Coast Guard-approved equipment. Section 159.005–7(a)(1) indicates that approval tests and inspections may be performed for equipment and materials which are equivalent to those specified in the various subparts of 46 CFR subchapter Q. No further discussion of equivalents appears in part 159, subpart 159.005. This notice proposes revisions to § 159.005–7 and § 159.005–13 to include specific provisions for approval of equivalent equipment and materials.

Incorporation by Reference

The following material would be incorporated by reference in § 160.151–1:

American Society for Testing and Materials
- ASTM F1014, Standard Specification for Flashlights on Vessels, 1986

International Maritime Organization (IMO)
- Resolution A.689(17), "Testing of Life-saving Appliances"
- Resolution A.657(16), "Instructions for Action in Survival Craft"
- Resolution A.658(16), "Use and Fitting of Retro-Reflective Materials on Life-saving Appliances"

National Institute of Standards and Technology (formerly National Bureau of Standards)
- NBS Special Publication 440 (Order No. PB265225), "Color: Universal Language and Dictionary of Names"

Naval Forms and Publications Center
- MIL–C–17415E (Ships)—Cloth, Coated, and Webbing, InflatableBoat and Miscellaneous Use

Copies of the material are available for inspection where indicated under ADDRESSES. Copies of the material are also available at the addresses in § 160.151–1.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft Regulatory Evaluation is available in the docket for inspection or copying where indicated under ADDRESSES.

The draft evaluation estimates a total one-time cost of $710,000 to liferaft manufacturers to comply with the proposed rules. This includes about $560,000 for all of the manufacturers to complete separate at-sea tests for stability. Manufacturers may find several ways to significantly reduce this cost. Assuming that the one-time costs would be passed through to liferaft purchasers and amortized over a five-year period, the cost of an average liferaft, now about $4000, would be increased by about $284 on the basis of one-time costs alone.

A net recurring annual cost of about $156,000 would result from the changes proposed in this notice. An annual reduction of almost $500,000 in servicing costs is possible as a result of the revisions to the servicing procedures proposed in this notice. Some of the savings are offset, however, by an increase of $218,000 in the annual cost of new SOLAS 74/83 equipment which will have to be replaced during annual servicings. New liferafts will be affected by an annual increase of $214,000 needed to comply with the new SOLAS 74/83 requirements, $200,000 for stability appendages, and $22,000 in fees for independent laboratory inspection services. All of these increases, totalling $436,000 or about $872 per new SOLAS 74/83 liferaft, would be borne by manufacturers and presumably passed through to purchasers. Taking both one-time and recurring costs into account, the acquisition cost of a new SOLAS 74/83 liferaft would be increased by about $1156. The average cost of annual servicing would be reduced by about $62 per year per liferaft.

The draft evaluation uses a discounting method to determine future costs. On the basis of this analysis, the evaluation estimates that the regulations would cost approximately $1,460,114 over a ten-year period. Economic research indicates that $2.5 million per statistical life saved is a reasonable estimate of people's willingness to pay for safety. Therefore, it is estimated that the rule would be cost effective even if only one life was saved as a result. Casualty investigations such as for the MARINE ELECTRIC in 1983, where several lives were lost due to difficulty in boarding the liferaft, strongly suggest that liferaft improvements such as the boarding ramps mandated by SOLAS 74/83 will result in the saving of lives in marine casualties.

The draft evaluation also discusses other benefits in addition to the saving of lives. First, Coast Guard-approved liferafts would meet the requirements of SOLAS 74/83. This would ensure that U.S. registered vessels are not being penalized or delayed in foreign ports because of non-compliance. Additionally, as a signatory to the SOLAS Convention, the United States is obligated to make sure its vessels comply.

These regulations would also improve the lifesaving potential and operational efficiency of inflatable liferafts by making them easier to board from the water, by improving their stability in heavy seas, and by various other improvements required by the 1983 SOLAS amendments.

Comments are invited on the draft evaluation. In particular, comments are invited on the assumptions made in the evaluation. Changes could significantly affect the cost-benefit analysis. The proposals in this notice are intended to meet the objectives of improving inflatable liferafts in the most cost-effective way. Comments are specifically invited on ways to further reduce the cost of these regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

All of the U.S. manufacturers of inflatable liferafts and all U.S. inflatable liferaft servicing facilities qualify as small entities. Foreign manufacturers and servicing facilities are not considered small entities for the purposes of this analysis. These regulations would affect all manufacturers and servicing facilities to approximately the same degree. U.S. firms (the small entities) may have a small cost advantage over their foreign

counterparts in that the Coast Guard does not require reimbursement for travel and subsistence expenses to conduct inspections at their facilities. It is anticipated that any additional costs incurred as a result of these proposed rules would be passed through to the consumer, resulting in a negligible economic impact to manufacturers and servicing facilities.

It is assumed that most consumers of liferafts will be small entities as well. As discussed above, the acquisition cost of a new SOLAS inflatable liferaft would be anticipated to increase by approximately 25 per cent under the rules proposed in this NPRM. This increase in the initial acquisition or replacement cost is not anticipated to create a substantial hardship for most consumers. In fact, liferaft manufacturers have been producing and selling liferafts in compliance with SOLAS 74/83 since approximately 1987, and the Coast Guard is unaware of any significant adverse effects of any price increases associated with SOLAS compliance. In addition, as noted above, liferaft servicing costs would be expected to be reduced by a similar dollar amount over the life of the raft, resulting in a negligible difference in lifetime cost. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a comment (see **ADDRESSES**) explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule which contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other similar requirements.

This proposed rulemaking contains collection-of-information requirements. Some are minor revisions, with no impact on burden hours, of existing requirements which have already been reviewed and approved by OMB. The section numbers of those provisions are as follows:

a. § 160.151–13(b)
b. § 160.151–13(f)
c. § 160.151–13(g)
d. § 160.151–31(b)
e. § 160.151–57(q)

Other information collection requirements are either new or have not yet been approved by OMB. The section numbers of those sections are as follows:

a. § 160.151–21(n)
b. § 160.151–21(u)
c. § 160.151–21(y)(4)
d. § 160.151–33
e. § 160.151–39(c)
f. § 160.151–41(b)
g. § 160.151–45
h. § 160.151–53
i. § 160.151–57(m)
j. § 160.151–57(p)
k. § 160.151–57(r)
k. § 160.151–59

These requirements are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35. The following particulars apply:

DOT No.: 2115.
OMB Control No.: 0141.
Administration: U.S. Coast Guard.
Title: Inflatable Liferafts.
Need for Information: These information collection requirements consist of product markings to provide users of approved equipment with essential use and maintenance information, and occasional reports which are specifically required by international convention. Provision of the information would be a condition of obtaining Coast Guard approval of a liferaft or a liferaft servicing facility.
Proposed Use: The proposed markings would provide users of inflatable liferafts and Coast Guard enforcement personnel with important use instructions and information concerning the operational condition of an approved liferaft. The proposed reporting requirements would enable the Coast Guard to identify significant deficiencies in approved liferafts, and in liferaft servicing performed at approved facilities.
Frequency: On specified occasions, such as manufacture (one time), servicing, and approval of liferafts. (See discussion below.)
Burden Estimate: 500 hours annually.
Respondents: Approximately 200 potential respondents, consisting of liferaft manufacturers, liferaft servicing facilities, and manufacturers of required liferaft equipment which would be required to be marked with instructions and expiration dates.
Form(s): None.
Average Burden Hours Per Respondent: Estimated preparation time for each report of deficiencies in approved liferafts and liferaft servicing facilities is 30 minutes. The burden associated with each marking requirement under proposed §§ 160.151–21(u) and 160.151–33 is estimated at 5 minutes per liferaft manufactured or serviced. The burden associated with the expiration date marking requirements for liferaft equipment in proposed §§ 160.151–21(u) and –21(y)(4) is estimated at 5 minutes per occurrence, which would normally be once every several years for each liferaft.

The marking requirements proposed here generally represent minor changes or additions to markings already required by existing regulations, and have been in general use for several years in liferafts approved to the SOLAS 74/83 requirements.

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to establish standards for the approval of lifesaving equipment to be carried on board vessels has been committed to the Coast Guard by Federal statutes. Further, liferafts are distributed in a national marketplace and divergent requirements regarding their manufacture would lead to confusion, added expense, and reduced safety. Therefore, the Coast Guard intends to preempt state and local regulations on the same subject matter that are inconsistent with this rule.

Environment

The requirements proposed in this rulemaking would affect the design and servicing of inflatable liferafts. These rules would have a positive impact on safety, and would clearly have no environmental impacts. Consequently, the Coast Guard has concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 159

Business and industry, Laboratories, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR parts 159 and 160 as follows:

PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

1. The authority citation for Part 159 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 CFR 1.46; Section 159.001–9 also issued under the authority of 44 U.S.C. 3507.

2. In § 159.005–5, add paragraph (a)(4) to read as follows:

§ 159.005–5 Preapproval review: Contents of application.

(a) * * *

(4) If the material submitted under paragraph (a)(2) of this section contains confidential commercial information that could cause substantial competitive harm if released to the public, a statement to the effect that the material is considered privileged and confidential under exemption (b)(4) of the Freedom of Information Act (5 U.S.C. 552), and that it should not be released to anyone other than the original submitter.

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3. In § 159.005–7, add paragraph (c) to read as follows:

§ 159.005–7 Preapproval review: Coast Guard action.

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(c) An item of equipment or material that does not meet all of the design or performance requirements of this subchapter may be approved by the Commandant if it has equivalent performance characteristics. The item has equivalent performance characteristics if the application and any approval tests prescribed by the Commandant in place of or in addition to the approval tests required by this subchapter, demonstrate to the satisfaction of the Commandant that the equipment or material is at least as effective as that specified by the requirements of this subchapter.

4. In § 159.005–13, the introductory text of paragraph (a) is revised to read as follows:

§ 159.005–13 Equipment or material: Approval.

(a) If from analysis of the material and data required to be submitted under this subpart, the Commandant determines that the equipment or material meets the applicable subpart or has equivalent performance characteristics in accordance with 159.005–7(c), the Commandant—* * *

* * * * *

5. In § 159.007–9, add paragraph (d) to read as follows:

§ 159.007–9 Production inspections and tests.

* * * * *

(d) The manufacturer shall admit a Coast Guard inspector to any place where approved equipment is manufactured, for the purpose of verifying that the equipment is being manufactured in accordance with the approved plans and the requirements of this subchapter.

PART 160—LIFESAVING EQUIPMENT

6. The authority citation for part 160 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

7. In § 160.010–2, remove the paragraph designations (a) through (d) and add the following definition in alphabetical order to read as follows:

§ 160.010–2 Definitions.

* * * * *

Inflatable buoyant apparatus. An inflatable buoyant apparatus is flotation equipment which depends on inflated compartments for buoyancy, and is designed to support a specified number of persons completely out of the water. An inflatable buoyant apparatus is similar to a coastal service inflatable liferaft, except that it may be reversible and is not required to have a canopy.

* * * * *

8. Sections 160.010–3 and 160.010–4 are redesignated, as §§ 160.010–4 and 160.010–5 respectively, and new § 160.010–3 is added to read as follows:

§ 160.010–3 Inflatable buoyant apparatus.

(a) *Design, performance, and approval testing.* An inflatable buoyant apparatus must meet the design and performance requirements of § 160.151–19 for Coastal Service inflatable liferafts and be tested for approval in accordance with the testing requirements for those rafts in § 160.151–27, with the following exceptions:

(1) A canopy is not required.

(2) An inflatable buoyant apparatus with a capacity of 13 or more persons must be reversible, with the floor arranged between the buoyancy chambers so that the inflatable buoyant apparatus can, floating either side up, accommodate the number of persons for which it is approved. An inflatable buoyant apparatus with a capacity of 12 or fewer persons must either be reversible in the same manner, or designed so that it can be readily righted by one person.

(3) An inflatable buoyant apparatus with a capacity of 25 or more persons must be provided with self-bailing floor drains. If the floor of a reversible inflatable buoyant apparatus includes one or more drains, each drain must be arranged to completely drain the floor of water when the device is fully loaded, and must prevent water from flowing back onto the floor.

(4) Arrangements for righting a reversible inflatable buoyant apparatus are not required.

(5) If the buoyancy tubes are not vivid reddish orange, yellow, or a fluorescent color of a similar hue, panels of such color must be secured to the buoyancy chambers so that a minimum of 1 m^2 (11 ft^2) is visible from above the inflatable buoyant apparatus when it is floating either side up.

(6) Boarding ramps meeting the requirements of § 160.151–17(b) are required if the combined cross-section diameter of the buoyancy chambers is more than 500 mm (19.5 in). On an inflatable buoyant apparatus required to have boarding ramps—

(i) With a capacity of less than 25 persons, at least one boarding ramp must be provided;

(ii) With a capacity of 25 or more persons, at least two boarding ramps must be provided; and

(iii) The boarding ramps required by this paragraph must allow persons to board with either side of a reversible inflatable buoyant apparatus floating up, or the required number of ramps must be installed on each side.

(7) Boarding ladders must be provided on each inflatable buoyant apparatus as follows:

(i) One boarding ladder must be provided on each inflatable buoyant apparatus with a capacity of less than 25 persons, except that for an inflatable buoyant apparatus with a capacity of 13 or more persons which is not equipped with a boarding ramp, two boarding ladders must be provided.

(ii) Two boarding ladders must be provided on each inflatable buoyant apparatus with a capacity of 25 or more persons.

(iii) The ladders required by this paragraph must allow persons to board with either side of a reversible inflatable buoyant apparatus floating up, or the required number of ladders must be installed on each side.

(8) One or more exterior liferaft canopy lamps meeting the requirements of § 160.151–15(m) must be provided such that—

(i) On a non-reversible inflatable buoyant apparatus, one lamp is mounted so that it is on the uppermost surface; and

(ii) On a reversible inflatable buoyant apparatus, two lamps are mounted on opposite sides of the main buoyancy compartments. The lamps must be arranged so that a lamp is on the uppermost surface of the inflatable buoyant apparatus, whichever side is floating up.

(9) Stability pockets are not required.

(10) All equipment required by this paragraph must be either packed in a container accessible to the occupants, or otherwise secured to the apparatus. Duplicate equipment must be provided for each side of a reversible inflatable buoyant apparatus if it is not accessible from both sides. Each inflatable buoyant apparatus must be provided with—

(i) One buoyant heaving line and rescue quoit on each inflatable buoyant apparatus with a capacity of less than 25 persons; or two on each inflatable buoyant apparatus for a capacity of 25 or more persons. The heaving line(s) must be mounted adjacent to a boarding ramp (or boarding ladder if no ramps are installed), and ready for immediate use;

(ii) Two buoyant safety knives ready for use near the painter attachment;

(iii) One bailer on each inflatable buoyant apparatus with a capacity of less than 25 persons; or two bailers on each inflatable buoyant apparatus with a capacity of 25 or more persons, except that bailers are not required if both sides of the floor of a reversible inflatable buoyant apparatus are equipped with drains;

(iv) One sponge on each inflatable buoyant apparatus with a capacity of less than 25 persons, or two sponges on each inflatable buoyant apparatus with a capacity of 25 or more persons;

(v) Two paddles on each inflatable buoyant apparatus with a capacity of less than 25 persons, or four paddles on each inflatable buoyant apparatus with a capacity of 25 or more persons capacity;

(vi) One flashlight with spare batteries;

(vii) One signalling mirror;

(viii) One set of sealing clamps or plugs as described in § 160.151–21(y)(1) of this part; and

(ix) One pump or bellows.

(11) The swamp test required under section 1/5.11 of IMO resolution A.689(17) and § 160.151–27(a) must be conducted with the inflatable buoyant apparatus loaded with persons equal to 150% of its rated capacity.

(b) *Production inspections and tests.* Production inspections and tests for inflatable buoyant apparatus must be performed in accordance with the applicable portions of § 160.151–31.

(c) *Marking and labeling.* Marking and labeling of inflatable buoyant apparatus must be in accordance with § 160.151–33, except that the device must be identified as an "INFLATABLE BUOYANT APPARATUS", and no "SOLAS" markings shall be placed on the inflatable buoyant apparatus' container.

(d) *Servicing.* Inflatable buoyant apparatus must be serviced periodically at approved servicing facilities in accordance with the applicable requirements of § 160.151–35 through § 160.151–57.

(e) *Instruction placard.* An instruction placard meeting the requirements of § 160.151–59(c), giving simple procedures and illustrations for inflating, launching, and boarding the inflatable buoyant apparatus, must be made available to the operator or master of each vessel on which the inflatable buoyant apparatus is to be carried.

Subpart 160.051 (§§ 160.051–0—160.051–9)—[Removed]

9. Subpart 160.051 consisting of §§ 160.051–D through 160.051–9, is removed.

10. Subpart 160.151, consisting of §§ 160.151–1 through 160.151–59, is added to read as follows:

Subpart 160.151—Inflatable Liferafts

Sec.

160.151–1 Incorporation by reference.
160.151–3 Definitions.
160.151–5 Scope.
160.151–7 Construction of inflatable liferafts.
160.151–9 Independent laboratory.
160.151–11 Approval procedure.
160.151–13 Fabrication of prototype liferafts for approval.
160.151–15 Design and performance of inflatable liferafts.
160.151–17 Design and performance of SOLAS A and SOLAS B inflatable liferafts.
160.151–19 Design and performance of coastal service inflatable liferafts.
160.151–21 Equipment required for SOLAS A and SOLAS B inflatable liferafts.
160.151–23 Equipment required for coastal service inflatable liferafts.
160.151–25 Additional equipment for inflatable liferafts.
160.151–27 Approval inspections and tests for all inflatable liferafts.
160.151–29 Additional approval tests for SOLAS A and SOLAS B inflatable liferafts.
160.151–31 Production inspections and tests for inflatable liferafts.
160.151–33 Marking and labeling.
160.151–35 Servicing.
160.151–37 Servicing manual.
160.151–39 Training of servicing technicians.
160.151–41 Approval of servicing facilities.
160.151–43 Servicing facility conditions.
160.151–45 Required equipment for servicing facilities.
160.151–47 Servicing facility owner or operator requirements.
160.151–49 Approval of servicing facilities at remote locations.
160.151–51 Approval notification.
160.151–53 OCMI notification of servicing.
160.151–55 Withdrawal of approval.
160.151–57 Servicing procedure.
160.151–59 Training and maintenance instructions.

Subpart 160.151—Inflatable Liferafts

§ 160.151–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC, and at the U.S. Coast Guard, Merchant Vessel Inspection and Documentation Division (G–MVI), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this subpart and the sections affected are as follows:

American Society for Testing and Materials (ASTM)

1916 Race St., Philadelphia, PA 19103

ASTM F1014, Standard Specification for Flashlights on Vessels, 1986—160.151–21

International Maritime Organization (IMO)

Publications Section, 4 Albert Embankment, London SE1 7SR, England

Resolution A.689(17), "Recommendation on Testing of Life-saving Appliances", 27 November 1991. 160.151–21; 160.151–27; 160.151–31; 160.151–57.

Resolution A.657(16), "Instructions for Action in Survival Craft", October 1989—160.151–21

Resolution A.658(16), "Use and Fitting of Retroreflective Materials on Life-saving Appliances", October 1989—160.151–15; 160.151–57.

National Institute of Standards and Technology (formerly National Bureau of Standards)

c/o National Technical Information Service, Springfield, VA 22161

NBS Special Publication 440 (Order No. PB265225), Color: Universal Language and Dictionary of Names, 1976—160.151–15

Naval Forms and Publications Center

Customer Service, Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120

MIL–C–17415E (Ships)—Cloth, Coated, and Webbing, Inflatable Boat and Miscellaneous Use—160.151–15

§ 160.151–3 Definitions.

The following terms are defined as used in this subpart:

Coastal service liferaft means a liferaft which does not meet the requirements prescribed in this subpart for inflatable liferafts complying with SOLAS 74/83, but which is suitable for use on certain uninspected vessels under subchapter C of this chapter.

Commandant means the Commandant (G-MVI), United States Coast Guard, 2100 Second Street, SW., Washington, DC, 20593–0001.

Servicing means periodic inspection, necessary repair, and repacking by a Coast Guard-approved servicing facility. Requirements for periodic inspection and repair of Coast Guard-approved inflatable liferafts are described in §§ 160.151–37 through 160.151–57.

SOLAS 74/83 means the International Convention for the Safety of Life at Sea, 1974, as amended by the International Maritime Organization through Resolution MSC.6(48), dated 17 June 1983 (SOLAS 74/83).

SOLAS A Liferaft means a liferaft which meets the requirements of this subpart for an inflatable liferaft complying with SOLAS 74/83, and equipped with a SOLAS A equipment pack.

SOLAS B Liferaft means a liferaft which meets the requirements of this subpart for an inflatable liferaft complying with SOLAS 74/83, and equipped with a SOLAS B equipment pack.

§ 160.151–5 Scope.

This subpart prescribes standards, tests, and procedures for approval by the Coast Guard of inflatable liferafts, including SOLAS A, SOLAS B, and coastal service liferafts, and for their periodic inspection and repair at approved facilities ("servicing"). Certain requirements of this subpart also apply to inflatable buoyant apparatus as specified in § 160.010–3.

§ 160.151–7 Construction of inflatable liferafts.

Except as specified in this subpart, each inflatable liferaft must meet the requirements of Chapter III of SOLAS 74/83. In order to be approved under this subpart, inflatable liferafts must be constructed in accordance with the following SOLAS 74/83 provisions:

(a) Chapter III, Regulation 30, paragraph 2 (III/30.2), General requirements for life-saving appliances.

(b) Chapter III, regulation 38 (III/38) General requirements for liferafts.

(c) Chapter III, regulation 39 (III/39) Inflatable liferafts.

(d) Chapter III, regulation 51 (III/51) Training manual.

(e) Chapter III, regulation 52 (III/52) Instructions for on-board maintenance.

§ 160.151–9 Independent laboratory.

Tests and inspections required by this subpart to be conducted by an independent laboratory must be conducted by an independent laboratory accepted by the Coast Guard under subpart 159.010 of part 159 of this chapter to perform such tests and inspections. A list of accepted laboratories may be obtained by writing the Commandant.

§ 160.151–11 Approval Procedure.

(a) A manufacturer seeking approval of an inflatable liferaft must comply with the procedures of subpart 159.005 of part 159 of this chapter and this section.

(b) A manufacturer seeking approval of an inflatable liferaft must submit an application meeting the requirements of § 159.005–5 of this chapter for preapproval review. To meet the requirements of § 159.005–5(a)(2) of this chapter, manufacturers shall submit—

(1) General arrangement drawing including principal dimensions;

(2) Seating arrangement plan;

(3) Plans for subassemblies;

(4) Plans for equipment carried and stowage details;

(5) Plans for the inflation system;

(6) Plans for the outer container;

(7) Plans for any lifting shackle or ring, including diameter in cross-section, used for connecting the suspension tackle of a davit-launched inflatable liferaft to the automatic disengaging device used for its hoisting and lowering;

(8) Other drawing(s) necessary to show that the inflatable liferaft complies with the requirements of this subpart;

(9) Description of methods of seam and joint construction;

(10) Samples and identification of each material used in the buoyancy chambers, floor, and canopy; including the identity of their manufacturers, and segments of each type of seam made from such materials; and

(11) Complete data pertinent to the installation and use of the proposed inflatable liferaft, including the maximum proposed height of its installation above the water, and the maximum length of the sea painter installed in the inflatable liferaft.

§ 160.151–13 Fabrication of prototype liferafts for approval.

If the manufacturer is notified that the information submitted in accordance with § 160.151–11 is satisfactory to the Commandant, fabrication of a prototype liferaft must proceed in the following sequence:

(a) The manufacturer shall arrange for an independent laboratory to inspect the prototype inflatable liferaft during its fabrication and prepare an inspection report meeting the requirements of § 159.005–11 of this chapter. The independent laboratory shall conduct at least one inspection during layup of the buoyancy tubes of the prototype inflatable liferaft, at least one inspection of the finished prototype inflatable liferaft when fully inflated, and as many other inspections as are necessary to determine that the prototype inflatable liferaft—

(1) Is constructed by the methods and with the materials specified in the plans;

(2) Passes the applicable inspections and tests required by § 160.151–31; and

(3) Conforms with the manufacturer's plans.

(b) The manufacturer shall submit the independent laboratory's inspection report to the Commandant for review.

(c) If, after review of the inspection report of the independent laboratory, the Commandant notifies the manufacturer that the prototype inflatable liferaft is in compliance with the requirements of this subpart, the manufacturer may proceed with the approval tests required under §§ 160.151–27 and 160.151–29.

(d) The manufacturer shall notify the cognizant OCMI of where the approval tests required under §§ 160.151–27 and 160.151–29 will take place and arrange a testing schedule with the OCMI that allows for a Coast Guard inspector to travel to the site where the testing is to be performed.

(e) The manufacturer shall admit the Coast Guard inspector to any place where work or testing is performed on inflatable liferafts or their component parts and materials for the purpose of—

(1) Assuring that the quality assurance program of the manufacturer is satisfactory;

(2) Witnessing tests; and

(3) Taking samples of parts or materials for additional inspections or tests.

(f) The manufacturer shall make available to the Coast Guard inspector the affidavits or invoices from the suppliers of all essential materials used in the production of inflatable liferafts, together with records identifying the lot numbers of the inflatable liferafts comprised of such materials.

(g) On conclusion of the approval testing, the manufacturer shall comply with the requirements of § 159.005–9(a)(5) of this chapter by submitting the following to the Commandant:

(1) The report of the prototype testing prepared by the manufacturer. The report must include a signed statement by the Coast Guard inspector who witnessed the testing, indicating that the report accurately describes the testing and its results.

(2) The final plans of the inflatable liferaft as built. The plans must include—

(i) The servicing manual described in § 160.151–37;

(ii) The training and maintenance instructions described in § 160.151–59;

(iii) The final version of the plans required under § 160.151–11(b) including—

(A) Each correction, change, or addition made during prototype construction and approval testing;

(B) Sufficient detail to determine that each requirement of this subpart is met;

(C) Fabrication details for the inflatable liferaft, including details of the method of making seams and joints; and

(D) Full details of the inflation system.

(h) A description of the quality control procedures that will apply to the production of the inflatable liferaft. The procedures must include—

(1) The system for checking material certifications received from suppliers;

(2) The method for controlling the inventory of materials;

(3) The method for checking quality of seams and joints; and

(4) The inspection checklists used during various stages of fabrication to assure that the approved inflatable liferaft complies with the approved plans and the requirements of this subpart.

§ 160.151–15 Design and performance of inflatable liferafts.

To satisfy the requirements of the regulations of SOLAS 74/83 indicated in § 160.151–7, each inflatable liferaft must meet the following requirements of this section:

(a) *Workmanship and materials (Regulation III/30.2.1).* Each inflatable liferaft must be constructed of the following types of materials meeting MIL–C–17415E, or materials accepted by the Commandant as equivalent or superior—

(1) Type 2, Class B for the canopy;

(2) Type 8 for tape;

(3) Type 11 for the inflatable floor; and

(4) Type 16, Class AA for all other inflatable compartments and structural components.

(b) *Seams (Regulation III/30.2.1).* Each seam must be at least as strong as the weakest of the materials joined by the seam. Each seam must be covered with tape where necessary to prevent lifting of and damage to fabric edges.

(c) *Liners (Regulation III/30.2.1).* A protective liner or baffling arrangement must be provided inside each inflatable compartment at the inflation gas inlet to protect the compartment fabric from the damaging effects of cold inflation gas.

(d) *Compatibility of dissimilar materials (Regulation III/30.2.4).* Where dissimilar materials are combined in the construction of an inflatable liferaft, provisions must be made to prevent loosening or tightening due to differences in thermal expansion, freezing, buckling, galvanic corrosion, or other incompatibilities.

(e) *Color (Regulation III/30.2.6).* The primary color of the exterior of the canopy must be vivid reddish orange (color number 34 of NBS Special Publication 440), or a fluorescent color of a similar hue.

(f) *Retroreflective material (Regulation III/30.2.7).* Each inflatable liferaft must be marked with Type I retroreflective material approved under subpart 164.018 of part 164 of this chapter. The arrangement of the retroreflective material must comply with IMO Resolution A.658(16).

(g) *Towing connections (Regulation III/38.1.4.)* The towing connections must be provided at opposite ends of the inflatable liferaft, attached by reinforcements suitable to withstand the towing strain, and marked to indicate their function.

(h) *Weight (Regulation III/38.2.2).* The weight of the liferaft including its container and equipment may not exceed 185 kg (407.8 lb), unless it is intended for launching into the water directly from its stowed position using an inclined or hand-tilted rack, or is served by a launching appliance approved by the Commandant as meeting the requirements of Regulation III/48.6.

(i) *Lifelines (Regulation III/38.3.1).* Each lifeline must be made of 14 mm (9/16-inch) minimum diameter nylon tubular webbing, or 10 mm (3/8-inch) minimum diameter rope, or equivalent. Each lifeline attachment patch must have a minimum breaking strength of 1.5 kN (350 lb) pull exerted in a direction perpendicular to the base of the patch. Each exterior lifeline bight must be long enough to allow the lifeline to reach to the waterline of the inflatable liferaft when it is afloat.

(j) *Painter system (Regulation III/38.6.1).* The painter protruding from the liferaft container must be inherently resistant or treated to be resistant to deterioration from sunlight and salt spray, and resistant to absorption and wicking of water.

(k) *Inflation cylinders (Regulation III/39.2.3).* Each compressed gas inflation cylinder within the inflatable liferaft must meet the requirements of § 147.60 of this chapter, and be installed so that—

(1) Slings and reinforcements of sufficient strength retain the inflation cylinders in place when the inflatable liferaft is dropped into the water from its stowage height and during inflation; and

(2) The painter and inflation cylinders of the liferaft are linked to start inflation when the painter is pulled by one person exerting a force not exceeding 150 N (34 lb).

(l) *Boarding ladders (Regulation III/39.4.2).* The steps of the boarding ladder must be of rigid or semi-rigid tubing and secured against rotation to provide a suitable foothold.

(m) *Canopy lamps (Regulation III/39.6.2).* The exterior liferaft canopy lamp must be approved by the Commandant as meeting the requirements of Regulation III/39.6.2

(n) *Packing (Regulation III/39.7.1).* Containers for packing liferafts—

(1) Must include a telltale made with a seal-and-wire, or equivalent method for indicating if the inflatable liferaft has been tampered with or used since packing;

(2) Must be designed so that the liferaft breaks free of the container when inflation is initiated, without the need to manually open or remove any closing arrangement;

(3) Must have an interior surface smooth and free from splinters, barbs, or rough projections;

(4) Must be of rigid construction where the liferaft is intended for float-free launching or for exposed stowage on deck;

(5) If rigid, must be designed to facilitate securing the inflatable liferaft to a vessel to permit quick release for manual launching;

(6) If constructed of fibrous-glass-reinforced plastic, must be provided with a means to prevent abrasion of the liferaft fabric, such as by using a gel coated interior finish of the container, enclosing the inflatable liferaft in an envelope of plastic film, or equivalent means; and

(7) Except as provided in paragraph (n)(2) of this section, may be of fabric construction. Each container of fabric construction must be made of coated cloth, include carrying handles and drain holes, and be adaptable to stowage and expeditious removal from lockers and deck-mounted enclosures adjacent to inflatable liferaft launching stations. The weight of a liferaft in a fabric container including its container and equipment must not exceed 100 kg (220 lb).

§ 160.151–17 Design and performance of SOLAS A and SOLAS B inflatable liferafts.

To satisfy the requirements of the indicated regulations of SOLAS 74/83, each SOLAS A and SOLAS B inflatable liferaft must be manufacured in accordance with §§ 160.151–7, 160.151–15, and the following requirements of this section:

(a) *Stability (Regulation III/39.5.1).* (1) Each inflatable liferaft with a capacity of more than 8 persons must have a waterplane of circular or elliptical outline. A hexagonal, octagonal, or similar outline approximating a circular or elliptical shape is acceptable.

(2) Each inflatable liferaft manufactured under this subpart must have water-containing stability appendages on its underside to resist capsizing from wind and wave forces. These appendages must meet the following requirements:

(i) The total volume of the appendages must not be less than 0.08 m^3 (2.85 ft^3) times the number of persons which the liferaft is approved to accommodate. The volume is calculated using the bottom of the lowest opening in an appendage as the height of the appendage, and by deducting the volume of any objects inside the appendage. Any opening designed to close as water is forced out of an appendage is not considered an opening for the purpose of this calculation.

(ii) The appendages must be securely attached and evenly distributed around the periphery of the exterior bottom of the liferaft. The appendages may be omitted at the locations of inflation cylinders.

(iii) The system of stability appendages must consist of at least two separate parts so that damage to one part will permit at least half of the required total volume (0.04 m^3 (1.425 ft^3) times the number of persons capacity) to remain intact.

(iv) Openings in or between the stability appendages must be provided to limit the formation of air pockets under the inflatable liferaft.

(v) The appendages must be designed to deploy underwater when the liferaft inflates. If weights are used for this purpose, they must be of noncorrodible material.

(b) *Boarding ramp (Regulation III/39.4.1).* The boarding ramp must have sufficient size and buoyancy to support one person weighing 100 kg (220 lb) in a sitting or kneeling position without holding on to any other part of the inflatable liferaft.

(c) *Marking (Regulation III/39.8).* Means must be provided for identifying the liferaft with the name and port of registry of the ship to which it is to be fitted, in such a manner that the identification can be changed without opening the liferaft container.

§ 160.151–19 Design and performance of coastal service inflatable liferafts.

To obtain Coast Guard approval, each coastal service inflatable liferaft must comply with the requirements for SOLAS A and SOLAS B liferafts in § 160.151–17, with the following exceptions:

(a) *Canopy requirements (Regulation III/38.1.5).* The canopy—

(1) May be of a type which is furled when the inflatable liferaft inflates, and which can be set in place by the occupants. A furled canopy must be secured to the buoyancy tubes over 50% or more of the inflatable liferaft's circumference;

(2) May be of an uninsulated, single-ply design; and

(3) The interior of the canopy may be any color.

(b) *Viewing port.* The viewing port described in Regulation III/38.1.5.5 is not required.

(c) *Rainwater collection (Regulation III/38.1.5.6).* The means of rainwater collection described in Regulation III/38.1.5.6 is not required.

(d) *Capacity (Regulation III/38.2.1).* The carrying capacity must be not less than four persons.

(e) *Floor insulation (Regulation III/39.2.2).* The floor may be uninsulated.

(f) *Boarding ramps (Regulation III/39.4.1).* The boarding ramps described in Regulation III/39.4.1 are not required if the combined diameter of the buoyancy chambers is 500 mm (19.5 in) or less.

(g) *Stability (Regulation III/39.5.1).* Each coastal service inflatable liferaft must either meet the stability criteria in § 160.151–17(a) or must have water-containing stability pockets on its underside to resist capsizing. These pockets must meet the following requirements:

(1) The total volume of the pockets must not be less than 25% of the minimum required volume of the principal buoyancy compartments of the inflatable liferaft.

(2) The pockets must be securely attached and evenly distributed around the periphery of the exterior bottom of the liferaft. The pockets may be omitted at the locations of inflation cylinders.

(3) The pockets must be designed to deploy underwater when the liferaft inflates. If weights are used for this purpose, they must be of noncorrodible material.

(h) *Lamp (Regulation III/39.6.3).* The manually controlled interior lamp described in Regulation III/39.6.3 is not required.

(i) *Fabric valise (Regulation III/39.7.1.1).* The raft may be packed in a fabric valise suitable for dropping into the water from its marked maximum stowage height.

(j) *Markings (Regulations III/39.7.3.4 and III/39.7.3.5).* The words "COASTAL SERVICE" must appear on the container. No "SOLAS" markings shall be placed on the coastal service inflatable liferaft's container.

§ 160.151–21 Equipment required for SOLAS A and SOLAS B inflatable liferafts.

To obtain Coast Guard approval, the equipment in each SOLAS A and SOLAS B inflatable liferaft pack must meet the following specific requirements in complying with the indicated regulations of SOLAS 74/83:

(a) *Heaving line (Regulation III/38.5.1.1).* The buoyant heaving line described by Regulation III/38.5.1.1 must have a breaking strength of not less than 1.1 kN (250 lb), and must be attached to the inflatable liferaft near the entrance furthest from the painter attachment.

(b) *Jackknife (Regulation III/38.5.1.2).* Each folding knife carried as permitted by Regulation III/38.5.1.2 must be a jackknife approved by the Commandant as meeting subpart 160.043 of this part.

(c) *Bailer (Regulation III/38.5.1.3).* Each bailer described by Regulation III/38.5.1.3 must have a volume of at least 2 L (125 in^3).

(d) *Sponge (Regulation III/38.5.1.4).* Each sponge described by Regulation III/38.5.1.4 must have a volume of at least 750 cm^3 (48 in^3) when saturated with water.

(e) *Sea anchors (Regulation III/38.5.1.5).* Sea anchors without the swivels described by Regulation III/38.5.1.5 may be used if, during the

towing test, their design is demonstrated to be of a type that does not rotate when streamed. The sea anchors are not required to have the tripping lines described by Regulation III/38.5.1.5 if, during the towing test, their design is demonstrated to be of a type that can be hauled in by one person.

(f) *Paddles (Regulation III/38.5.1.6).* The paddles must be at least 1.2 m (4 ft) long and must be of the same size and type as used to pass the maneuverability test in paragraph 1/5.10 of IMO resolution A.689(17).

(g) *Tin-opener (Regulation III/38.5.1.7).* Each sharp part of a tin-opener described by Regulation III/38.5.1.7 must have a guard.

(h) *First-aid kit (Regulation III/38.5.1.8).* Each first-aid kit described by Regulation III/38.5.1.8 must be approved by the Commandant as meeting subpart 160.054 of this part.

(i) *Whistle (Regulation III/38.5.1.9).* The whistle described by Regulation III/38.5.1.9 must be a ball-type or multi-tone whistle of corrosion-resistant construction.

(j) *Rocket parachute flare (Regulation III/38.5.1.10).* Each rocket parachute flare described by Regulation III/38.5.1.10 must be approved by the Commandant as meeting subpart 160.036 of this part and the requirements of Regulations III/30.2 and III/35 of SOLAS 74/83.

(k) *Hand flare (Regulation III/38.5.1.11).* Each hand flare described by Regulation III/38.5.1.11 must be approved by the Commandant as meeting Subpart 160.021 of this part and the requirements of Regulations III/30.2 and III/36 of SOLAS 74/83.

(l) *Orange smoke signal (Regulation III/38.5.1.12).* Each orange smoke signal described by Regulation III/38.5.1.12 must be of the floating type approved by the Commandant as meeting subpart 160.022 of this part and the requirements of Regulations III/30.2 and III/37 of SOLAS 74/83.

(m) *Electric torch (Regulation III/38.5.1.13).* The waterproof electric torch described by Regulation III/38.5.1.13 must be a Type I or Type III flashlight constructed and marked in accordance with ASTM F1014. Three-cell size flashlights bearing Coast Guard approval numbers in the 161.008 series may continue to be used as long as they are in a serviceable condition.

(n) *Radar reflector (Regulation III/38.5.1.14).* The radar reflector may be omitted if the outside of the container of the inflatable liferaft includes a notice near the "SOLAS A" or "SOLAS B" marking indicating that a radar reflector is not included.

(o) *Signalling mirror (Regulation III/38.5.1.15).* Each signalling mirror described by Regulation III/38.5.1.15 must be approved by the Commandant.

(p) *Lifesaving signals (Regulation III/38.5.1.16).* If not provided on a waterproof card or sealed in a transparent waterproof container as described in Regulation III/38.5.1.16, the table of lifesaving signals may be provided as part of the instruction manual.

(q) *Fishing tackle (Regulation III/38.5.1.17).* The fishing tackle must be in a kit approved by the Commandant as meeting subpart 160.061 of this part.

(r) *Food rations (Regulation III/38.5.1.18.)* The food rations must be approved by the Commandant.

(s) *Drinking water (Regulation III/38.5.1.19).* The fresh water required by Regulation III/38.5.1.19 must be "emergency drinking water" approved by the Commandant as meeting subpart 160.026 of this part. The desalting apparatus described in Regulation III/38.5.1.19 must be approved by the Commandant as meeting subpart 160.058 of this part.

(t) *Drinking cup (Regulation III/38.5.1.20).* The drinking cup described in Regulation III/38.5.1.20 must be graduated in ounces or milliliters or both.

(u) *Anti-seasickness medication (Regulation III/38.5.1.21).* The anti-seasickness medication required by Regulation III/38.5.1.21 must include instructions for use and be marked with an expiration date. The medication must be either—

(1) A combination of 25 mg of promethazine hydrochloride and 25 mg of ephedrine sulfate, comprising each single dose, to be taken at six-hour intervals; or

(2) A transdermal patch containing scopolamine suitable for at least 2 days use, with each patch counted as six doses.

(v) *Survival instructions (Regulation III/38.5.1.22).* The instructions required by Regulation III/38.5.1.22 on how to survive in a liferaft must—

(1) Be waterproof;

(2) Be in English;

(3) Meet the guidelines in IMO Resolution A.657(16); and

(4) Be suspended in a clear film envelope from one of the canopy arch tubes.

(w) *Immediate action instructions (Regulation III/38.5.1.23).* The instructions for immediate action must—

(1) Be waterproof;

(2) Be in English;

(3) Follow the guidelines in IMO Resolution A.657(16);

(4) Explain both the noise accompanying the operation of any provided pressure relief valves, and the need to render them inoperable after they complete venting; and

(5) Be suspended from the inside canopy, so they are immediately visible by survivors on entering the inflatable liferaft. They may be contained in the same envelope with the instructions on how to survive if the instructions for immediate action are visible from both faces of the envelope.

(x) *Thermal protective aid (Regulation III/38.5.1.24).* Each thermal protective aid described by Regulation III/38.5.1.24 must be approved by the Commandant as meeting subpart 160.174 of this part.

(y) *Repair outfit (Regulation III/39.10.1.1).* The repair outfit required by Regulation III/39.10.1.1 must include—

(1) Six or more sealing clamps or serrated conical plastic plugs;

(2) Five or more tube patches at least 50 mm (2 in) diameter;

(3) A roughing tool; and

(4) A container of cement compatible with the inflatable liferaft fabric and the patches, marked with instructions for use and an expiration date.

(z) *Pump or bellows (Regulation III/39.10.1.2).* The pump or bellows required by Regulation III/39.10.1.2 must be manually operated and arranged to be capable of inflating any part of the inflatable structure of the liferaft.

(aa) *Pressure relief valve plugs.* Plugs for rendering pressure relief valves inoperable must be provided in any liferaft fitted with pressure relief valves, unless the pressure relief valves are of a type which can be rendered inoperable without separate plugs. If provided, pressure relief valve plugs must be usable with immersion suit gloved hands, and must either float or be secured to the liferaft by a lanyard.

§ 160.151–23 Equipment required for Coastal Service inflatable liferafts.

The following equipment must be provided with a coastal service inflatable liferaft:

(a) *Rescue quoit and heaving line.* One rescue quoit and a heaving line as described in § 160.151–21(a).

(b) *Knife.* One knife, of a type designed to minimize the chance of damage to the inflatable liferaft and secured with a lanyard.

(c) *Bailer.* One bailer as described in § 160.151–21(c).

(d) *Sponge.* One sponge as described in § 160.151–21(d).

(e) *Sea anchor.* One sea anchor as described in § 160.151–21(e).

(f) *Paddles.* Two paddles of the same size and type as used to pass the

maneuverability test in paragraph 1/5.10 of IMO Resolution A.689(17).

(g) *Whistle.* One whistle as described in § 160.151–21(i).

(h) *Flashlight.* One flashlight with spare batteries as described in § 160.151–21(m).

(i) *Signalling mirror.* One signalling mirror as described in § 160.151–21(o).

(j) *Survival instructions.* Instructions on how to survive as described in § 160.151–21(v).

(k) *Immediate action instructions.* Instructions for immediate action as described in § 160.151–21(w).

(l) *Repair outfit.* One set of sealing clamps or plugs as described in § 160.151–21(y)(1).

(m) *Pump or bellows.* One pump or bellows as described in § 160.151–21(z).

(n) *Pressure relief valve plugs.* Pressure relief valve plugs as described in § 160.151–21(aa).

§ 160.151–25 Additional equipment for inflatable liferafts.

The manufacturer may specify additional equipment to be carried in inflatable liferafts if the equipment is identified in the manufacturer's approved drawings and the inspection of the equipment is covered in the servicing manual. The following requirements must be met if the specified additional equipment is provided:

(a) Each Class S Emergency Position Indicating Radiobeacon (EPIRB) must meet the Federal Communications Commission (FCC) regulations at 47 CFR 80.1059.

(b) Each Category 2 406 MHz Satellite EPIRB must meet the FCC regulations at 47 CFR 80.1061.

(c) Each Search and Rescue Transponder (SART) must meet the FCC regulations at 47 CFR 80.1101(c)(6).

§ 160.151–27 Approval inspections and tests for inflatable liferafts.

(a) Except as provided in paragraph (b) of this section, to satisfy the testing requirements of IMO Resolution A.689(17), Part 1, paragraphs 5.1 through 5.15 inclusive, paragraph 5.16 for a davit-launched inflatable liferaft, and paragraph 5.17, a prototype inflatable liferaft of each design submitted for Coast Guard approval must meet the the additional specific requirements and tests specified in paragraphs (c) and (d) of this section.

(b) The Commandant may waive certain tests for an inflatable liferaft which is identical in construction to another inflatable liferaft which has successfully completed the tests, if the inflatable liferafts differ only in size and are of essentially the same design.

(c) Tests must be conducted in accordance with the indicated paragraphs of IMO Resolution A.689(17), except:

(1) *Drop test (Part 1, paragraph 5.1 (Paragraph 1/5.1)).* The drop test for a coastal service inflatable liferaft may be from a lesser height, if that height is the maximum stowage height marked on the liferaft container.

(2) *Jump test (Paragraph 1/5.2).* One-half of the jumps must be with the canopy erect and the remainder with the canopy furled or deflated. If a "suitable and equivalent mass" is used, it must be equipped with the shoes described in paragraph 1/5.2.1 of Resolution A.689(17), with the shoes arranged to strike the inflatable liferaft first.

(3) *Mooring out test (Paragraph 1/5.5).* Initial inflation may be with compressed air.

(4) *Loading and seating test (Paragraph 1/5.7).* For an inflatable liferaft which is not intended for use with a launching or embarkation appliance, the persons used to determine seating capacity shall wear insulated buoyant immersion suits rather than lifejackets. The loaded freeboard of a coastal service inflatable liferaft must not be less than 200 mm (8 in.).

(5) *Canopy closure test (Paragraph 1/5.12).* This test is required only for SOLAS A and SOLAS B inflatable liferafts. For a davit launched liferaft, any opening in the area of the lifting eye should be sealed during the test to prevent the ingress of water. The water accumulated within the inflatable liferaft at the end of the testing must not exceed 4 liters (1 gallon).

(6) *Detailed inspection (Paragraph 1/5.14).* The independent laboratory's inspection of the prototype liferaft under § 160.151–13(a) of this subpart satisfies the requirements of paragraph 1/5.14.

(7) *Davit launched liferafts—strength test (Paragraph 1/5.16.1).* The calculation of combined strength of the lifting components must be based on the lesser of—

(i) The lowest breaking strength obtained for each item; or

(ii) The component manufacturer's ultimate strength rating.

(d) The boarding ramp on each liferaft equipped with a boarding ramp must be demonstrated to be capable of supporting a sitting or kneeling person weighing 100 kg without holding on to any other part of the liferaft.

§ 160.151–29 Additional approval tests for SOLAS A and SOLAS B inflatable liferafts.

In order to verify compliance with the requirements of Regulation III/39.5.1, the following tests must be conducted for SOLAS A and SOLAS B inflatable liferafts in addition to those required by § 160.151–27 and IMO Resolution A.689(17):

(a) *Lift-out force test.* The liferaft must be subjected to a lift-out force test as follows:

(1) The test must be conducted in a pool or body of water where the wind is less than 8 knots and current is less than 1 knot. The inflatable liferaft must be tested in its "light condition," which includes the weight of the lightest equipment pack to be approved for its intended service, but no personnel.

(2) The liferaft must be inflated and placed in the water at the test site. Each pressure relief valve must be made inoperative. The stability appendages must be allowed to deploy. If the stability appendages do not deploy on their own, the inflatable liferaft may be agitated until the appendages deploy. The stability appendages may not be manually pulled open or arranged for this test.

(3) The inflatable liferaft must be subjected to an upward vertical force applied at the outer edge of one of the main buoyancy chambers by means of a lifting bridle. The lifting bridle may incorporate existing towing, lifeline, or other attachments, or may be specially constructed for this test.

(4) If the liferaft has a waterplane which is a circle or other symmetrical shape, the lifting bridle must be located at the point where the resisting moment created by the inflation cylinders and equipment packs is minimized.

(5) If the liferaft has a waterplane with a shape other than circular or symmetrical, it must be lifted at each of two locations; once at one end of the major axis of the waterplane, and once at one end of the minor axis of the waterplane. The end of the axis selected for attachment of the lifting bridle must be the end where the resisting moment created by the inflation cylinders and equipment packs is minimized.

(6) The vertical force must be applied so that the lifting bridle rises at a speed of 1.67×B (m/min.) (+5%), where "B" is the length in meters of the axis on which the towing bridle is placed (5.5×B (ft/min) if "B" is measured in feet). The lifting bridle must be lifted a distance of at least B×sin 20°. The force applied to the lifting bridle must be continuously measured as the edge of the inflatable liferaft is lifted. Once the lifting bridle has been raised the required distance, the inflatable liferaft may be dropped back to the surface of the water.

(7) The peak force measured during the lifting of the liferaft must be at least $255+140\ P-0.7\ P^2$, where "P" is the

number of persons for which the inflatable liferaft is to be approved, and the force is measured in Newtons ($58+32\ P-0.16\ P^2$ if the force is measured in pounds). The procedure may be repeated up to a total of three runs at the required lifting rate if the minimum lift-out force is not observed on a particular trial. Test results at lifting rates which are not within the limits of the required lifting rate must be disregarded.

(8) After the inflatable liferaft has been dropped back to the surface of the water, it must assume its design shape, and must show no evidence of damage or leakage.

(b) *At-sea.* The at-sea test described in this paragraph must be successfully completed by one of the manufacturer's largest capacity inflatable liferafts for which approval is sought, for each different stability appendage design for which the manufacturer seeks approval. Until the test is completed, SOLAS A and SOLAS B liferafts incorporating the stability appendage design will be approved only up to and including 10 persons capacity, provided that all of the other required tests have been successfully completed. The test must be conducted as follows:

(1) The inflated liferaft must be set afloat at sea for at least six hours, with wave heights of at least 4.5 m (15 ft.) throughout the test period, and winds averaging at least 40 knots. The liferaft must be empty, have its relief valves made inoperative, and not be equipped with a sea anchor or any other tethering device. The liferaft must be kept under observation during the test. At the end of the six hours, the liferaft must be recovered and examined for damage.

(2) Wave height and wind speed must be observed and recorded at least every 30 minutes during the test for the test conditions to be deemed suitable. If the wind or wave height conditions are not observed or do not meet the minimum requirements during any 30-minute period, the test period may be extended until the accumulated time under the required conditions reaches 6 hours.

(3) During the six hour test period, the liferaft must—

(i) Not capsize;

(ii) Retain or return to its design shape after any bending in waves and at the completion of the test;

(iii) Show no evidence of leakage; and

(iv) Not sustain structural damage such as separation of seams or joints in the body of the inflatable liferaft, its floor, its canopy, or its stability appendages.

§ 160.151–31 Production inspections and tests for inflatable liferafts.

(a) Production inspections and tests of inflatable liferafts must be carried out in accordance with the procedures for independent laboratory inspection in subpart 159.007 of part 159 of this chapter and this section.

(b) Each Coast Guard-approved inflatable liferaft must be identified with unique lot and serial numbers as follows:

(1) Each lot must consist of not more than 50 inflatable liferafts of the same design and carrying capacity.

(2) A new lot must be started whenever the inflatable liferafts undergo changes of design, material, production method, or source of supply for any essential component.

(3) The manufacturer may use a running lot system, whereby the fabrication of the individual inflatable liferafts of a lot occurs over an extended interval under an irregular schedule. Each running lot must be comprised of not more than 10 inflatable liferafts of the same design and carrying capacity. Each running lot system must be in accordance with a procedure proposed by the manufacturer and approved by the Commandant.

(4) Unless a lot is a running lot, each lot must consist of inflatable liferafts produced under a continuous production process.

(c) As part of the records required by § 159.007–13 of this chapter, the manufacturer must retain affidavits or invoices from the suppliers identifying all essential materials used in the production of approved inflatable liferafts, together with an identification of the lot numbers of the inflatable liferafts constructed with those materials.

(d) Each approved inflatable liferaft must pass each of the inspections and tests described in IMO Resolution A.689(17), part 2, paragraphs 5.1.3 through 5.1.6 inclusive and as provided in paragraphs (e) through (g) of this section. In the case of a davit-launched inflatable liferaft, these tests must be preceded by the test described in IMO Resolution A.689(17), part 2, paragraph 5.2.

(e) The test described in Paragraph 2/5.1.5 of IMO Resolution A.689(17) must be conducted under the following conditions:

(1) The testing period must be 1 hour, with a maximum allowable pressure drop of 5% after compensation for ambient temperature and barometric pressure changes.

(2) For each degree Celsius rise in temperature, 0.385 kPa must be subtracted from the final pressure reading (0.031 psig per degree Fahrenheit). For each degree Celsius drop in temperature, 0.385 kPa must be added to the final pressure reading (0.031 psig per degree Fahrenheit).

(3) For each mm of mercury rise in barometric pressure, 0.133 kPa must be added to the final temperature-corrected pressure reading (0.049 psig per 0.1 inch of mercury). For each mm of mercury drop in barometric pressure, 0.133 kPa must be subtracted from the final temperature-corrected pressure reading (0.049 psig per 0.1 inch of mercury). Corrections for changes in ambient barometric pressure are only required if a measuring instrument open to the atmosphere, such as a manometer, is used.

(f) One inflatable liferaft from each lot of less than 30 liferafts, and two from each lot of 30 to 50 liferafts, must pass the test described in IMO Resolution A.689(17), part 2, paragraphs 5.1.1 and 5.1.2. If any inflatable liferaft fails this test—

(1) The reason for the failure must be determined;

(2) Each inflatable liferaft in the lot must be examined for the defect and repaired if necessary, or be scrapped if unrepairable; and

(3) The lot test must be repeated, including random selection of the inflatable liferaft or liferafts to be tested. If any inflatable liferafts from the lot have left the place of manufacture, they must either be recalled for examination, repair, and testing as necessary; or else the required actions must take place at an approved servicing facility.

(g) The manufacturer shall arrange for inspections by an accepted independent laboratory at least once in each calendar quarter in which production of Coast Guard-approved inflatable liferafts takes place. The time and date of each inspection must be selected by the independent laboratory to occur when completed inflatable liferafts are in the manufacturing facility and others are under construction. The manufacturer shall ensure that the independent laboratory inspector—

(1) Witnesses the tests and conducts the inspection required by paragraph (f) of this section, and conducts a visual inspection to verify that the liferafts are being made in accordance with the approved plans and the requirements of this subpart;

(2) Examines the production inspection and test records for inflatable liferafts produced subsequent to the previous independent laboratory inspection to verify that each required inspection and test has been carried out satisfactorily;

(3) Conducts a design audit on at least one Coast Guard-approved inflatable liferaft each year. If possible, different model liferafts must be examined in the design audit from year to year. To retain Coast Guard approval, the manufacturer shall demonstrate to the inspector during each design audit that—

(i) Each approved drawing matches the part(s) used in the liferaft;

(ii) Each part and subassembly are of the materials and components indicated on the plan or its bill of materials; and

(iii) Each critical dimension of the liferaft is correct as shown by measurement or proper fit and function in the next higher assembly.

§ 160.151–33 Marking and labeling.

(a) The markings required on each inflatable liferaft and its container must be in English.

(b) The markings required on the inflatable liferaft container under Regulation III/39.7.3 of SOLAS 74/83 must be on a plate or label sufficiently durable to withstand continuous exposure to environmental conditions at sea for the life of the liferaft. In addition, the container must be marked with the—

(1) Manufacturer's model identification; and

(2) U.S. Coast Guard approval number.

(c) In addition to the markings required on the inflatable liferaft under Regulation III/39.8 of SOLAS 74/83, the liferaft must be marked with the—

(1) Manufacturer's model identification;

(2) Lot number; and

(3) U.S. Coast Guard approval number.

§ 160.151–35 Servicing.

(a) *Inspection and repair.* Inflatable liferafts carried under the regulations in this chapter, and in chapter I of title 33 CFR, must be inspected periodically by a Coast Guard-approved servicing facility, repaired as necessary, and repacked. Requirements for periodic inspection and repair of Coast Guard-approved inflatable liferafts are described in §§ 160.151–37 through 160.151–57.

(b) *Manufacturer requirements.* To retain Coast Guard approval of inflatable liferafts, the manufacturer must:

(1) Prepare a servicing manual or manuals complying with § 160.151–37 covering each model and size of inflatable liferaft which the manufacturer produces. The servicing manual must be submitted to the Commandant for approval.

(2) At least once each year, issue a list of servicing manual revisions and bulletins in effect.

(3) Make available the servicing manual, servicing manual revisions, service bulletins, liferaft plans, and any unique parts and or tools which may be required to service the liferaft to each technician who has successfully completed the manufacturer's training described in § 160.151–39(a) or (b) within the periods specified in § 160.151–41(e). The liferaft plans made available to servicing technicians may be either the manufacturing drawings, or special plans prepared especially for servicing technicians. The liferaft plans may be incorporated as part of the servicing manual.

(4) Have a servicing training program complying with § 160.151–39 for the certification of servicing technicians.

(5) Notify the OCMI for the zone in which the servicing facility is located whenever the manufacturer becomes aware of servicing at approved facilities that is not in accordance with the requirements of this subpart, or falsification by an approved servicing facility of servicing records required by this subpart.

(c) A manufacturer of inflatable liferafts which are not Coast Guard-approved may establish Coast Guard-approved servicing facilities for such liferafts in the United States if the manufacturer meets the requirements of paragraph (b) of this section.

§ 160.151–37 Servicing manual.

(a) The servicing manual must provide instructions on performing the following tasks:

(1) Removing the liferaft from the container for testing without damaging the liferaft or its contents.

(2) Examining the liferaft and its container for damage and wear including deteriorated structural joints and seams.

(3) Determining the need for repairs.

(4) Performing each repair which can be made by a servicing facility.

(5) Identifying repairs which must be made by the manufacturer.

(6) Determining when inflatable liferaft equipment must be replaced.

(7) Conducting tests required by § 160.151–57.

(8) Repacking the liferaft.

(9) Changing the maximum stowage height of the liferaft by changing the length of the painter.

(10) Special equipment limitations or packing instructions, if any, required to qualify the liferaft for a particular stowage height.

(11) Changing the service of the liferaft by changing the contents of the equipment pack.

(12) Proper marking of the liferaft container, including approval number, persons capacity, maximum stowage height, service (equipment pack), and servicing expiration date.

(13) A list of parts for—

(i) Survival equipment;

(ii) Compressed gas cylinders;

(iii) Inflation valves;

(iv) Relief valves; and

(v) Repair equipment.

(14) The required pressures for each approved liferaft size for conducting the "Necessary Additional Pressure" test required by § 160.151–57(k).

(b) Each servicing manual revision and service bulletin which would authorize the modification of a liferaft, or which could affect its operational performance, must be submitted to and approved by the Commandant. Coast Guard approval is not required for other revisions and service bulletins, but a copy of each must be sent to the Commandant when it is issued.

(c) Each manual provided under this section must bear the original signature of a representative of the manufacturer attesting to the fact that it is a true copy of the manual approved by the Commandant.

§ 160.151–39 Training of servicing technicians.

(a) The servicing training program for certification of servicing technicians must include—

(1) Training and practice in packing an inflatable liferaft, repairing buoyancy tubes, repairing inflation system valves, and other inspections and operations described in the servicing manual;

(2) An evaluation at the end of the training to determine whether or not each trainee has successfully completed the training; and

(3) Issuance of a certificate of competence to each technician who successfully completes the training.

(b) The manufacturer must conduct a refresher training program for recertification of previously trained servicing technicians. The refresher training must include—

(1) Checking the performance of the technicians in the inspections and operations described in the approved servicing manual;

(2) Retraining of the technicians in inspections and operations for which they are deficient;

(3) Training and practice in new inspections and operations;

(4) An evaluation at the end of the training to determine whether or not each trainee has successfully completed the training; and

(5) Issuance of a certificate of competence to each technician who successfully completes the training.

(c) Each time the manufacturer holds a course for servicing technicians who

will service Coast Guard-approved inflatable liferafts, the manufacturer shall arrange a course schedule with the cognizant OCMI that allows for a Coast Guard inspector or inspectors to travel to the site where the training is to be performed.

§ 160.151–41 Approval of servicing facilities.

(a) To obtain and maintain Coast Guard approval as an "approved servicing facility" for a particular manufacturer's liferafts, the facility must meet the requirements, and follow the procedures, of this section.

(b) The owner or operator of a servicing facility desiring Coast Guard approval must apply to the OCMI responsible for the geographic area where the servicing facility is located. The application must include—

(1) The name and address of the servicing facility;

(2) The name(s) of its competent servicing technicians;

(3) Identification of the manufacturer(s) of the liferafts the facility will service; and

(4) Any limitations or special conditions which should apply to the approval of the facility.

(c) The owner or operator of the servicing facility must arrange for an inspection with the OCMI to whom the application required by paragraph (b) of this section is made. The complete servicing of each type and manufacture of liferaft for which approval as a servicing facility is sought must be successfully demonstrated in the presence of a Coast Guard inspector or a third party inspector accepted by the OCMI. The demonstration must include:

(1) Removing the liferaft from the container for testing without damaging the liferaft or its contents;

(2) Examining the liferaft and its container for damage and wear;

(3) Determining the need for repairs;

(4) Determining if equipment must be replaced;

(5) Conducting the tests required by § 160.151–57;

(6) Repacking the liferaft;

(7) Inflating the fully packed liferaft using its inflation mechanism; and

(8) Repairing a leak in a main buoyancy chamber, and subjecting the repaired chamber to the inflation test described in IMO Resolution A.689(17), paragraph 2/5.1.5. This demonstration may be done on a liferaft which actually requires the repair, on a liferaft which has been condemned, or on an inflatable chamber fabricated of liferaft material specifically for this purpose. An otherwise serviceable liferaft should not be damaged for the purposes of this demonstration.

(d) Whenever servicing of inflatable liferafts takes place, each servicing facility must allow Coast Guard inspectors or third party inspectors accepted by the OCMI access to the place where the servicing is performed.

(e) Each servicing facility must employ at least one servicing technician who has successfully completed the manufacturer's training described in § 160.151–39 (a) or (b), including training in the servicing of davit-launched liferafts if the facility will service davit-launched liferafts. The training must have been completed within the preceding—

(1) 12 months in order for the servicing facility to obtain its initial approval to service the liferafts of a particular manufacturer; or

(2) 36 months in order for the servicing facility to retain an approval to service the liferafts of a particular manufacturer.

§ 160.151–43 Servicing facility conditions.

(a) Each facility must maintain a room to service inflatable liferafts that—

(1) Is clean;

(2) Is fully enclosed;

(3) Has enough space to service the number of liferafts expected to be serviced at one time;

(4) Has a ceiling high enough to hold and allow overturning of a fully inflated liferaft of the largest size to be serviced, or is furnished with an equally efficient means to facilitate the inspection of bottom seams;

(5) Has a smooth floor which will not damage an inflatable liferaft, can be easily cleaned, and is kept clean and free from oil, grease, and abrasive material;

(6) Is well lit, but free from direct sunlight;

(7) Is arranged to maintain an even temperature and low humidity in each area where liferafts are pressure tested, including mechanical air conditioning equipment in climates where it is necessary;

(8) Is arranged so that stored liferafts are not subjected to excessive loads and, if stacked one liferaft directly on top of another, are not stacked more than two liferafts high;

(9) Is efficiently ventilated, but free of drafts; and

(10) Is a designated no-smoking area.

(b) In addition to the room required by paragraph (a) of this section, each facility must maintain areas or rooms for storage of liferafts awaiting servicing, repair, or delivery; for repair and painting of reinforced plastic containers; for storage of pyrotechnics and other materials, such as spare parts and required equipment; and for administrative purposes.

§ 160.151–45 Required equipment for servicing facilities.

Each Coast Guard-approved servicing facility must maintain equipment to carry out the operations described in the manufacturer's servicing manual approved in accordance with § 160.151–35(b)(1), including—

(a) A complete set of the manufacturer's plans for each inflatable liferaft to be serviced;

(b) A current copy of this subpart;

(c) A current copy of the manufacturer's servicing manual approved in accordance with § 160.151–35(b)(1), including all servicing bulletins and manual revisions in effect as indicated on the annual list issued in accordance with § 160.151–35(b)(2);

(d) Hot presses (if applicable);

(e) Safety-type glue pots or equivalents;

(f) Abrasive devices;

(g) A source of clean, dry, pressurized air, hoses, and attachments for inflating liferafts;

(h) A source of vacuum, hoses, and attachments for deflating liferafts;

(i) Mercury manometer, water manometer, or other pressure measurement device of equivalent accuracy and sensitivity;

(j) Thermometer;

(k) Barometer, aneroid or mercury;

(l) Calibrated torque-wrench for assembling the inflation system;

(m) Accurate weighing scale;

(n) Repair materials, spare parts, and repair equipment as specified in the applicable approved servicing manual(s), except that limited "shelf life" items need not be stocked if they are readily available;

(o) A complete stock of the survival equipment required to be stowed in the inflatable liferafts, except for items of equipment that are readily available;

(p) A means for load testing davit-launched liferafts, unless the facility services only non-davit-launched liferafts;

(q) A supply of parts for all inflation components and valves specified in the applicable approved servicing manual(s); and

(r) A tool board that clearly indicates where each small tool is stored, or has an equivalent means to make sure that no tools are left in the liferaft when repacked.

§ 160.151–47 Servicing facility owner or operator requirements.

To maintain Coast Guard approval, the owner or operator of each Coast Guard-approved servicing facility must—

(a) Ensure that servicing technicians have received sufficient information and

training to follow instructions for changes and new techniques related to the liferafts serviced by the facility, and have available at least one copy of each approved servicing manual revision and bulletin;

(b) Calibrate each pressure gauge, weighing scale, and mechanically-operated barometer at intervals of not more than one year, or in accordance with the equipment manufacturer's requirements;

(c) Ensure that each inflatable liferaft serviced under the facility's Coast Guard approval is serviced by or under the direct supervision of a servicing technician who has completed the requirements of either § 160.151–39(a) or (b);

(d) Ensure that each inflatable liferaft serviced under its Coast Guard approval is serviced in accordance with the manufacturer's servicing manual;

(e) Specify which makes of liferafts the facility is approved to service when representing that the facility is approved by the U.S. Coast Guard; and

(f) Ensure that the facility does not service any liferaft for a U.S. inspected vessel or any other U.S. flag vessel required to carry approved liferafts, unless the facility is approved by the U.S. Coast Guard to service the liferafts of that manufacturer.

§ 160.151–49 Approval of servicing facilities at remote sites.

A servicing facility may be approved for servicing liferafts at remote sites, provided that appropriate arrangements have been made to ensure that each remote servicing site meets the requirements of §§ 160.151–41(e), 160.151–43 and 160.151–45. The servicing facility must have a portable assortment of test equipment, spare parts, and replacement survival equipment to accompany the individual doing the servicing. However, if repair of liferafts will not be attempted at a remote site, equipment needed for such repairs does not need to be available at that site. A servicing facility must be specifically authorized in its letter of approval to conduct servicing at remote sites.

§ 160.151–51 Approval notification.

If the OCMI determines that the servicing facility meets the applicable requirements of §§ 160.151–39 through 160.151–47, the OCMI notifies the Commandant. The Commandant issues an approval letter to the servicing facility with copies to the OCMI and to the manufacturer(s) whose liferafts the facility is approved to service. The approval letter will specify any limitations on the approval, and will assign the facility's approval code for use on the inspection sticker required by § 160.151–57(m)(3). The Commandant will maintain a current listing of approved facilities.

§ 160.151–53 OCMI notification of servicing.

(a) Before servicing an inflatable liferaft under the facility's Coast Guard approval, the servicing facility owner or operator must provide the following information to the cognizant OCMI for each liferaft to be serviced:

(1) The make and size of the liferaft;

(2) The age of the liferaft; and

(3) Whether the liferaft is due for a five-year inflation test.

(b) The OCMI will inform the servicing facility whether or not the servicing of the liferaft must be witnessed by an inspector.

(c) If the OCMI requires the servicing of the liferaft to be witnessed by an inspector:

(1) The servicing facility must arrange a servicing schedule with the cognizant OCMI that will allow for a Coast Guard inspector to travel to the site where the servicing is to be performed.

(2) The owner or operator of the servicing facility, upon the authorization of the OCMI, may arrange for the servicing procedure to be witnessed instead by a third party inspector accepted by the OCMI if a Coast Guard marine inspector is not available in a timely manner.

(3) The servicing facility must not begin servicing the liferaft until the inspector arrives at the servicing site.

(d) No deviation from servicing manual procedures may be made without first obtaining the approval of the OCMI. To request the approval of a deviation, the owner or operator of the servicing facility must notify the OCMI of the proposed deviation from the servicing manual procedures, and must provide the OCMI with an explanation of the need for the deviation.

§ 160.151–55 Withdrawal of approval.

(a) The OCMI may withdraw the approval of the servicing facility, or may suspend its approval pending correction of deficiencies, if the Coast Guard inspector or accepted third party inspector finds that—

(1) The servicing site does not meet the requirements of § 160.151–41 through § 160.151–47, or

(2) Liferaft servicing is not performed in accordance with § 160.151–57.

(b) A withdrawal of approval may be appealed in accordance with subpart 1.03 of part 1 this chapter.

(c) The OCMI may remove a suspension pending correction of deficiencies if the servicing facility demonstrates that the deficiencies have been corrected.

§ 160.151–57 Servicing procedure.

(a) Each liferaft serviced by a Coast Guard-approved servicing facility must be inspected and tested in accordance with paragraphs (b) through (r) of this section, and the manufacturer's servicing manual approved in accordance with § 160.151–35(b)(1).

(b) The following procedures must be carried out at each servicing:

(1) The test described in IMO Resolution A.689(17), paragraph 2/5.1.5 must be conducted.

(2) Inflation hoses must be pressurized and checked for damage and leakage as part of the working pressure leakage test, or in a separate test.

(3) An inflatable floor must be pressurized until it is firm, allowed to stand for one hour, and must still be firm at the end of the two hour period.

(4) The seams connecting the floor to the buoyancy tube must be checked for slippage or edge lifting.

(5) Each item of survival equipment must be examined, and—

(i) Repaired or replaced if damaged or unserviceable; and

(ii) Replaced if its expiration date has passed.

(6) Each battery must be replaced with a fresh one if—

(i) Its expiration date has passed;

(ii) It has no expiration date; or

(iii) After measuring the voltage of each battery which is to be returned to service in an item of survival equipment, its measured voltage is less than its rated voltage.

(7) Each power cell for the top and inside canopy lights must be inspected and tested if it is not a battery serviced in accordance with paragraph (b)(6) of this section. Each cell tested and found satisfactory may be reinstalled. Each cell which is outdated, not tested, or fails the test must be replaced.

(8) If the liferaft is equipped with an Emergency Position Indicating Radio Beacon (EPIRB) or Search and Rescue Transponder (SART), the EPIRB or SART must be inspected and tested in accordance with the manufacturer's instructions. An EPIRB must be tested using the integrated test circuit and output indicator to determine that it is operative. Each EPIRB or SART which does not operate properly must be repaired or replaced.

(9) The manual inflation pump must be tested for proper operation.

(10) Each damaged, faded, or incorrect instruction label or identification label on the liferaft or its container must be replaced.

(11) Each inflatable liferaft must be examined to ensure it is properly marked with retroreflective material. The arrangement of the retroreflective material must meet the requirements of IMO Resolution A.658(16). Damaged or missing retroreflective material must be replaced with Type I material approved under Part 164, Subpart 164.018 of this subchapter.

(12) Each inflation cylinder must be weighed. If its weight loss exceeds five percent of the weight of the charge, the cylinder must be recharged.

(c) When an inflation cylinder is recharged for any reason, the following inflation head components must be renewed:

(1) The poppet pin assembly, if any.

(2) Each plastic or elastomeric seal, and each other part which deteriorates with age.

(d) Each recharged inflation cylinder must stand for at least two weeks and be checked for leakage by weighing before being installed in an inflatable liferaft. An alternate mechanical or chemical test for fast detection of cylinder leaks may be used if in the servicing manual approved by the Commandant in accordance with § 160.151–35(b)(1).

(e) Each inflation cylinder which requires hydrostatic testing under 49 CFR 173.34 must be tested and marked in accordance with those regulations.

(f) At every other servicing of a davit-launched liferaft, the launching load test in paragraph 2/5.2 of IMO resolution A.689(17) must be conducted.

(g) At every fifth annual servicing, prior to conducting the tests and inspections required in paragraphs (b) through (f) of this section, each inflatable liferaft must be inflated, while still secured in its container, by the operation of its inflation system.

(h) Each liferaft showing minor leaks during the test conducted in accordance with paragraph (g) of this section, may be repaired.

(i) Each liferaft ten or more years past its date of manufacture which leaks extensively during the test conducted in accordance with paragraph (g) of this section, or shows fabric damage after this inflation, must be condemned.

(j) After the test conducted in accordance with paragraph (g) of this section is completed, the liferaft may be evacuated and refilled with air to conduct the tests in paragraphs (b) through (f) of this section.

(k) At each annual servicing of a liferaft ten or more years past its date of manufacture during which the gas inflation test in paragraph (g) of this section is not performed, a "Necessary Additional Pressure" (NAP) test must be conducted. The NAP test must be completed before the tests and inspections required in paragraphs (b) through (f) of this section are conducted, using the following procedure:

(1) Plug or otherwise disable the pressure relief valves.

(2) Gradually raise the pressure to the lesser of 2 times the design working pressure, or that specified in the manufacturer's servicing manual as sufficient to impose a tensile load on the tube fabric of 20% of its minimum required tensile strength.

(3) After 5 minutes, there should not be seam slippage, cracking, other defects, or a pressure drop greater than 5 percent. If cracking in the buoyancy tubes is audible, accompanied by pressure loss, the liferaft should be condemned. If no cracking is heard, the pressure in all buoyancy chambers should be reduced simultaneously by enabling the pressure relief valves.

(l) At each annual servicing of a liferaft ten or more years past its date of manufacture, the integrity of the seams connecting the floor to the buoyancy tube must be checked by the following procedure, or an equivalent procedure specified in the liferaft manufacturer's approved servicing manual:

(1) With the buoyancy tube supported a sufficient distance above the servicing facility floor to maintain clearance during the test, a person weighing not less than 75 kg (165 lb) must walk or crawl around the entire perimeter of the liferaft floor.

(2) The seams connecting the floor to the buoyancy tube must then be checked for rupture, slippage, or edge lifting.

(m) The servicing facility must complete the following for each inflatable liferaft which passes the servicing inspections and tests:

(1) Permanently mark the liferaft on its outside canopy, or on a servicing record panel on an interior portion of one of its buoyancy tubes near an entrance, with—

(i) The date of the servicing;

(ii) The identification and location of the servicing facility; and

(iii) An indication that the special fifth-year servicing was performed, if applicable.

(2) If known, permanently and legibly mark the name of the vessel on which the raft will be installed or the name of the vessel owner on the identification device provided in accordance with § 160.151–17(c) or on the outside canopy of the liferaft.

(3) Affix an inspection sticker to the liferaft container or valise. The sticker must be of a type that will remain legible for at least two years when exposed to a marine environment, and that cannot be removed without being destroyed. The sticker must be approximately 4 by 6 inches, with the last digit of the year of expiration superimposed over a background color that corresponds to the colors specified for recreational boat number validation stickers in 33 CFR 174.15(c), and be marked with the Coast Guard identifying insignia in accordance with the requirements of 33 CFR 23.12. The sticker must also contain the following:

(i) The name of the manufacturer of the liferaft.

(ii) The year and month of expiration determined in accordance with paragraph (n) of this section.

(iii) Identification of the servicing facility, printed on the sticker or indicated on the sticker by punch using an approval code issued by the Commandant.

(n) The servicing date expires 12 months after the date the liferaft was repacked, except that:

(1) The expiration date for a new liferaft may be not more than two years after the date the liferaft was first packed, if—

(i) Dated survival equipment in the liferaft will not expire before the next servicing due date; and

(ii) The liferaft will not be installed on a vessel certificated under SOLAS 74/83.

(2) For a liferaft stored indoors, under controlled temperature conditions (between 0 °C (32 °F) and 45 °C (113 °F)), for not more than 6 months from the date it was serviced or first packed, the expiration date may be extended up to the length of time the liferaft remained in storage.

(3) For a liferaft stored indoors, under controlled temperature conditions (between 0 °C (32 °F) and 45 °C (113 °F)), for not more than 12 months from date it was serviced or first packed, the expiration date may be extended up to the length of time the liferaft remained in storage, if the liferaft is opened, inspected, and repacked in a servicing facility approved in accordance with §§ 160.151–49 and 160.151–51. When the liferaft is opened—

(i) The condition of the inflatable liferaft must be visually checked and found to be satisfactory;

(ii) The inflation cylinders must be checked and weighed in accordance with in paragraph (b)(12) of this section;

(iii) All expired dated survival equipment in the liferaft must be replaced; and

(iv) All undated batteries must be replaced.

(o) The servicing facility must remove and destroy the Coast Guard approval

marking on each inflatable liferaft condemned in the course of any servicing test or inspection.

(p) The servicing facility must issue a certificate to the liferaft owner or owner's agent for each inflatable liferaft it services. The certificate must include—

(1) The name of the manufacturer of the liferaft;

(2) The serial number of the liferaft;

(3) The date of servicing and repacking;

(4) A record of the fifth-year gas inflation required in paragraph (g) of this section, whenever that test is performed;

(5) A record of the hydrostatic test of each inflation cylinder required in paragraph (e) of this section, whenever that test is performed;

(6) A record of any deviation from the procedures of the manufacturer's servicing manual authorized by the OCMI in accordance with § 160–151–53(d);

(7) The identification of the servicing facility, including its name, address, and the approval code assigned by the Commandant in accordance with § 160.151–51;

(8) The name of the vessel or vessel owner receiving the liferaft, if known; and

(9) The date the liferaft is returned to the owner or owner's agent.

(q) The servicing facility must keep a record of each Coast Guard-approved inflatable liferaft it services for at least five years, and must make those records available to the Coast Guard upon request. The servicing records must include—

(1) The serial number of the liferaft;

(2) The date of servicing and repacking;

(3) The identification of any U.S. Coast Guard or third party inspector present;

(4) The name of the vessel or vessel owner receiving the liferaft, if known; and

(5) The date the liferaft is returned to the owner or owner's agent.

(r) The servicing facility must prepare and transmit to the OCMI, at least annually, statistics showing the nature and extent of damage to and defects found in liferafts during servicing and repair work. The servicing facility must notify the OCMI immediately of any critical defects it finds which may affect other liferafts.

§ 160.151–59 Training and maintenance instructions.

(a) The manufacturer shall make the training material and maintenance instructions available in English, to purchasers of Coast Guard-approved inflatable liferafts, to enable vessel operators to meet Regulations III/18.2, 19.3, 51, and 52 of SOLAS 74/83.

(b) The training material required by paragraph (a) of this section may be combined with training material for hydrostatic releases or launching equipment, and must explain—

(1) Release of the inflatable liferaft from its stowage position;

(2) Launching the inflatable liferaft;

(3) Survival procedures, including instructions for use of inflatable liferaft survival equipment; and

(4) Shipboard installations of the inflatable liferaft.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, training material must also be made available in the form of an instruction placard. The instruction placard must be of a size not greater than 36 cm (14 in.) by 51 cm (20 in.), made of durable material and suitable for display in the vicinity of liferaft installations on vessels, providing simple procedures and illustrations for launching, inflating, and boarding the liferaft.

(d) Maintenance instructions must include—

(1) A checklist for use in monthly external visual inspections of the packed liferaft;

(2) An explanation of the requirements for periodic servicing of the liferaft by an approved servicing facility; and

(3) A log for maintaining records of inspections and maintenance.

Dated: October 7, 1994.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 52
United States Standards for Grades of Tomato Sauce; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV–92–326]

United States Standards for Grades of Tomato Sauce

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: In response to a petition from the Indiana Food Processors Association, Incorporated (IFPA), now part of Mid-America Food Processors Association, and petitions from Escalon Packers, Incorporated, and Heinz, U.S.A., the Agricultural Marketing Service (AMS) has revised the United States Standards for Grades of Tomato Sauce. The final rule will change the U.S. grade standards for tomato sauce by: changing the product description to include the provision allowing tomato sauce to be made from tomato paste; redesignating the quality level for "U.S. Grade C" as "U.S. Grade B," redefining good consistency in U.S. Grade A and redefining reasonably good consistency in U.S. Grade B; replacing dual grade nomenclature with single letter grade designations; providing for the use of other USDA approved methods or devices to determine the color of tomato sauce; objectively defining the quality factor for "defects"; removing § 52.2381, Score sheet for tomato sauce; and making minor editorial changes.

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building, P.O. Box 96456, Washington, DC 20090–6456, Telephone (202) 720–4693.

SUPPLEMENTARY INFORMATION: This rule is exempt from Executive Order 12866 review.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, Public Law 96–354 (5 U.S.C. 601 *et seq.*), the Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries, Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary. A small entity may avoid incurring any additional economic impact by not employing the standards.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the regulatory review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Department of Agriculture (USDA) received a petition from the Indiana Food Processors Association, Incorporated (IFPA) now part of Mid-America Food Processors Association, requesting that the U.S. grade standards for tomato sauce be revised. IFPA wanted the grade standards to reflect newer tomato varieties, harvesting and processing techniques, and procedures leading to improvements in the quality of tomato sauce. Escalon Packers, Incorporated (Escalon, California), and Heinz, U.S.A. (Pittsburgh, Pennsylvania) requested similar changes in the grade standards.

Tomatoes used for processing were large core tomato varieties when the currently effective U.S. grade standards were last amended (October 1960). The large core tomato varieties were slightly higher in natural tomato solids (solids largely made up of soluble sugars, fruit acids, and mineral salts), but lacked the consistency found in recently developed coreless tomatoes.

Since these grade standards were last revised, it has become a common practice to manufacture tomato sauce from tomato paste as well as directly from tomatoes for processing. USDA has changed the product description for tomato sauce to include provisions for both processing practices.

The quality levels in the current grade standards are designated as "U.S. Grade A" and "U.S. Grade C." Most other U.S. grade standards with two quality levels, such as tomato juice, are designated as "U.S. Grade A" and "U.S. Grade B." This revision will change the grade designation of "U.S. Grade C" to "U.S. Grade B" in the grade standards for tomato sauce.

IFPA stated in their petition that over the last ten years, new manufacturing techniques and procedures and new hybrid tomato varieties have provided processors the ability to produce tomato sauce with a higher consistency (resistance of a fluid to deformation i.e., apparent viscosity). In the marketplace, consumers have indicated a purchasing preference for higher consistency tomato sauce. IFPA believed that U.S. Grade A should include the higher consistency requirements that consumers prefer. In their petition, they specified what those requirements for consistency should be.

Although the consistency of tomato sauce is affected by the mix of ingredients permitted in the product, it is known that texture and consistency of the tomatoes, as a principle ingredient, have improved the quality characteristics of tomato sauce.

Presently, tomato sauce consistency is based on Bostwick consistometer readings which measure the distance a specific volume of tomato sauce flows on the level plane of the consistometer. And consistency represents the resistance of the sauce to flow and the tendency of the liquid portion to separate from the insoluble solids portion. Low consistency sauce flows farther than high consistency sauce. Score points are assigned according to the consistometer readings, expressed in centimeters, and the measurement of apparent free liquid.

The USDA agrees that the quality of tomato sauce will be correctly represented if higher consistency or "thicker" sauce is assigned a higher score and lower consistency or "thinner" sauce is assigned a lower score when consumer preference for thicker sauce prevails in the marketplace.

In the current grade standards the minimum requirements (maximum flow limits) for consistency in U.S. Grade A and U.S. Grade C are 14 centimeters and 18 centimeters respectively, measured by the Bostwick consistometer. IFPA recommended these values be reduced to 11 centimeters for Grade A and 15 centimeters for U.S. Grade C. Others have indicated that the range for U.S. Grade A should be 12 centimeters or less.

Heinz, U.S.A., a major food service distributor of tomato sauce, also petitioned for changing the consistency range for tomato sauce from the 8 to 14 centimeter range, citing that current grade standards do not reflect the higher consistency ranges attainable through

tomato genetics and development of newer varieties. They requested a range of 4 to 10 centimeters for U.S. Grade A for food service use, and a range of more than 10 to not more than 15 centimeters for U.S. Grade C (which is now designated as Grade B). Escalon Packers, Incorporated recommended similar ranges. USDA proposed a consistency range of 4.0 centimeters to 12.0 centimeters for U.S. Grade A tomato sauce, and a range for U.S. Grade B of less than 4.0 centimeters but not less than 3.0 centimeters or more than 12.0 centimeters but not more than 15.0 centimeters. The higher consistency (lower centimeter value) tomato sauce will receive the higher score points in U.S. Grade A. The consistency ranges for both U.S. Grade A and U.S. Grade B were determined based on the consistency range of tomato sauce currently available in the marketplace, review of purchasing specifications, and review of industry processing practices. These revised consistency ranges for the two grades in the U.S. grade standards reflect current processing and marketing practices and represent quality levels that can be produced from the use of newer varieties of processing tomatoes.

In addition to the recommendations submitted by IFPA, this final rule replaces dual grade nomenclature with single letter designations. Under this revision, "U.S. Grade A" (or "U.S. Fancy") and "U.S. Grade C" (or "U.S. Standard") will become "U.S. Grade A" and "U.S. Grade B", respectively.

This revision also provides for the use of other methods or devices other than Munsell color discs to determine color. These methods or devices must be approved by USDA and must give results equivalent to the assigned combinations of Munsell color discs for the respective grades.

Some members of the tomato sauce industry recommended that USDA provide a more objective method to evaluate "defects" in tomato sauce. In response, USDA set specific tolerances for peel, dark brown and black specks, and whole seeds based on 100 grams (3.5 oz) spread over a specified area of at least 968 square centimeters (150 sq in).

Also, this final rule will remove §52.2381, "Score sheet for tomato sauce", from the U.S. grade standards. Reformatting or amending the tomato sauce score sheet is a time consuming process that can be facilitated by editing the score sheet as a document not incorporated in the grade standards. This change is consistent with the format for recently revised grade standards.

This revision includes minor editorial changes and provides a uniform format consistent with recent revisions of other U.S. grade standards. In addition, this format has been designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards.

Definitions of terms and easy-to-read tables have been incorporated to assure a better understanding and uniform application of the standards.

Proposed Rule

The proposal to revise the U.S. Standards for Grades of Tomato Sauce was published in the **Federal Register** on September 7, 1993 (58 FR 47071) with a sixty-day comment period. The comment period closed on November 8, 1993. There were no public comments received during the comment period. However, USDA received a comment from Stanislaus Food Products, Modesto, California, after the comment period closed.

Stanislaus is a major producer and distributor of tomato sauce and other tomato products produced directly from fresh tomatoes. In their comment, which has been included in the public record, the company urged, in the interest of accurate labeling of all finished tomato products, that AMS either exclude from the standard tomato sauce made from tomato concentrate or require such product be prominently labeled as made from tomato concentrate.

In support of this view, Stanislaus described differences in manufacturing processes. Stanislaus also stated in making sauce from paste and from slightly concentrated tomatoes that "AMS itself recognizes the quality differences between traditional and 'remanufactured' tomato products." The company cited AMS exclusion of "remanufactured" products from the AMS October 1992 invitation to buy concentrated crushed tomatoes for use in the Child Nutrition (CN) Program (Invitation FV–982, No. 31) as evidence to support their view.

Stanislaus also stated that remanufactured tomato sauce cannot be graded under the existing AMS grade standards indicating that the current standards were drafted by USDA before the advent of "remanufacturing."

AMS does not find the arguments of Stanislaus Food Products persuasive. The quality requirements in the 1992 AMS solicitation were amended shortly after the initial announcement, (Amendment No. 2) to Invitation No. 31, to allow bids for concentrated crushed tomatoes made from tomato concentrate if certain criteria were met. While Stanislaus is correct in stating that when the current grade standards were promulgated tomato sauce was rarely made from tomato concentrates, and that the product description in the current grade standards does not include the manufacture of sauce from paste, Stanislaus fails to acknowledge that it has been common industry practice for more than twenty years to manufacture tomato sauce from tomato concentrate. There are, moreover, distinct advantages to allowing the grade standards to include sauce made from paste. These include, as Stanislaus notes, economic benefits in storing and shipping tomato concentrates for production of tomato sauce as compared to storing and shipping diluted tomato products or tomato sauce made from slightly concentrated tomatoes.

USDA believes that consumers, by reading the ingredients statement on the label, can differentiate remanufactured tomato sauce from tomato sauce made directly from tomatoes. When tomato sauce is remanufactured from tomato concentrates, the ingredient statement must include language similar to: "Ingredients: Tomato concentrate (water, and tomato paste), salt, onion powder, garlic powder, citric acid, and natural flavors, etc." If the tomato sauce is made directly from tomatoes, the ingredient statement must include language similar to: "Ingredients: tomatoes, salt, dehydrated onions, dehydrated garlic, spices, and natural flavorings, etc."

USDA further believes that, to the extent there is an interest in requiring especially prominent labeling of tomato sauce as made from fresh tomatoes or concentrate, the proper regulatory medium would be the *Standards of Identity* for tomato products or changes in the labeling regulations promulgated by the Food And Drug Administration (FDA). USDA is aware that FDA received a petition (Docket No. 90P–0430) to modify existing FDA labeling regulations to address products made from "remanufactured ingredients." FDA has stated in the public record (58 FR 2406) that some of the issues discussed in the petition concerning remanufactured ingredients are undergoing FDA review and indicated it plans to take appropriate action.

Based on the foregoing considerations, USDA has concluded that to exclude from the grade standards tomato sauce made from remanufactured ingredients would be an inappropriate use of the grade standards which could impede the marketing of tomato sauce and other tomato products, raising costs to consumers while providing few, if any, offsetting benefits.

A copy of the proposed rule was provided to the Agricultural Research Service (ARS) for help in identifying studies, monographs, data collection or other information relevant to the possible effect of the proposed revision on pesticide use. ARS reported they were not aware of any published material specifically relevant to the effects of pesticides on the "cosmetic appearance" of tomatoes. ARS did note, "however, pesticide-treated fruit are likely to be generally more blemish-free than tomatoes not treated with pesticides." ARS attached research information on the effects of pesticides on carotenes in squash and carrots suggesting that these results may be applicable to tomato (although ARS was unaware of specific similar research for tomatoes). The literature indicated that soil fumigants Telone or Nemagone increased the carotene content of carrots.

The carotene contents of Danvers and Chantenay carrots grown in soil treated with herbicides Linuron or CIPC and that of Butternut squash grown in soil treated with Amiben and Dinoseb were significantly higher than the carotene content of control vegetables. Herbicide treatment did not affect the carotene content of Hubbard squash or that of two spinach varieties (Sweeney and Marsh, 1971).

ARS further stated that the characteristics of the tomato fruit related to processing are largely controlled by genetics and are reflected in new processing tomato varieties.

Final Rule

Upon review of all the background information and comments collected during the rulemaking process, USDA determined that this final rule for the United States Standards for Grades of Tomato Sauce appearing after this preamble should be published in the **Federal Register** and become effective 30 days after publication.

The USDA has determined this final rule will facilitate trade between processors and buyers and improve the marketing of tomato sauce.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For the reasons set forth in the preamble, the U.S. Department of Agriculture proposes to amend 7 CFR part 52 as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

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

Authority: 7 U.S.C. 1622, 1624.

2. In Subpart—United States Standards for Grades of Tomato Sauce, § 52.2371 through § 52.2377 are revised to read as follows:

Subpart—United States Standards for Grades of Tomato Sauce

Sec.
52.2371 Product description.
52.2372 Definitions of terms.
52.2373 Fill of container.
52.2374 Ascertaining the grade and factors of quality.
52.2375 Allowance for defects.
52.2376 Sample unit sizes.
52.2377 Determining the grade of a lot.

§ 52.2371 Product description.

Tomato sauce is the concentrated product prepared from the liquid extracted from mature, sound, whole tomatoes; the sound residue from preparing such tomatoes for canning; the residue from partial extraction of juice; reconstituted or remanufactured tomato paste; or any combination of these ingredients to which is added salt and spices. One or more nutritive sweetening ingredients, a vinegar or vinegars, onion, garlic, or other vegetable flavoring ingredients may be added. The food is preserved by heat sterilization (canning), refrigeration, or freezing. When sealed in a container to be held at ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage. The refractive index of the tomato sauce at 20 degrees Celsius is not less than 1.3455.

§ 52.2372 Definitions of terms.

(a) *Color* means the amount of red in the tomato sauce as determined by comparing the color of the product with that produced by spinning a combination of the following Munsell color discs:

Disc 1–Red (5R 2.6/13) (glossy finish);

Disc 2–Yellow (2.5YR 5/12) (glossy finish);

Disc 3–Black (N1) (glossy finish); and

Disc 4–Gray (N4) (mat finish).

Any other method or device approved by the USDA which gives equivalent results may be used.

(1) *Good color* means the color typical of tomato sauce that contains as much or more red than that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

65 percent of the area of Disc 1;

21 percent of the area of Disc 2; and

14 percent of the area of Disc 3 or Disc 4, or 7 percent of the area of Disc 3 and 7 percent of the area of Disc 4, whichever most nearly matches the reflectance of the tomato sauce.

(2) *Reasonably good color* means the color typical of tomato sauce that contains as much or more red than that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

53 percent of the area of Disc 1;

28 percent of the area of Disc 2; and

19 percent of the area of either Disc 3 or 4, or 9½ percent of the area of Disc 3 and 9½ percent of the area of Disc 4, whichever most nearly matches the reflectance of the tomato sauce.

(b) *Consistency* means the resistance of the tomato sauce to deformation or resistance to flow i.e., apparent viscosity and the tendency to hold its liquid portion in suspension.

(1) *Good consistency* means the tomato sauce is not excessively stiff, and flows not less than 4.0 cm nor more than 12.0 cm in 30 seconds at 20 degrees Celsius in the Bostwick consistometer. After placing a tablespoon of tomato sauce on a shallow tray and observing the separation of free liquid for 2 minutes, there shall be no more than 5 mm (3/16 in) separation. The higher consistency tomato sauce will receive the higher score points.

(2) *Reasonably good consistency* means the tomato sauce is not excessively stiff, flows less than 4.0 cm but not less than 3.0 cm or flows more than 12.0 cm but not more than 15.0 cm in 30 seconds at 20 degrees Celsius in the Bostwick consistometer. After placing a tablespoon of tomato sauce on a shallow tray and observing the separation of free liquid for 2 minutes, there shall be no more than 10 mm (3/8 in) separation. Within these two ranges, tomato sauce approaching "good consistency" will receive the higher score points.

(c) *Defects* mean the degree of freedom from defects such as dark brown or black specks, whole seeds, tomato peel, core material or other similar substances. The specific requirements for defects are included in Table I of § 52.2375. This factor is evaluated by observing a layer of 100 g (3.5 oz) of product which is spread over a smooth white surface area of at least 968 sq cm (150 sq in).

(1) *Practically free* of defects means that any defects present in the sauce do not exceed the requirements for

"practically free" in Table I of §52.2375.

(2) *Reasonably free* of defects means that any defects present in the sauce do not exceed the requirements for "reasonably free" in Table I of §52.2375.

(d) *Finish.* (1) *Good finish* means that the product is evenly comminuted, has uniform, smooth texture, and is free from lumps.

(2) *Poor finish* means that the product fails to meet the definition of "good finish."

(e) *Flavor and odor* means the flavor and odor characteristic of tomato sauce produced from good quality ingredients that have been properly processed.

(1) *Good flavor and odor* means a good distinct flavor and odor characteristic of good quality ingredients. Such flavor and odor is free from scorching or any other objectionable flavor or odor.

(2) *Reasonably good flavor and odor* means a flavor and odor characteristic of the ingredients in which there may be slight traces of undesirable flavor, such as scorched, bitter, or astringent flavor, but is free from objectionable off-flavors and odors.

§52.2373 Fill of container.

Except for frozen tomato sauce and tomato sauce packaged in individual serving-size packages containing 56.7 grams (2 ounces) or less, each container of tomato sauce shall be filled as full as practicable without impairment of quality and shall occupy not less than 90 percent of the capacity of the container.

§52.2374 Ascertaining the grade and factors of quality.

(a) The grade of tomato sauce is ascertained by considering the factor of finish, which is not scored, and the ratings for the factors of color, consistency, defects, and flavor and odor, which are scored. The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors	Points
Color	25
Consistency	25
Defects	25
Flavor and odor	25
Total score	100

§52.2375 Allowances for defects.

TABLE I

Factors	U.S. Grade A	U.S. Grade B
Finish	Good[1]	Good.[1]
Color	Good	Reasonably good.
Score	21 to 25 points	17 to 20 points.
Consistency	Good	Reasonably good.
Centimeters (Bostwick)	4.0 to 12.0	3.0 to less than 4.0 or more than 12.0 but less than 15.0.
Separation of free liquid	Equal to or less than 5 mm (3/16 in)	More than 5 mm but equal to or less than 10 mm (3/8 in).
Score	22 to 25 points	18 to 21 points.
Defects[2]	Practically free	Reasonably free.
Pieces of peel[3] exceeding 5 mm/100 g (3.5 oz) and dark specks exceeding 1.0 mm (1/32 in).	Combined total of 15 pieces of peel and dark brown or black specks; no dark brown or black specks exceed 3.2 mm (1/8 in).	Combined total of 36 pieces of peel and dark brown or black specks; not more than 2 dark brown or black specks exceed 3.2 mm, no dark brown or black specks exceed 6.5 mm (1/4 in).
Whole seeds/2.835 kg (100 oz)	1	5.
Overall appearance	Not materially affected	Not seriously affected.
Score	21 to 25 points	18 to 20 points.
Flavor and odor	Good	Reasonably good.
Score	21 to 25 points	17 to 20 points.
Total minimum score	85 points	70 points.[4]

[1] Evenly comminuted; smooth uniform texture.
[2] Except for whole seeds, based on 100 grams (3.5 oz) of diluted well-mixed product at 8.0 to 9.0 percent natural tomato soluble solids (NTSS). Whole seeds, based on 2.835 kg (100 oz) of product at 8.0 to 9.0 NTSS if at least one whole seed(s) is found in a sample.
[3] Measured without unrolling.
[4] Tomato sauce which fails to meet the quality of U.S. Grade B shall be classified as "Substandard."

§52.2376 Sample unit sizes.

(a) The sample unit size is the amount of product specified to be used for inspection in 7 CFR 52.38, Table III.

(b) For Number 10 can size or larger, an optional sample unit size of 900 g (approximately 32 oz) per container is permitted.

§52.2377 Determining the grade of a lot.

The grade of a lot of tomato sauce covered by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§§52.2378–52.2381 [Removed and Reserved]

3. Sections 52.2378 through 52.2381 are removed and reserved.

Dated: October 11, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–25670 Filed 10–17–94; 8:45 am]

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Tuesday
October 18, 1994

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Peas; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-94-326]

United States Standards for Grades of Canned Peas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to our periodic review of existing regulations and in response to a petition from the National Food Processors Association (NFPA), the Agricultural Marketing Service (AMS) is revising the United States Standards for Grades of Canned Peas. The revision changes the U.S. grade standards for canned peas by: Providing for the "individual attributes" procedure for product grading with sample sizes, acceptable quality levels (AQL's), tolerances and acceptance numbers (number of allowable defects); replacing dual grade nomenclature with single letter grade designations; basing the tolerance for extraneous vegetable material (EVM) on drained weight rather than net contents (product weight and weight of the brine); bringing tolerances for defects in canned peas in line with the tolerances for defects in frozen peas; removing § 52.2294, Score sheet for canned peas; and making minor editorial changes.

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building, P.O. Box 96456, Washington, DC 20090-6456, Telephone (202) 720-4693.

SUPPLEMENTARY INFORMATION: This rule is exempt from Executive Order 12866 review.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, Public Law 96-354 (5 U.S.C. 601 *et seq.*), the Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries, Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary. A small entity may avoid incurring any additional economic impact by not employing the standards.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the regulatory review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Department of Agriculture (USDA) received a petition from the National Food Processors Association (NFPA), requesting that the U.S. grade standards for canned peas be revised. NFPA is a scientifically and technically-based trade association representing over 450 food industry companies.

NFPA's grade standards review subcommittee is responsible for reviewing the existing U.S. grade standards for canned fruits and vegetables to ascertain whether the standards remain current and reflect processing and marketing practices. Based on the subcommittee's recommendation, NFPA requested that the U.S. grade standards for canned peas, which are currently based on cumulative score points, be revised by converting the U.S. grade standards to statistically-based individual attributes grade standards, similar to the recently revised U.S. grade standards for canned green and wax beans (58 FR 4295, January 14, 1993). NFPA also requested that market surveys or discussion drafts be made available for the industry to review. This revision is based on reviews of 1991 and 1992 discussion drafts, and comments received for the proposed rule to revise the U.S. grade standards for canned peas. The proposed rule was published in the **Federal Register** on March 21, 1994 (59 FR 13252). The discussion drafts and the proposal incorporated a grading system where individual tolerances would be assigned to each individual defect. This system of grading, is referred to as "individual attributes."

The revision provides statistically derived acceptable quality levels (AQL's) based on the tolerances in the current standards (except whenever possible, tolerances were changed to be more in line with the tolerances for the same defects in frozen peas).

The standards incorporate USDA's policy of replacing dual grade nomenclature with single letter grade designations. Under this final rule, "U.S. Grade A" ("U.S. Fancy"), "U.S. Grade B" ("U.S. Extra Standard"), and "U.S. Grade C" ("U.S. Standard") simply become "U.S. Grade A," "U.S. Grade B," and "U.S. Grade C."

This revision also changes the criteria for evaluating extraneous vegetable material (EVM). The Food and Drug Administration (FDA) Standards of Identity and Quality for canned peas are based on the drained weight of the peas. Under the current U.S. grade standards for canned peas, EVM is evaluated on the basis of net contents (per 100 ounces of the peas and the brine). The pour-back method described in FDA's Standard of Identity for Canned Peas is used to determine if containers are adequately filled. The criteria for evaluating EVM in both FDA Standards of Identity for canned peas and frozen peas and the U.S. grade standards for frozen peas are based on the weight of the peas only.

This revision of the voluntary grade standards brings the quality factor of EVM in canned peas in line with the criteria used by FDA.

Wherever justifiable, USDA has modified the tolerances for defects in canned peas so that they are basically similar to the tolerances for the same defects in the U.S. grade standards for frozen peas. USDA uses FDA's minimum quality criteria as a base when it establishes higher levels of quality in the U.S. grade standards for canned peas. FDA has established different minimum tolerances for similar defects in canned peas and frozen peas. Therefore, USDA has established tolerances for some defects in canned peas that will not be similar to the tolerances for defects in frozen peas. Whenever possible, tolerances for similar defects in canned peas are essentially the same as in frozen peas.

Also, this revision removes § 52.2294, "Score sheet for canned peas," from the U.S. grade standards. Amending the canned peas score sheet can be more efficiently facilitated by editing the score sheet as a document not incorporated in the grade standards. This change is consistent with recently revised U.S. grade standards in which score sheets are no longer incorporated.

The revision includes minor editorial changes and provides a uniform format consistent with recent revisions of other U.S. grade standards. The format has been designed to provide users with simpler and more comprehensive standards. Definitions of terms and easy-to-read tables have been incorporated to assure better understanding and uniform application of the standards.

Proposed Rule

The proposal to revise the U.S. Standards for Grades of Canned Peas was published in the **Federal Register** on March 21, 1994, (59 FR 13252) with a sixty-day comment period. The comment period closed on May 20, 1994. USDA received one comment from the National Food Processor's Association (NFPA). NFPA's Grade Standards Review Subcommittee's review of the proposed rule generally agreed with the rule as published and supports its adoption. However, NFPA requested consideration be given to their comments and suggestions to improve the revision.

NFPA's first suggestion was that USDA and FDA jointly re-evaluate the pour-back method to determine if containers are adequately filled (§ 52.2284). Although required by the U.S. Food and Drug Administration's Standard of Identity for Canned Peas (21 CFR 155.170), the Association indicated that the method is antiquated and not widely used by the industry.

Second, NFPA requested that the definition for "blond" peas be further defined so that it apply to peas essentially devoid of green pigmentation. The proposed definition for blond peas was "*Blond* means peas that are cream-colored or yellow in color." NFPA suggested the following definition, "*Blond* means peas that are cream-colored or yellow in color and essentially devoid of green."

Third, NFPA requested that the requirements for blond peas in § 52.2286 and Table II be based on percent by count instead of percent by weight. Since the industry practice is to count rather than weigh blond peas, NFPA believes counting is the more practical method than weighing for this quality factor. The Association also suggested there should be a difference in Grade A and Grade B tolerances for blond peas. Currently the tolerance for Grade A and Grade B are the same—one percent. NFPA suggested one and one-half percent for Grade B.

Fourth, NFPA suggested the acceptance numbers and AQL's for extraneous vegetable material in Table V of the proposal be based on specified tolerances and AQL's for varying sample sizes, as was done in the tables for other classified defects, instead of basing the acceptance numbers on each 1700 grams (60 oz) of drained product. The Association believes this would more clearly indicate that acceptance numbers apply to lot grading and would be more useful to industry.

The fifth suggestion was that tables III through VII be reorganized into the format followed in the most recent discussion draft for frozen green and wax beans under review by the Grade Standards Subcommittee. This format includes tolerances, AQL's, and acceptance numbers for various grades and sample sizes all in a single table.

USDA finds most of the comments received from NFPA persuasive. Regarding NFPA's first comment about the pour-back method to determine adequate fill being antiquated, USDA is willing to review all data NFPA can provide, and consider, for future incorporation into the grade standards, any alternative method to determine adequate fill of container for canned peas that has been widely adopted by industry. However, USDA has, wherever possible, adhered to FDA Standards of Identity criteria. USDA finds that it is sufficient to reference the standard of fill for canned peas as promulgated under the Federal Food, Drug, and Cosmetic Act (21 CFR 155.170) in § 52.2284 of these grade standards. USDA is removing the text for the pour-back method from these standards since it is redundant; the reference to the Standard of Identity is sufficient.

USDA agrees with NFPA's second comment, with respect to changing the definition for blond peas to include "and essentially devoid of green," and has made this change for clarity.

USDA agrees with NFPA's third comment, that the tolerances and tables in § 52.2286 and Table II be based on percent by count instead of percent by weight, since it is more practical to count blond peas and not weigh them. The industry practice of sizing peas results in blond and green peas that are reasonably uniform in size. Therefore this change will not substantially change the quality criteria for blond peas. USDA also agrees with NFPA's suggestion that a tolerance of one and one-half percent is equitable for Grade B canned peas, instead of one percent. This change in § 52.2286 and Table II provides a distinct and reasonable quality level below Grade A for blond peas.

Regarding NFPA's fourth comment to base the acceptance numbers for extraneous vegetable material (EVM) on specified tolerances and AQL's for various sample sizes, USDA finds changing this table to be impractical. Numerous tables would be required to provide acceptance numbers for all of the sample sizes, container sizes, and drained weight totals for product.

USDA has renumbered the table for EVM as Table IV and modified footnote one for clarity to read, "For the lot average of each 1700 g (60 oz), of drained product. For example, a lot containing 10,200 g (360 oz) of drained product may include no more than: 6 EVM units for Grade A; 12 EVM units for Grade B; or 54 g (1.9 oz) total EVM for Grade C." This change indicates that the acceptance numbers for EVM units apply to each 1700 g of the drained product considering the total drained product weight in the lot.

USDA agrees with NFPA's fifth comment to reorganize tables III through VII to include tolerances, AQL's, quality factors, and acceptance numbers into one table as was done in the discussion draft for frozen green and wax beans. USDA has made this change reducing the number of tables from seven to five, while making the tables easier to use. USDA believes all the above changes are minor editorial changes that provide clarity and reflect current marketing practices for canned peas.

USDA has determined that this final rule will facilitate trade between processors and buyers and improve the marketing of canned peas.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For the reasons set forth in the preamble, the U.S. Department of Agriculture amends 7 CFR part 52 as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

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

Authority: 7 U.S.C. 1622, 1624.

2. In Subpart—United States Standards for Grades of Canned Peas, §§ 52.2281 through 52.2291 are revised to read as follows:

Subpart—United States Standards for Grades of Canned Peas

Sec.
52.2281 Product description.
52.2282 Types of canned peas.
52.2283 Definitions of terms.
52.2284 Fill of container.

52.2285 Sizes of peas.
52.2286 Grades.
52.2287 Factors of quality.
52.2288 Prerequisite requirements and allowances for defects.
52.2289 Sample size.
52.2290 Quality requirements.
52.2291 Single sample unit.

§ 52.2281 Product description.

Canned peas means the canned product prepared from clean, sound, shelled, succulent peas as such product is defined in the Standards of Identity for Canned Peas (21 CFR 155.170) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

§ 52.2282 Types of canned peas.

(a) *Early peas* means canned succulent peas of Alaska or other smooth skin varieties.

(b) *Sweet peas* means canned succulent peas of sweet, wrinkled varieties.

§ 52.2283 Definitions of terms.

(a) *Acceptable quality level (AQL)* means the maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) *Appearance.*

(1) *Good appearance* means that the peas are practically uniform in color and are reasonably free of insignificant blemishes.

(2) *Reasonably good appearance* means that the peas are fairly uniform in color and fairly free of insignificant blemishes.

(c) *Blemishes.* (1) *Blemished* means a unit that is spotted or otherwise discolored (other than blond), such as vivid-green or brown, to the extent that its appearance or eating quality is materially affected.

(2) *Seriously blemished* means a unit that is seriously discolored or spotted, such as a dark discolored pea, to the extent that the appearance or eating quality is seriously affected.

(d) *Blond* means a unit that is cream-colored or yellow in color and essentially devoid of green.

(e) *Defect* means any nonconformance of a unit(s) of product from a specified requirement of a single quality characteristic.

(f) *Extraneous vegetable material (EVM)* means any harmless vegetable material, to include:

(1) *Flat* material common to the pea plant such as leaves and pods, and flat vegetable material from other plants;

(2) *Cylindrical material* common to the pea plant such as stems or pieces of vines, and cylindrical vegetable material from other plants; and

(3) *Spherical material* not common to the pea plant such as thistle buds, berries and pieces of berries.

(g) *Flavor and odor.* (1) *Good flavor and odor* means the product has a characteristic flavor and odor and is free from objectionable flavors and odors.

(2) *Reasonably good flavor and odor* means that the product may be lacking in characteristic flavor and odor but is free from objectionable flavors and odors.

(h) *Liquor.* (1) *Good liquor* means the color of liquor is typical, may have a slight cloudiness or a tint of green, only a slight to moderate amount of suspended material or sediment may be present, and the liquor is not viscous.

(2) *Reasonably good liquor* means the liquor may be cloudy or slightly green, may have a pronounced accumulation of sediment, may be dull but not off color, and may be viscous but not so viscous that the liquor will not separate from the peas.

(i) *Piece of pea (broken pea)* means:

(1) A pea from which a cotyledon or a large portion thereof has become separated;

(2) Two detached whole cotyledons;

(3) Pieces of detached cotyledons aggregating the equivalent of an average size cotyledon; and

(4) A whole detached skin or portions of detached skin aggregating the equivalent of an average size whole skin.

(j) *Sample unit* means the amount of product specified to be used for grading. For appearance, flavor and odor, liquor, and varietal characteristics, a sample unit is the entire contents of the container. For grading EVM, a sample unit is each 1700 g (60.0 oz) drained product; for blemished (spotted), seriously blemished, and broken peas (pieces), a sample unit is each 400 peas. For grading maturity, a sample unit is each 50 peas or more in accordance with Table III in § 52.2288.

(k) *Tolerance* means the percentage of defective units allowed for each quality factor.

(l) *Unit* means each whole pea.

§ 52.2284 Fill of container.

The standard for fill of container for canned peas is not incorporated in the grade of the finished product since fill is not a factor of quality for the purposes of these grades. Except in the case of vacuum pack, canned peas shall be considered standard in fill if they meet the standard of fill promulgated under the Federal Food, Drug, and Cosmetic Act (21 CFR 155.170). Canned peas that do not meet this requirement are "Below Standard in Fill."

§ 52.2285 Sizes of peas.

Except for the factor of defects in determining pieces of peas, the sizes of peas are not considered in ascertaining the quality of the product for the purposes of these grades. The size of a pea is determined on the basis of the diameter of the circular opening(s) through which the pea will pass or will not pass without force or pressure. The size designations and diameters applicable to canned peas are shown in Table I of this section.

TABLE I.—SIZES OF CANNED PEAS

Size designation	Diameter of circular openings in inches (millimeters)	
	Will not pass through	Will pass through
Size 1	.....	9/32 (7.1)
Size 2	9/32 (7.1)	10/32 (7.9)
Size 3	10/32 (7.9)	11/32 (8.7)
Size 4	11/32 (8.7)	12/32 (9.5)
Size 5	12/32 (9.5)	13/32 (10.3)
Size 6	13/32 (10.3)	14/32 (11.1)
Size 7	14/32 (11.1)	

§ 52.2286 Grades.

(a) *U.S. Grade A* is the quality of canned peas that:

(1) Meets the following prerequisites in Table II of § 52.2288 in which the canned peas:

(i) Have similar varietal characteristics;

(ii) Have a good appearance;

(iii) Have not more than one (1) percent, by count, blond peas;

(iv) Have a good liquor; and

(v) Have a good flavor and odor.

(2) Is within the limits for defects as specified in Tables III, IV, and V of § 52.2288, as applicable.

(b) *U.S. Grade B* is the quality of canned peas that:

(1) Meets the following prerequisites in Table II of § 52.2288 in which the canned peas:

(i) Have similar varietal characteristics;

(ii) Have a good appearance;

(iii) Have not more than one and one-half (1.5) percent, by count, blond peas;

(iv) Have a good liquor; and

(v) Have a good flavor and odor.

(2) Is within the limits for defects as specified in Tables III, IV, and V of § 52.2288, as applicable.

(c) *U.S. Grade C* is the quality of canned peas that:

(1) Meets the following prerequisites in Table II of § 52.2288 in which the canned peas:

(i) Have similar varietal characteristics;

(ii) Have a reasonably good appearance;

(iii) Have not more than two (2) percent, by count, blond peas;

(iv) Have a reasonably good liquor; and

(v) Have reasonably good flavor and odor.

(2) Is within the limits for defects as specified in Tables III, IV, and V of § 52.2288, as applicable.

(d) *Substandard* is the quality of canned peas that fail to meet the requirements of U.S. Grade C.

§ 52.2287 Factors of quality.

The grade of canned peas is based on requirements for the following quality factors:

(a) *Prerequisite quality factors:*

(1) Varietal characteristics;

(2) Appearance;

(3) Blond peas;

(4) Liquor; and

(5) Flavor and odor.

(b) *Classified quality factors:*

(1) Maturity;

(2) Extraneous vegetable material (EVM);

(3) Blemished, spotted or discolored peas;

(4) Seriously blemished or seriously discolored peas; and

(5) Pieces of peas (broken).

§ 52.2288 Prerequisite requirements and allowances for defects.

TABLE II.—PREREQUISITES REQUIREMENTS

Factors	Grade A	Grade B	Grade C
Varietal characteristics	Similar	Similar	Similar.
Appearance	Good	Good	Reasonably good.
Blond peas	Not more than 1% by count	Not more than 1.5% by count	Not more than 2% by count.
Liquor	Good	Good	Reasonably good.
Flavor and odor	Good	Good	Reasonably good.

TABLE III.—CANNED PEAS, LOT ACCEPTANCE NUMBERS (SINKERS) FOR BRINE FLOATATION

Sample units × sample unit size (units of product)				1×50[1] 50	3×50 150	6×50 300	13×50 650	21×50 1050	29×50 1450
TOL	AQL[2]	Type of peas	% salt sol.						
Grade A									
12.0	10.1	Sweet	11.0	8	21	39	78	122	165
2.0	1.3	Sweet	13.0	2	4	7	13	20	26
20.0	17.6	Early	11.0	13	34	63	130	205	279
2.0	1.3	Early	13.5	2	4	7	13	20	26
Grade B									
15.0	13.0	Sweet	13.0	10	26	48	98	154	209
4.0	2.9	Sweet	15.0	3	8	13	26	39	53
30.0	27.2	Early	13.5	18	50	94	195	309	422
8.0	6.4	Early	15.0	6	15	26	52	80	108
Grade C									
10.0	8.2	Sweet	15.0	7	18	33	65	101	137
10.0	8.2	Early	16.0	7	18	33	65	101	137

[1] For unofficial samples.
[2] AQL calculated from tolerance (TOL) at 650.

TABLE IV.—CANNED PEAS, ACCEPTANCE NUMBERS FOR EXTRANEOUS VEGETABLE MATERIAL (EVM)[1]

Description of material	EVM unit designation	Per 1700 g (60 oz)		
		Grade A	Grade B	Grade C
Flat; or cylindrical; or spherical	Each 1.5 cm² (0.25 in²); or each 13 mm (each 0.50 in); or each piece.	1	2	.....
Flat, cylindrical, and spherical EVM	Total weight in grams	.....	.....	9

[1] For the lot average of each 1700 g (60 oz) of drained product. For example, a lot containing 10,200 g (360 oz) of drained product may include no more than: 6 EVM units for Grade A; 12 EVM units for Grade B; or 54 g (1.9 oz) total EVM for Grade C.

TABLE V.—CANNED PEAS, LOT ACCEPTANCE NUMBERS FOR DEFECTS, OTHER THAN EVM

Sample units × sample unit size (units of product)			1×400[1] 400	3×400 1200	6×400 2400	13×400 5200	21×400 8400	29×400 11600
Quality Factors	TOL	AQL[2]						
Grade A								
Blemished peas	1.0	0.80	6	15	26	52	80	108
Seriously blemished peas	0.50	0.37	3	8	14	26	40	53

TABLE V.—CANNED PEAS, LOT ACCEPTANCE NUMBERS FOR DEFECTS, OTHER THAN EVM—Continued

Sample units × sample unit size (units of product)			1×400[1] 400	3×400 1200	6×400 2400	13×400 5200	21×400 8400	29×400 11600
Quality Factors	TOL	AQL [2]						
Pieces of peas (broken), larger than No. 2 sieve size	5.0	4.5	25	66	125	259	410	560
Pieces of peas (broken) No. 1 and No. 2	7.0	6.4	34	91	174	363	576	787
Grade B								
Blemished peas	3.0	2.6	16	40	75	154	242	330
Seriously blemished peas	0.75	0.58	5	11	20	39	60	81
Pieces of peas (broken), all sieve sizes	10.0	9.3	47	129	248	520	827	1133
Grade C								
Blemished peas	5.0	4.5	25	66	125	259	410	560
Seriously blemished peas	1.0	0.80	6	15	26	52	80	108
Pieces of peas (broken), larger than No. 2 sieve size	12.5	11.8	58	160	309	652	1040	1426
Pieces of peas (broken) No. 1 and No. 2 sieve sizes	12.0	11.3	53	153	296	625	997	1367

[1] For unofficial samples.
[2] AQL calculated from tolerance (TOL) at 5200.

§ 52.2289 Sample size.

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1 through 52.83).

§ 52.2290 Quality requirements.

A lot of canned peas is considered as meeting the requirements for quality if:

(a) The prerequisite requirements specified in § 52.2286 are met; and

(b) None of the allowances for the individual quality factors specified in Tables III, IV, and V of § 52.2288, as applicable are exceeded.

§ 52.2291 Single sample unit.

Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(a) The prerequisite requirements specified in § 52.2286 are met;

(b) The acceptable quality levels and acceptance numbers in Tables III, IV, and V of § 52.2288, as applicable for the sieve size, are not exceeded.

Dated: October 11, 1994.

Lon Hatamiya,

Administrator.

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federal register

Tuesday
October 18, 1994

Part V

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 55, et al.

Increase in Fees and Charges for Egg Products Inspection and Egg, Poultry, and Rabbit Grading; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55, 56, 59, and 70

[Docket No. PY-94-005]

RIN 0581-AB33

Increase in Fees and Charges for Egg Products Inspection and Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg products inspection; voluntary egg, poultry, and rabbit grading; and overtime, holiday, and appeal services under mandatory egg products inspection. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

EFFECTIVE DATE: November 1, 1994.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, Chief, Standardization Branch, (202) 720-3506.

SUPPLEMENTARY INFORMATION: This rule has been determined not-significant for purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The AMS Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because (i) the fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services and (ii) competitive effects are offset under the major voluntary programs (resident shell egg and poultry grading) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

The information collection requirements that appear in the sections that are amended have been previously approved by the Office of Management and Budget and assigned OMB Control Numbers under the Paperwork Reduction Act of 1980 as follows: § 56.52(a)(4)—No. 0581-0128; § 59.126 and § 59.128(a)—No. 0581-0113; and § 70.77(a)(4)—No. 0581-0127.

Background

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing voluntary egg products inspection and voluntary egg, poultry, and rabbit grading. Likewise, the Egg Products Inspection Act requires the collection of fees to cover costs of overtime, holiday, and appeal inspection services. Each fiscal year, these fees undergo a cost analysis to determine if they are adequate to recover the cost of providing the services.

Grading and inspection fees were last increased effective November 1, 1993. Since then, operating costs have increased, primarily due to a salary increase for Federal employees of 3.1 percent in January 1994. Also, the cost of life insurance, health benefits, and Medicare increased by about 5 percent, and salaries and fringe benefits of federally licensed State employees increased by about 3 percent.

The regular hourly rate for resident voluntary grading and inspection service will increase about 7 percent. Resident fees cover Federal and State salaries, fringe benefits, relief, and other service-related costs. Administrative service charges apply to the costs of supervision and other overhead and administrative costs and are assessed on each case of shell eggs and each pound of poultry handled in plants using resident grading service. In 1993, these unit rates were established at $0.034 per case of shell eggs and $0.00029 per pound of poultry, with a minimum of $200 and maximum of $2,000 per monthly billing period for each official plant. The charges per case of shell eggs and pound of poultry will increase to $0.036 and $0.00031, respectively, with a monthly minimum charge of $215 and a maximum of $2,150.

The hourly rate for nonresident voluntary grading and inspection service will increase from $31.44 to $33.64. The hourly rate for such services performed on Saturdays, Sundays, or holidays will increase from $32.88 to $35.52. The hourly rate for voluntary appeal gradings or inspections will increase from $26.64 to $27.36. The hourly rates for mandatory egg products inspection services will increase from $23.80 to $26.16 for overtime inspection and from $16.24 to $17.44 for holiday inspection. The hourly rate will also increase from $26.64 to $27.36 for certain mandatory appeal inspections.

Administrative charges for resident voluntary rabbit grading, resident voluntary egg products inspection, and nonresident voluntary continuous poultry and egg grading will continue to be based on 25 percent of the grader's or inspector's total salary costs. The minimum charge per monthly billing period for these programs will increase from $200 to $215 per official plant.

Comments

Based on analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (59 FR 38944) on August 1, 1994. Comments on the proposed rule were solicited from interested parties until August 31, 1994.

During the 30 day comment period, the Agency received one comment from a national egg industry organization in opposition to the proposal. It expressed a general concern about the ability of the egg and egg products industry to meet and maintain the continually increasing financial obligations of the programs now and in the years to come. The AMA and the EPIA authorize user fees to recover the costs of providing services. The overall fee structure has been designed to be the most equitable and reasonable method to ensure recovery of the costs of providing services on a nationwide basis. The timing of the fee increases has followed increases in Federal pay costs authorized by Congress. Accordingly, no changes will be made in the proposal.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**, because the fees need to be implemented on an expedited basis in order to minimize the period of time between the effective date of the Federal pay increase and the effective date of the fee increase. Also, the fee increase coincides with the next available billing cycle beginning on November 1, 1994.

List of Subjects

7 CFR Parts 55 and 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 59

Eggs and egg products, Exports, Food grades and standards, Food labeling,

Imports, Polychlorinated biphenyls (PCB's), Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, Title 7, Code of Federal Regulations, parts 55, 56, 59, and 70 is amended as follows.

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. The authority citation for Part 55 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 55.510 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 55.510 Fees and charges for services other than on a continuous resident basis.

* * * * *

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $33.64 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $35.52 per hour. Information on legal holidays is available from the Supervisor.

(d) The cost of an appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $27.36 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, laboratory analysis, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

3. Section 55.560 is amended by revising paragraph (a)(3) to read as follows:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(3) An administrative service charge equal to 25 percent of the grader's or inspector's total salary costs. A minimum charge of $215 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

4. The authority citation for Part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

5. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $33.64 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $35.52 per hour. Information on legal holidays is available from the Supervisor.

6. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $27.36 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

7. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.036, except that the minimum charge per billing period shall be $215 and the maximum charge shall be $2,150. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

8. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $215 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

9. The authority citation for Part 59 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

10. Section 59.126 is revised to read as follows:

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $26.16 to cover the cost thereof.

11. Section 59.128 is amended by revising paragraph (a) to read as follows:

§ 59.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Service therefore at an hourly rate of $17.44 to cover the cost thereof.

* * * * *

12. Section 59.370 is amended by revising paragraph (b) to read as follows:

§ 59.370 Cost of appeals.

* * * * *

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $27.36, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these

regulations have not been complied with.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

13. The authority citation for Part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

14. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $33.64 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $35.52 per hour. Information on legal holidays is available from the Supervisor.

15. Section 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading, laboratory analysis, or examination or review of a grader's decision.

The costs of an appeal grading, laboratory analysis, or examination or review of a grader's decision will be borne by the appellant at an hourly rate of $27.36 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, laboratory analysis, or examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

16. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $215 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

17. Section 70.77 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00031, except that the minimum charge per billing period shall be $215 and the maximum charge shall be $2,150. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $215 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: October 11, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–25664 Filed 10–17–94; 8:45 am]

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Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, and 135
Protective Glove Requirement; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, and 135

[Docket No. 27926 Amendment No. 121–242; 125–22; 135–53]

RIN 2120–AF37

Protective Glove Requirement

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment requires that disposable latex gloves, or equivalent nonpermeable gloves, be located onboard aircraft operated in air carrier, air taxi, and commercial operations. This amendment responds to the concerns of the FAA and some members of the aviation industry that a potential health risk exists to crewmembers and passengers from the possibility of incidental exposure to blood borne pathogens. This amendment would lessen the possibility of that exposure and therefore increase the level of safety for both passengers and crewmembers.

DATES: Effective date December 2, 1994.

Comments must be received on or before December 2, 1994.

ADDRESSES: Send or deliver comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Room 916, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Daniel V. Meier Jr., Regulatory Branch (AFS–240), Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone: (202) 267–3749.

SUPPLEMENTARY INFORMATION:

Background

The Association of Flight Attendants (AFA) stated in a 1990 petition for rulemaking that flight attendants face many hazards in their work environment. Among these hazards it listed medical emergencies that involve bleeding, such as nose-bleeds, cuts, and childbirth, that could expose flight attendants to blood borne diseases such as Hepatitis B. AFA noted that some carriers currently provide barrier devices.

The FAA recognizes that crewmembers (usually flight attendants), passengers, and health care professionals are sometimes called upon to provide assistance to ill or injured people on aircraft. Providing such assistance may cause such persons to come into contact with the body fluids of persons infected with a blood borne pathogen such as the human immunodeficiency virus (HIV) or the hepatitis B virus (HBV). Blood is the single most important source of HIV, HBV, and other blood borne pathogens in the occupational setting. Infection control efforts for these blood borne pathogens must focus on preventing persons from being exposed to blood. Medical research indicates that the risk of transmission of HIV and HBV from other body fluids and materials such as nasal secretions, sputum, sweat, tears, urine, vomitus and feces is extremely low or nonexistent. Where blood is visible in these substances, however, there is a risk of exposure to blood borne pathogens. The use of protective gloves is the most effective manner in which to prevent passengers and crewmembers from being exposed to contaminated blood and other fluids.

The possibility of crewmembers contracting HIV or HBV in their working environment is remote; nevertheless, the FAA is concerned about the possibility of unnecessary exposure to blood borne pathogens. The risk of exposure is greatest among flight attendants because they come into contact with and assist passengers more frequently than other crewmembers. However, passengers who are health care professionals, and flight crewmembers, may also be exposed, when they assist an injured or ill person on an aircraft. The FAA intends to lessen exposure to blood borne pathogens and provide a higher level of protection for crewmembers and any medical volunteer who may need to use the required aircraft first aid or medical kits. Therefore, the FAA has determined that it is necessary to require operators to aircraft used in operations under parts 121, 125, and 135 to install protective gloves on board those aircraft. This requirement applies to cargo-only as well as passenger-carrying aircraft. However, it does not apply to operators that are not required to have a first aid kit on board the aircraft.

Specifically, the rule contains the following requirements: (1) part 121 operators would be required to install one pair of protective gloves in the emergency medical kits of all of their aircraft; (2) part 121 operators are also required to distribute pairs of protective gloves, equal to the number first aid kits on the airplane, as evenly as practicable throughout the cabin of their aircraft; and (3) part 125 and 135 operators would be required to provide one pair of protective gloves on their aircraft either in the first aid kit or in a location that is readily accessible to crewmembers.

Because a crewmember in part 121 operations may need to provide assistance when the other items of the first aid kit are not needed, the FAA does not require that the protective gloves be placed in the first aid kits; rather the rule requires that the gloves be located in places that are readily accessible for use by crewmembers in the cabin of the aircraft. This will encourage the use of gloves whenever a crewmember is required to assist a person and when there is the possibility of exposure to a body fluid. In reviewing the number of in-flight emergencies, the FAA has found that the number of first aid kits is appropriate to the treatment of injuries likely to occur in flight. The FAA also finds that requiring pairs of protective gloves in a number equal to the number of first aid kits on board is sufficient. Readers are reminded that this is a minimum requirement and operators may provide more gloves if they so elect.

Part 125 and 135 operators are only required to have first aid kits on board the aircraft. Part 125 and 135 operators may elect to put the gloves in the first aid kits, or as an alternative, may locate the gloves in a place that is readily accessible to crewmembers. Because operations conducted under part 135 are usually of a much shorter flight duration, multiple pairs of gloves are not required by this amendment. As with the part 121 operators, multiple pairs of gloves may be provided if the operator so elects.

The protective gloves required by this amendment must be the equivalent of latex gloves commonly found in hospitals and other medical facilities. Operators are expected to maintain and dispose of the gloves in accordance with acceptable procedures.

This rule does not include new language specifically requiring additional training for the use of latex gloves or their equivalent. However, under 14 CFR 121.415(a)(3) and 121.417(b)(3)(iv), part 121 operators are required to include in a training program "Illness, injury, or other abnormal situations involving passengers or crewmembers to include familiarization with the emergency medical kit * * *." Since protective gloves will be required in the medical kit, part 121 operators will be required to provide training as to their use. Likewise, 14 CFR 135.331(b)(2)(ii) and 135.331(b)(3)(iv) require that part 135

operators provide training in "First aid equipment and its proper use." As the gloves will be required equipment in the first aid kit on board part 135 operations, part 135 operators will be required to provide training in the use of the gloves. The FAA does not intend that this training be accomplished in a special training session but rather as part of the normal training cycle. Part 125 does not have training requirements, but rather has testing requirements. The FAA does not find it necessary to test crewmembers serving in part 125 operations on the use of the gloves or on blood-borne pathogens. Information on blood-borne pathogens and use of the gloves will be made available to these operators in a revised AC 120–44, and the agency finds this source sufficient.

Each part 121 and 135 operator must include as a part of such training information about blood borne pathogens and the proper use and disposal of the protective gloves. This training may be accomplished in a number of ways to include video tapes, computer based instruction, or pamphlets. Advisory Circular 120–44 is being revised to include discussion of the various options available to operators to ensure that an infectious disease awareness program is included in each approved training program.

Trade Impact Statement

The FAA finds that this amendment will have no impact on international trade.

Economic Summary

Changes to Federal regulations are required to undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. With respect to this final rule, the FAA has determined that it: (1) Will generate benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. Therefore, a full regulatory analysis, which includes the identification and evaluation of cost reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise analysis of this final rule which is presented in the following paragraphs.

Costs

The FAA estimates the total cost of the final rule amending parts 121.309(d), 125.207(a) and 135.177(a) to include protective gloves will be approximately $1.1 million in 1993 dollars ($750,000, discounted) over the 10-year period 1995–2004. This final rule requires, at a minimum, (1) part 121 operators to install one pair of protective gloves in the emergency medical kits of their aircraft; (2) part 121 operators to provide pairs of protective gloves equal in number to the first aid kits on each of their aircraft; and (3) parts 125 and 135 operators to provide, either in the first aid kit or in a readily accessible location, one pair of protective gloves for each aircraft.

In addition to the cost of the gloves, the FAA has estimated the incremental labor cost required for the breaking down of the part 121 emergency medical kits to install protective gloves, the supplying of gloves throughout part 121 aircraft cabins, the supplying of protective gloves aboard aircraft operated under parts 125 and 135, and the required record keeping associated with these activities. The FAA has also imputed an incremental cost for the containment and disposal of the gloves after use in keeping with current air carrier, air taxi and commercial aircraft policies on waste material. Finally, as one option available to operators to provide infectious disease awareness, the FAA has also estimated the cost for awareness materials (pamphlets) in accordance with the anticipated revisions to Advisory Circular 120–44.

The total $1.1 million estimated cost of this final rule for the 1995–2004 time period is comprised of the following components expressed in 1993 dollars: (1) $242,000 ($160,000, discounted) for part 121 operators to install protective gloves in each aircraft's medical kit (cost of gloves plus labor) including a cost imputation to reflect the incremental cost to provide for the in-flight disposal of used gloves and to provide for their replacement as needed; (2) $174,000 ($122,000, discounted) for part 121 operators to provide protective gloves equal to the number of first aid kits on each aircraft (cost of gloves plus labor) including a cost imputation to reflect the incremental cost to provide for the in-flight disposal of used gloves and to provide for their replacement as needed; (3) $25,000 ($17,000, discounted) for parts 125 and 135 operators to install one pair of protective gloves in each aircraft's first aid kit (cost of gloves plus labor) including a cost imputation to reflect the incremental cost to provide for the in-flight disposal of used gloves and to provide for their replacement as needed; and (4) $620,000 ($428,000, discounted) estimated materials cost to provide to all affected crew members with infectious disease awareness training and training in the proper use of the gloves in accordance with §§ 121.415(a)(3), 121.417(b)(3)(iv), 135.311(b)(2)(ii), and 135.331(b)(3)(iv).

Benefits

The FAA has no recorded incidents in which a crewmember or passenger sustained serious illness or death as a result of attending to a passenger with resulting exposure to bloodborne pathogens. However, based on information obtained from various sources, the FAA can reasonably approximate the risk involved in attending to a carrier of the bloodborne pathogens HIV or HBV.

According to information provided by OSHA and the Centers for Disease Control, the estimated numbers of HIV and HBV carriers in the general population (255 million) in 1992, were respectively, 1.0 million and 1.2 million. The probability of contact of any kind with a carrier of either HIV or HBV is approximately 0.004 and 0.005, respectively; the probability of contact with a person who is a carrier of either HIV or HBV is 0.00898 adjusted for the probability that the person is a carrier of both pathogens. Data contained in an FAA study reports that 1,150 in-flight medical emergencies, e.g., those requiring the use of the "doctors only" medical kit, occur annually ("A Study of In-Flight Medical Occurrences"; FAA AFS–200, July 1994). In a 1-year exhaustive study at a major airport, twenty percent of the in-flight medical emergencies were for lacerative, vomitous or obstetric conditions, conditions which could potentially result in exposure of persons to bloodborne pathogens (Richard O. Cummins and Jessica Schubach, Frequency and Types of Medical Emergencies Among Commercial Air Travelers; Journal of American Medicine, Vol. 261, No. 9 (1989). Statistically, this data suggests that at a minimum the frequency of in-flight medical emergencies each year which could potentially result in exposure to bloodborne pathogens is two (1,150*0.2*0.00898). Thus, over a 10-year period, the FAA estimates that care-givers attending to a person in an in-flight medical emergency will be at

risk of being exposed to bloodborne pathogens on twenty occasions.

International Trade Impact Analysis

This rule will have no effect on the sale of foreign aviation products or services in the U.S. or on the sale of U.S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires the FAA to review each rule that may have "a significant economic impact on substantial number of small entities." FAA criteria define "a substantial number" as not less than 11 nor more than one-third of the small entities subject to the rule. Among air carriers, a small entity is defined as one which owns, but does not necessarily operate, nine or fewer aircraft. The criteria define "a significant impact" as $102,000 for scheduled air carriers with 60 or more seats and $57,000 for scheduled air carriers with fewer than 60 seats. The final rule's amendments will impose a negligible annual cost burden (about $16 per aircraft) on all air carrier, air taxi and commercial aircraft operators. This cost burden is not expected to exceed threshold levels.

Federalism Implications

The regulation adopted herein would not have substantial direct effects on the states, on the relationship between 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 regulation would not have sufficient federalism implications to warrant the preparation of the Federalism Assessment.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. For this final rule, the FAA was unable to discover an ICAO requirement for protective gloves.

Likewise, the Joint Aviation Regulations do not specifically list items required for the first aid or medical kits but do specify that all items must be serviceable for their intended purpose.

Paperwork Reduction

The current paperwork requirements for part 121 have been approved under OMB Control No. 2120–008, for part 135 under Control No. 2120–0039, and for part 125 under Control No. 2120–0085. This proposal adds no new paperwork requirements.

Good Cause for Immediate Adoption

The FAA finds that notice and public comment for this rulemaking is impracticable and contrary to the public interest. Because this rule will lessen a potential health risk to passengers and crewmembers, those persons should not be further subjected to that potential risk by a delay in issuing a final rule.

In light of the current wide-spread use of protective gloves by operators, the agency expects little or no adverse comment on the final rule. Comments on the amendment are invited, however, and the Administrator may amend or rescind the rule in view of public comment. Comments should identify the Docket No. 27926 and be submitted in triplicate to the address provided above. All comments will be available for public review, both before and after the closing date for comments.

Conclusion

For the reasons discussed in the preamble and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a significant regulatory action under Executive Order 12866. In addition, the FAA has determined that this regulation 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. This regulation is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Parts 121, 125, 135

Air safety, Air transportation, Aviation safety, Safety, Transportation, Cabin safety, Medical kits, First-aid kits.

The Amendment

Accordingly, 14 CFR parts 121, 125, and 135 are amended as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (revised, Pub.L. 97–449, January 12, 1983).

2. Section 121.309(d) is revised to read:

§ 121.309 Emergency equipment.

* * * * *

(d) *First aid and emergency medical equipment and protective gloves.*(1) Approved first aid kits and, on passenger flights, an emergency medical kit for treatment of injuries or medical emergencies that might occur during flight time or in minor accidents must be provided and must meet the specifications and requirements of appendix A of this part

(2) Pairs of protective latex gloves, or equivalent nonpermeable gloves, equal in number to the number of first aid kits on board the aircraft. These gloves must be distributed as evenly as practicable throughout the cabin of the aircraft.

* * * * *

3. Appendix A of part 121 is amended by revising item 3 under "Emergency Medical Kits" to read as follows:

Appendix A to Part 121—First Aid Kits and Emergency Medical Kits

* * * * *

Emergency Medical Kits

* * * * *

(3) The approved emergency medical kit must contain, as a minimum, the following appropriately maintained contents in the specified quantities:

Contents	Quantity
Sphygmomanometer	1
Stethoscope	1
Airways, oropharyngeal (3 sizes)	3
Syringes (sizes necessary to administer required drugs)	4
Needles (sizes necessary to administer required drugs)	6
50% Dextrose injection, 50cc	1
Epinephrine 1:100, single dose ampule or equivalent	2
Diphenhydramine HCl injection, single dose ampule or equivalent	2
Nitroglycerin tablets	10
Basic instructions for use of the drugs in the kit	1
Protective latex gloves or equivalent nonpermeable gloves	[1] 1

[1] Pair.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

4. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. App. 1354, 1421 through 1430, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983.)

5. Section 125.207 is amended by revising paragraph (a)(1)(iii) and adding paragraph (a)(1)(iv) to read as follows:

§ 125.207 Emergency equipment requirements.

* * * * *

(a)(1)(iii) Except as provided in paragraph (a)(1)(iv) of this section, at time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator:

Contents	Quantity
Adhesive bandage compressors, 1 in	16
Antiseptic swabs	20
Ammonia inhalants	10
Bandage compressors, 4 in	8
Triangular bandage compressors, 40 in	5
Burn compound, ⅛ oz or an equivalent of other burn remedy	6
Arm splint, noninflatable	1
Leg splint, noninflatable	1
Roller bandage, 4 in	4
Adhesive tape, 1-in standard roll	2
Bandage scissors	1
Protective latex gloves or equivalent nonpermeable gloves	[1] 1

[1] Pair.

(iv) Protective latex gloves or equivalent nonpermeable gloves may be placed in the first aid kit or in a location that is readily accessible to crewmembers.

* * * * *

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

6. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355(a), 1421 through 1431, and 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1993).

7. Section 135.177 is amended by revising paragraph (a)(1)(iii) and adding paragraph (a)(1)(iv) to read as follows:

§ 135.177 Emergency equipment requirements for aircraft having a passenger seating configuration of more than 19 passengers.

* * * * *

(a)(1)(iii) Except as provided in paragraph (a)(1)(iv) of this section, at time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator:

Contents	Quantity
Adhesive bandage compressors, 1 in	16
Antiseptic swabs	20
Ammonia inhalants	10
Bandage compressors, 4 in	8
Triangular bandage compressors, 40 in	5
Burn compound, ⅛ oz or an equivalent of other burn remedy	6
Arm splint, noninflatable	1
Leg splint, noninflatable	1
Roller bandage, 4 in	4
Adhesive tape, 1-in standard roll	2
Bandage scissors	1
Protective latex gloves or equivalent nonpermeable gloves	[1] 1

[1] Pair.

(iv) Protective latex gloves or equivalent nonpermeable gloves may be placed in the first aid kit or in a location that is readily accessible to crewmembers.

* * * * *

Issued in Washington, DC, on September 26, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–24498 Filed 10–17–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Tuesday
October 18, 1994

Part VII

Department of Transportation

Coast Guard

33 CFR Chapter I

Numbering of Undocumented Barges; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

[CGD 93–091]

Numbering of Undocumented Barges

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is considering various options regarding the initiation of a rulemaking project to establish a mandatory numbering system, as required by law, for undocumented barges over 100 gross tons. In order to identify and consider the potential impacts such a requirement may have on the Federal government, the individual States and the commercial barge industry, and to develop practical barge identification numbering system alternatives, the Coast Guard is requesting comments from interested and affected individuals and entities early in the process. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help to prevent future marine pollution from abandoned barges.

DATES: Comments are requested by January 17, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 93–091), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Project Manager, Auxiliary, Boating, and Consumer Affairs Division, (202) 267–0979.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this request for comments by submitting written data, views or arguments. Persons submitting comments should include their names and addresses and identify this notice (CGD 93–091). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Background and Purpose

The Abandoned Barge Act of 1992 (the Act), enacted on November 4, 1992, amended 46 U.S.C. 12301 to require the numbering of undocumented barges greater than 100 gross tons. In enacting this legislation, Congress noted that, too often, abandoned barges become the site for the disposal of hazardous cargo, waste and petroleum products, thereby contributing to numerous water pollution incidents. The primary purpose of the Act is to prevent future marine pollution from abandoned barges. By identifying each undocumented barge with a unique number, the owners of abandoned barges will be determined and contacted regarding removal of the barge. Further, with increased owner accountability, it is likely that fewer undocumented barges will be abandoned. Fewer barges would then be available to persons intending to conduct illegal dumping of pollution or hazardous substances.

The Act requires the Coast Guard to promulgate regulations implementing the new law.

For many years, § 12301 has provided for numbering undocumented vessels. Under 33 CFR parts 173 and 174, States with an approved numbering system, and the Coast Guard in Alaska, register undocumented recreational and commercial vessels equipped with propulsion machinery of any type, charge fees, collect taxes and assign a number to be painted on or permanently attached to each side of the forward half of each vessel required to be numbered.

About 27,000 barges are currently documented by the Coast Guard while approximately 14,000 existing barges are undocumented.

Early Participation

The Coast Guard is consulting with the State Boating Law Administrators, State Numbering Authorities and with the National Association of State Boating Law Administrators' (NASBLA) Numbering and Titling Committee regarding potential economic impacts and concerns from the States' perspective regarding the implementation of a numbering system for undocumented barges over 100 gross tons. The Coast Guard met with the NASBLA Numbering and Titling Committee at its meeting in March 1993 to discuss potential implications of the new statutory requirement. The Coast Guard notified the Boating Law Administrator and Numbering Authority of each State regarding the new statutory requirement to number undocumented barges and received input from representatives of 13 States. The States' responses are available for review in this docket file (CGD 93–091) and will be included in any future rulemaking arising from this project.

The Coast Guard is also consulting with the Towing Safety Advisory Committee (TSAC) and the industry affected by the numbering of undocumented barges. The Coast Guard met with the Towing Safety Advisory Committee (TSAC) at its November 1993 meeting the requested assistance in obtaining information on potential impact of the numbering requirement on the barge industry. Minutes from this meeting are available in this docket file (CGD 93–091) and will be considered in any future rulemaking arising from this project.

The following is a summary of preliminary information received in responses from a number of States and TSAC regarding the economic impact of a barge numbering system:

1. TSAC asserts that only the individual owners could provide the distribution information necessary to determine in which State each barge would be numbered, if the States were to become the numbering authorities. TSAC estimates that the cost of marking a barge with an identification number could range from $500 to $1,500 depending on a number of factors including the size of the barge, whether the work is done by a shipyard or the owner, and the area of the country where the work is done.

2. The responses from the States emphasized the difficulty of determining the number of barges in their State to be numbered, and the amount of revenue that could be collected by the States if the States were to be the numbering authorities. The States indicated that if assignment of numbers and maintenance of owner information were the only cost factors considered, the costs would be relatively low. These States pointed out, however, that registration and numbering in some States also involve verification of vessel ownership and enforcement of the numbering requirement, which would increase costs. The States estimated that the fees collected would not cover the costs of numbering barges and enforcing the numbering requirement.

3. Both TSAC and the States expressed concerns about relying on the States to number undocumented barges. The response asserted that barge operations are interstate in nature,

making it difficult to determine the State of principal operation and to reach reciprocity among or between States for the numbering of barges and collection of fees. Affixing the State issued 3" numbers to barge hulls will not, according to the States, achieve the intent to identify the owners of barges found abandoned. TSAC also noted that barge owners may be subject to confusing or conflicting requirements among States issuing numbers that condition issuing a number on meeting State requirements for safety certificates. Some responses warned that these State requirements could be duplicative or contrary to Federal requirements for commercial vessels or barges and may not be recognized by all States. Most undocumented barges, these responses noted, cannot be Coast Guard documented, because they do not meet the requirement for a Builder's Certificate or chain of title. Also, undocumented barges normally lack a hull identification number and barge names do not provide a unique identifier. Some State representatives contend that in States that title boats, there are irreconcilable differences between the Uniform Commercial Code (UCC) system used by States to perfect liens and the Federal Ship Mortgage Act applicable to commercial vessels and barges. The States further expressed concern over the potential need for developing State legislation, regulations, policies, procedures and even new programs to register (number) barges using manual or automated systems. The States also indicated that a number of States would be reluctant to take on the additional responsibility and financial burden associated with numbering unpowered barges.

4. Both TSAC and the States expressed support for relying on the Coast Guard to issue numbers for undocumented barges. TSAC and the States argued that if the Coast Guard issued numbers for undocumented barges, the numbering system would be more efficient because the barge industry would be required to deal with only one issuing authority, meet one authority's requirements, and the barge and barge owner identification would be maintained in one information system available to Federal, State, local law enforcement, and the public, 24 hours each day, seven days each week. The Coast Guard currently issues numbers for undocumented barges for Certificate of Inspection purposes and those barges are marked with that number. The responses received also suggested that the Coast Guard could issue a 6-character number (letter followed by 5 digits vs. the official number which has "NO" followed by 6 digits) and further suggested that the documents could be called "Registration Number" or "Barge Registration" to avoid confusion with a Coast Guard Document or Certificate of Inspection, and that different colors could be used. The responses further suggested that undocumented barges be marked in the same manner as documented barges and that barge owners be given up to two years to comply with the marking requirements to allow time to schedule marking of their barges and apportion the costs. The responses suggested that any new marking regulations allow a reasonable time for barge owners who are not in physical control of their barge (due to a multi-year lease or where the barge has been outside of the U.S. for an extended period) to come into compliance with new requirements. Some of the responses received emphasized that the initial registration of undocumented barges should be free of charges; however, subsequent endorsements, waivers, replacements or lien recordation could mirror fees for comparable documented vessel services. The States emphasized that the State numbering systems were equipped to number recreational vessels and similar commercial vessels, but not barges. The States suggested that barges be numbered in the State of the principal place of business of the barge owner rather than attempting to select a State of principal operation and transferring the vessel number each time the barge is moved.

Solicitation of Views

The Coast Guard solicits comments from all segments of the marine community, State numbering authorities, National Boating Safety Advisory Council (NBSAC), and other interested persons on the economic and other impacts of numbering undocumented barges. The Coast Guard also requests suggested alternatives related to the numbering of undocumented barges. Persons submitting comments should do so as directed under Request for Comments above, and specify the area(s) of concern on which comments are being submitted, state what impacts may result from one or more alternatives identified, suggest other alternatives, and provide reasons to support the information provided on potential impact of suggested alternatives. The Coast Guard is particularly interested in receiving information, views, and data on the following questions and areas of concern:

1. What Should Be the Undocumented Barge Number?

Should the number resemble the number issued for recreational vessels, a Coast Guard issued documentation number, a Coast Guard assigned number for certificate of inspection purposes, a hull identification number or another number?

2. How Should the Assigned Number Be Attached to Undocumented Barges?

Should the number be attached to a barge similar to the numbers issued for recreational vessels, Coast Guard issued numbers for documented vessels and barges, State or Coast Guard assigned hull identification numbers, or some other means of attachment?

3. What Information Should Be Required To Obtain a Number for an Undocumented Barge?

Should the numbering requirements for commercial barges be the same or different from recreational vessels, Coast Guard documented vessels an barges, or Coast Guard inspected vessels and barges?

4. What Are the Economic Impacts of Numbering Undocumented Barges on the Numbering Authority and on the Barge Industry?

How many undocumented barges would likely be subject to numbering and how are they distributed throughout the United States?

What impact would numbering undocumented barges have on State personnel and financial resources and other concerns, if the States were directed to number barges?

What types of, and how much, potential revenue could be collected under a State numbering system?

Who are the affected members of the barge industry?

What is the economic impact of numbering undocumented barges on the barge industry?

Are there any additional concerns of the barge industry?

5. Who Should Administer a System for Numbering Undocumented Barges?

Should the authority to assign numbers and maintain ownership information for undocumented barges be the Coast Guard, the individual States, or another entity? Describe why the entity you suggest should be the issuing authority.

Would the States agree to number undocumented barges voluntarily?

If the States are directed to number barges, should States that refuse to do so lose their Coast Guard approval as the number issuing authorities for

undocumented vessels, with the Coast Guard then becoming the issuing authority for those States?

How should the barge numbering system address undocumented barges numbered in one State and operated routinely or sold for operation in a new State?

Should the barge number issued depend on the State of principal operation like undocumented vessels, or be unrelated to any particular State to reflect the interstate operation of barges?

Should the Coast Guard number undocumented barges in the same manner as documented vessels and barges and maintain the information in the same computer data base?

Should the Coast Guard number undocumented barges in the same manner as it identifies undocumented barges for inspection certificate purposes and maintain the information in the same computer data base?

6. What Factors or Other Information Should Be Considered in Establishing a System for Numbering Undocumented Barges?

Is there any other information you feel may be helpful in assisting the Coast Guard to implement barge numbering with the least negative impact on the States, the Coast Guard and the barge industry?

What other alternatives regarding the numbering of undocumented barges to identify owners of barges found abandoned should be considered?

All comments received by the Coast Guard as a result of this notice will be summarized and provided to NBSAC, TSAC, and NASBLA organization members for their consideration and consultation. The Coast Guard will consider all relevant comments in the development of any regulatory project to establish a mandatory numbering system for undocumented barges over 100 gross tons.

Dated: October 7, 1994.

G.A. Penington,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 94–25721 Filed 10–17–94; 8:45 am]

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federal register

Tuesday
October 18, 1994

Part VIII

Environmental Protection Agency

40 CFR Part 227

Clarification of Suspended Particulate Phase Bioaccumulation Testing Requirements for Material Dumped in Ocean Waters; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 227

[FRL–5091–6]

Clarification of Suspended Particulate Phase Bioaccumulation Testing Requirements for Material Dumped in Ocean Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today is issuing a final rule clarifying that the ocean dumping regulations do not require bioaccumulation testing of the suspended particulate phase of materials to be dumped at sea. This clarification applies to the suspended particulate phase only, and does not affect any other testing requirements contained in the regulations. EPA believes that bioaccumulation testing of the suspended particulate phase is unnecessary and inappropriate. The Agency has never previously interpreted or applied its regulations to require such testing. Thus, EPA is issuing this final rule to remove any possible ambiguity over the testing requirement. This rule supersedes an interim final rule which also clarified that bioaccumulation testing of the suspended particulate phase is not required. The interpretive footnotes added to the ocean dumping regulations by the interim final rule are being deleted in favor of today's rule.

EFFECTIVE DATE: This rule shall be effective November 17, 1994.

ADDRESSES: Copies of comments submitted and the docket for this rulemaking are available for review at EPA's Water Docket, room L–102, 401 M Street SW, Washington, DC 20460. For access to the docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. on weekdays for an appointment.

FOR FURTHER INFORMATION CONTACT: John Lishman, Chief, Marine Pollution Control Branch, Oceans and Coastal Protection Division (4504F), U. S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone 202/260–8448.

SUPPLEMENTARY INFORMATION:

A. Discussion

1. The Interim Final and Proposed Rulemaking

On May 20, 1994, EPA published an interim final rule in the **Federal Register** interpreting and clarifying the ocean dumping regulations. 59 FR 26,566. The interim final rule, which was immediately effective, made clear that the regulations do not require bioaccumulation testing of the suspended particulate phase of material to be dumped at sea. It accomplished this by adding footnotes at the end of 40 CFR 227.6(c)(2) and 227.27(b) that read:

> This provision shall not be interpreted as requiring bioaccumulation testing of the suspended particulate phase of dumped materials.

EPA issued the interim final rule without advance notice or opportunity for public comment, relying on the "interpretive rule" and "good cause" exceptions to the notice and comment requirements of the Administrative Procedure Act (APA). 5 U.S.C. 553(b)(3)(A) and (B). For additional information regarding the interim final rule, the basis for the rule and the factors supporting its issuance without prior notice and comment, see 59 FR 26,566 (May 20, 1994).

In a separate **Federal Register** notice published on May 20, 1994, EPA sought comment on a proposed rule that also would clarify that bioaccumulation testing of the suspended particulate phase is not required. 59 FR 26573 (May 20, 1994). The proposal included two options to effect this clarification:

(1) Reaffirm the footnotes added to 40 CFR 227.6(c)(2) and 227.27(c) by the interim final rule; and

(2) Amend the first sentence of 40 CFR 227.6(c)(2) by deleting the words "including bioaccumulation;" amend the third sentence of 40 CFR 227.6(c)(2) by deleting the words "either," and "or to bioaccumulation;" and amend 40 CFR 227.27(b) by inserting the following additional sentence between the first and second sentence:

> Suspended particulate phase bioaccumulation testing is not required.

EPA also solicited comment on other rulemaking options that would clarify that bioaccumulation testing of the suspended particulate phase is not required. For further information, see 59 FR 26573 (May 20, 1994).

EPA published the interim final rule and the proposed rule in response to a preliminary opinion of the United States District Court, District of New Jersey, dated July 6, 1993. In the preliminary opinion, the Court said that bioaccumulation testing of the suspended particulate phase should have been conducted before the U.S. Army Corps of Engineers granted a permit to the Port Authority of New York and New Jersey to dispose of dredged material from Newark Bay. *Clean Ocean Action, et al.* v. *York, et al.*, Civil No. 93–2402 (DRD) (D. N.J.) ("*Clean Ocean Action I*"). As a result of the preliminary opinion, there was uncertainty as to whether the ocean dumping regulations required permit applicants to perform bioaccumulation testing of the suspended particulate phase. The interim final rule and the accompanying proposal were intended to eliminate any uncertainty that bioaccumulation testing of the suspended particulate phase is not required. For further information on *Clean Ocean Action I*, see the May 20, 1994, **Federal Register** notices accompanying the interim final rule and the proposed rule.

On June 1, 1994, Clean Ocean Action and others filed a second lawsuit against EPA challenging the interim final rule, and specifically the clarification provided with respect to 40 CFR 227.6(c)(2). (The plaintiffs did not challenge the clarification to 40 CFR 227.27(b)). *Clean Ocean Action, et al.* v. *Browner, et al.*, Civil No. 94–2614 (DRD)(D. N.J.)("*Clean Ocean Action II*"). The plaintiffs alleged, among other things, that the interim final rule was not eligible for the interpretive rule or "good cause" exceptions to the notice and comment requirements of the APA. Upon the plaintiffs' request, the Court ordered the Agency to show cause why a preliminary injunction should not be issued preventing EPA from "taking any actions authorized by" the interim final rule.

On June 24, 1994, the Court issued orders denying all injunctive relief that the plaintiffs had requested in both *Clean Ocean Action I* and *Clean Ocean Action II*. Among other things, the Court ruled that even before EPA issued the interim final rule, the ocean dumping regulations did not require bioaccumulation testing of the suspended particulate phase. The June 24, 1994, opinions reversed the July 6, 1993, preliminary opinion on that point. The Court found that the interim final rule was a valid interpretive rule and that EPA had complied with the APA in issuing it without advance notice and opportunity for public comment. The plaintiffs have appealed both orders to the United States Court of Appeals for the Third Circuit.

2. Summary of Comments Received and Agency Response

EPA received eleven letters commenting on the proposal and the interim final rule. These comments and the Agency's responses are summarized in the following section. Detailed responses to the comments are set out in the *"Response to Individual Comments Received on the Interim Final and Proposed Rulemaking on Suspended Particulate Phase*

Bioaccumulation Testing Requirements." This document is available in the rulemaking record, and can be inspected at EPA's Water Docket, the location of which is stated above. The response to comments document also can be obtained from the Agency at the address specified above in the section headed, **FOR FURTHER INFORMATION CONTACT.**

Of the eight letters commenting on the interim final rule, three (from the Port Authority of New York and New Jersey, BP Oil Company, and the Port of Portland, Oregon) agreed with EPA that suspended particulate phase bioaccumulation testing was not required by the existing ocean dumping regulations, was unnecessary and should not be required. Five comments (from Clean Ocean Action and nine supporting organizations, the Conservation Law Foundation, Coastal Advocates, the St. Simons Island Save the Beach Association, and the Natural Heritage Institute) were critical of the interim final rule. These commenters, except the Natural Heritage Institute, adopted Clean Ocean Action's comment letter. All three comments received by the Agency on the proposed rule (from the BP Oil Company, the Port Authority of New York and New Jersey, and the Massachusetts Port Authority) supported EPA's view that bioaccumulation testing of the suspended particulate phase was not required by the existing ocean dumping regulations and should not be required. The Agency considered all comments prior to taking today's final action.

The individual comments fell into three broad categories:

(a) *The need for bioaccumulation testing of the suspended particulate phase.*

The comments from the environmental advocacy groups adopted Clean Ocean Action's view that the existing regulations require bioaccumulation testing of the suspended particulate phase, that there is a need for bioaccumulation testing of the suspended particulate phase, and that this requirement should not be altered. The main argument advanced in support of the position that bioaccumulation testing of the suspended particulate phase should be required was that adverse sublethal effects to pelagic species from the suspended particulate phase can not be evaluated without performing bioaccumulation testing of the suspended particulate phase itself. None of these commenters submitted data, scientific studies, or factual information of any other nature supporting this view or refuting the technical or scientific basis for EPA's conclusion that bioaccumulation testing of the suspended particulate phase is not necessary. However, other commenters, such as the Port Authorities, provided specific technical arguments supporting the view that suspended particulate phase bioaccumulation tests are unnecessary and should not be required.

After considering all comments on this issue, EPA continues to believe that suspended particulate phase bioaccumulation testing should not be required. As EPA explained at length in the two rulemaking notices published on May 20, 1994, the Agency believes this is the case for three principal reasons: (1) Exposure to the suspended particulate phase in the environment does not provide sufficient time for bioaccumulation to occur; (2) bioaccumulation testing of marine organisms in the solid phase provides a worst case indication of bioaccumulation potential, so that separate suspended particulate phase testing is unnecessary in any event; and (3) no reliable laboratory tests are available for bioaccumulation in the suspended particulate phase.

Further, the commenters are incorrect that bioaccumulation testing of the suspended particulate phase is necessary to determine whether significant adverse sublethal effects result from the suspended particulate phase. The potential for such effects from the suspended particulate phase of dredged material is determined by application of the results of bioaccumulation bioassays on the solid phase according to procedures acceptable to EPA and the Corps of Engineers. These assist in determining the biological availability of contaminants and the potential for those contaminants to cause sublethal or chronic effects. The factors listed in the 1977 and 1991 Green Books for interpreting solid phase bioaccumulation testing results are relevant to determining the potential for sublethal effects on pelagic organisms. Specifically, the potential for contaminants to biomagnify within aquatic food chains is addressed. Toxicologic importance of contaminants to all species (including pelagic organisms) also is addressed. 1991 Green Book at 6–6; see also 1977 Green Book at G15. Moreover, as noted above and as explained in the preamble to the May 20, 1994, Interim Final Rule (59 FR 26,566), bioaccumulation testing of the solid phase provides a worst case indication of bioaccumulation potential of the suspended particulate phase.

The potential for significant adverse sublethal effects from the suspended particulate phase is also determined by application of the results of acute toxicity bioassays on the suspended particulate phase according to procedures acceptable to EPA and the Corps of Engineers. Under those approved procedures, a safety factor is applied to the acutely toxic concentration to assure protection from chronic sublethal effects. 1991 Green Book at 6–2; see also 1977 Green Book at D19. The safety factor used typically is 1% of the acutely toxic concentration, although the factor can be adjusted, either upwards or downwards, on the basis of the scientific evidence applicable to a particular material to be dumped. See 40 CFR 227.27(a)(3). This product of the safety factor times the acutely toxic concentration is used to establish the limiting permissible concentration ("LPC") (see 40 CFR 227.27). The LPC is compared to the predicted concentration of suspended material after consideration of initial mixing. 40 CFR 227.29. Exceedence of the LPC by the dumped material suspended in the water column would mean the regulatory criteria are not met. See 40 CFR 227.13(c)(3). Thus, the procedures and tests do in fact consider the potential for chronic sublethal effects. The 1% safety factor was developed by the National Academy of Sciences in a voluminous study entitled *"Water Quality Criteria: 1972."* This safety factor has been used for over 20 years to estimate safe chronic values from acute concentration values.

Given the absence of scientific arguments to the contrary, and for all of the foregoing reasons, EPA is taking final action clarifying that the ocean dumping regulations do not require bioaccumulation testing of the suspended particulate phase.

(b) *Lack of notice and comment on the interim final rule.*

The environmental advocacy groups argued that the interim final rule should not have been issued without advance notice and opportunity for comment because it was ineligible for the interpretive rule and good cause exemptions to the APA. These comments are directed at the procedural validity of the interim final rule, not the appropriateness of today's rule. In any event, as noted above, the United States District Court for the District of New Jersey has issued an opinion on Clean Ocean Action's motion for a preliminary injunction in *Clean Ocean Action II* denying injunctive relief on the grounds that the interim final rule was a valid interpretive rule, as EPA had argued.

(c) *Regulatory revisions are required to address several issues unrelated to requirements for bioaccumulation*

testing of the suspended particulate phase.

EPA received several comments from the regulated community advocating a variety of amendments to the ocean dumping regulations. Some of the issues raised by those commenters were requests for: (1) Specific deadlines for EPA/Corps review of permit applications; (2) revised definitions in the regulations that would expand the present language for such terms as "trace contaminant," "benthic organisms," "bioassay," and "bioaccumulation;" (3) use of a single benthic species for solid phase bioaccumulation tests; (4) development of specific regulatory provisions to address capping of dredged material; and (5) revisions to regional guidance manuals, to include specific information on such factors as appropriate test temperatures, and sediment renewal rates.

These comments raise issues that are beyond the scope of today's rulemaking. The Agency is currently preparing a proposal that will include more comprehensive revisions to the ocean dumping regulations, particularly with respect to the disposal of dredged material. The Agency will consider the suggestions while preparing that proposal.

For detailed responses to the full comments as submitted, see the response to comments document in the rulemaking record.

B. Conclusion

Several commenters who supported the Agency's clarification of the regulations urged the Agency not to take final action adding the footnotes to 40 CFR 227.6(c) and 40 CFR 227.27(b) as proposed. Even though EPA believes the addition of the footnotes would adequately clarify that bioaccumulation testing of the suspended particulate phase is not required, the Agency agrees that the second option described in the May 20, 1994, proposal (the deletion of language from 40 CFR 227.6(c)(2), and the addition of language to 40 CFR 227.27(b), as proposed) would result in greater clarity and ensure that there is no ambiguity on this issue. Accordingly, the Agency has taken final action implementing the second option proposed and deleting the footnotes that were added to 40 CFR 227.6(c) and 40 CFR 227.27(b) by the interim final rule.

Supporting Documentation

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant", and therefore subject to review by the Office of Management and Budget (OMB) 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 affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

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

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

(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.

This Rule clarifies the Agency's long-standing interpretation of the regulations and does not change existing practice or impose economic burdens. Thus, it has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and therefore is not subject to OMB review.

B. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by the Office of Management and Budget. Since today's rule would not establish or modify any information or record-keeping requirements, it is not subject to the requirements of the Paperwork Reduction Act.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for regulations having a significant impact on a substantial number of small entities. The RFA recognizes three kinds of small entities, and defines them as follows:

(1) Small governmental jurisdictions—any government of a district with a population of less than 50,000.

(2) Small business—any business which is independently owned and operated and not dominant in its field, as defined by the Small Business Administration regulations under the Small Business Act.

(3) Small organization—any not-for-profit enterprise that is independently owned and operated and not dominant in its field.

As discussed above in the discussion of Executive Order 12866, today's final rule is not a significant regulatory action. Accordingly, EPA has determined that today's rule would not have a significant impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis therefore is unnecessary.

List of Subjects in 40 CFR Part 227

Environmental protection, Dredged material, Ocean dumping, Testing requirements, Water pollution control.

Dated: October 11, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in this preamble, part 227 of title 40 of the Code of Federal Regulations is amended as follows:

PART 227—[AMENDED]

1. The authority citation for part 227 continues to read as follows:

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

§ 227.6 [Amended]

2. Section 227.6(c)(2) is amended by removing from the first sentence the words "including bioaccumulation" removing from the third sentence the words "either" and "or to bioaccumulation", and by removing Footnote 1 at the end thereof.

§ 227.27 [Amended]

3. Section 227.27(b) is amended by adding between the first and second sentence thereof the following additional sentence: "Suspended particulate phase bioaccumulation testing is not required", and by removing Footnote 2 at the end thereof.

[FR Doc. 94–25744 Filed 10–17–94; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
October 18, 1994

Part IX

Department of the Interior

Bureau of Indian Affairs

Tribal-State Compacts Approval; Class III (Casino) Gambling; Umatilla Indian Reservation Confederated Tribes, Oregon; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Notice

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon Gaming Compact, which was executed on August 17, 1994.

DATES: This action is effective October 18, 1994.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: October 6, 1994.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–25705 Filed 10–17–94; 8:45 am]

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Reader Aids

Federal Register

Vol. 59, No. 200

Tuesday, October 18, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
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FEDERAL REGISTER PAGES AND DATES, OCTOBER

50153–50480 3
50481–50678 4
50679–50812 5
50813–51080 6
51081–51350 7
51351–51482 11
51483–51838 12
51839–52070 13
52071–52232 14
52233–52398 17
52399–52654 18

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6728 50679
6729 50681
6730 50683
6731 51081
6732 51351
6733 51489
6734 52061
6735 52063
6736 52065
6737 52067
6738 52069
6739 52231
6740 52399

Executive Orders:
July 2, 1910 (Revoked in part by PLO 7092) 50508
12352 (Revoked by EO 12931) 52387
12775 (Continued by Notice of September 30, 1994) 50479
12775 (See DOT final rule of Oct. 6) 51066
12775 (Revoked by EO 12932) 52403
12779 (See DOT final rule of Oct. 6) 51066
12779 (Revoked by EO 12932) 52403
12784 (See EO 12929) 50473
12853 (See DOT final rule of Oct. 6) 51066
12853 (Revoked by EO 12932) 52403
12868 (Revoked by EO 12930) 50475
12872 (See DOT final rule of Oct. 6) 51066
12872 (Revoked by EO 12932) 52403
12914 (See DOT final rule of Oct. 6) 51066
12914 (Revoked by EO 12932) 52403
12917 (See DOT final rule of Oct. 6) 51066
12917 (Revoked by EO 12932) 52403
12920 (See DOT final rule of Oct. 6) 51066
12920 (Revoked by EO 12932) 52403
12922 (See DOT final rule of Oct. 6) 51066
12922 (Revoked by EO 12932) 52403
12953 (See DOT final rule of Oct. 6) 51066
12929 50473
12930 50475
12931 52387
12932 52403

Administrative Orders:
Presidential Determinations:
No. 94–52 of September 29, 1994 50477
No. 94–53 of September 30, 1994 51483
No. 94–54 of September 30, 1994 51485
No. 94–55 of September 30, 1994 51487
No. 94–56 of September 30, 1994 52389
No. 94–57 of September 30, 1994 52057
No. 94–58 of September 30, 1994 52391
No. 94–59 of September 30, 1994 52059
No. 95–1 of October 1, 1994 52393

Memorandums:
September 27, 1994 50685
September 30, 1994 50809
October 7, 1994 52395
October 13, 1994 52397

Notices:
September 30, 1994 50479

5 CFR

213 50813
316 50813
532 52405
846 50687
890 51353
1320 50813
1633 50816
Ch. LXXVI 50816

Proposed Rules:
214 52459
317 52459
319 52459
359 52459
531 52467
534 52459
843 50705
2604 50171

7 CFR

Ch. I 51083

Ch. IX....51083
Ch. X....51083
Ch. XI....51083
52....52624, 52630
55....52636
56....52636
59....52636
70....52636
210....51083, 52588
246....50818
271....51353
272....50153
273....50173
301....51839, 52405
400....52407
735....51355
736....51355
737....51355
738....51355
739....51355
740....51355
741....51355
742....51355
800....52071
906....50824
928....52409
945....50793, 52411
966....51087
967....52411
981....52413
987....52411
993....52411

Proposed Rules:
1....51389
70....52469
1220....52475

8 CFR
103....51091
204....51353
212....51091
214....51101
217....51091
245....51091

9 CFR
51....51102, 52233
78....51102
92....52235, 52237
94....52237

Proposed Rules:
75....50860
102....50861
113....51390

10 CFR
34....50688
35....50688
50....50688
73....50688
110....50688

Proposed Rules:
2....50706
50....50513, 52255
52....52255
100....52255
150....50706
430....50706, 51140

11 CFR

Proposed Rules:
110....50708
9003....51006
9004....51006
9006....51006
9007....51006
9033....51006
9034....51006
9037....51006
9038....51006

12 CFR
304....50826
614....50964

Proposed Rules:
3....52100
25....51232
203....51323
208....52100
225....52100
228....51232
327....50710
345....51232
563e....51232

13 CFR
121....50964

14 CFR
27....50380
29....50380
39....50481, 51103, 51361, 51840, 51841, 51842, 51846, 52414
71....51362, 51491, 51851, 51852, 52241, 52242
93....51363
97....52243, 52244, 52246, 52417, 52418, 52419
101....50390
121....52640
125....52640
135....52640

Proposed Rules:
Ch. I....50864
11....50676
39....51151, 51392, 51875, 51877, 51879, 52273, 52479, 52481, 52482, 52483, 52485
71....50865, 51394, 51395
380....51881
381....51881
399....51881

15 CFR
770....50156
771....50156
775....50156
925....51105

17 CFR

Proposed Rules:
240....50866

19 CFR
19....51492
101....50689
112....51492
113....51492
118....51492
125....51492
146....51492
178....51492

Proposed Rules:
101....50717
122....50717

20 CFR

Proposed Rules:
404....52380
416....52380

21 CFR
11....50793
101....50828
314....50338
450....50484
452....52077
510....50828
520....50829
556....50829
558....51497
812....52078
1310....51364, 51365, 52588
1313....51365, 52588

Proposed Rules:
101....51030, 52275
170....51030
310....51030
1307....51887
1309....51887
1310....51887
1313....51887
1316....51887

22 CFR
40....51367

24 CFR
200....50456
203....50456
204....50456
206....50456
267....50456
791....50158
905....51852
990....51852

Proposed Rules:
Ch. I....52104
200....51519
760....51519
813....50870
905....50870
908....50870
913....50870

25 CFR

Proposed Rules:
309....51908, 52588

26 CFR
1....50159, 50161, 50485, 51105, 51369
602....50161, 51369

Proposed Rules:
1....52105, 52110

28 CFR
82....50830

Proposed Rules:
542....50179

29 CFR
1910....51672
1928....51672
1952....50793
2610....52079
2619....52081
2622....52079
2644....52083
2676....52081

Proposed Rules:
1609....51396

30 CFR
880....52374
935....51498

Proposed Rules:
913....52487
916....51911

31 CFR
103....52250
205....51855
550....51106

Proposed Rules:
103....52275
334....50874

32 CFR
806....50834

Proposed Rules:
323....51911

33 CFR
100....51500, 51503
117....50166, 52423
151....51332
165....50489, 50490, 50491, 50492, 52424

Proposed Rules:
Ch. I....52646
117....50528, 50529, 50530, 50531
166....50533
167....50533

34 CFR
396....52218

Proposed Rules:
682....51346, 52038

36 CFR
242....51855

Proposed Rules:
800....50395

37 CFR

Proposed Rules:
1....50181

39 CFR
111....50690
962....51860

Proposed Rules:
111....51397

40 CFR
15....50691
32....50691
51....50693
52....50493, 50495, 50498, 50500, 50502, 50504, 50844, 51108, 51376, 51379, 51381, 51382, 51506, 51514, 51517, 51860, 51863, 52425, 52427, 52429, 52431, 52588
55....50845
60....51383
62....50506
81....50848, 52431
86....51114
227....52650
272....52084
355....51821
271....51115, 51116, 51122

Proposed Rules:
51....50718
52....50211, 50533, 50536, 50884, 51153, 51397, 51521, 51912, 52495, 52496
62....50536

63 51913
70 ..... 50214, 50537, 52122, 52123
81 52496
82 52126
131 52496
141 51522
142 51522
258 ..... 51523, 52498
264 51523
265 51523
300 ..... 50884, 51933
355 51816
721 50537

41 CFR

101–17 50507
101–45 50696
101–46 50696

42 CFR

403 51125

Proposed Rules:

418 52129

43 CFR

Public Land Orders:

7091 50698
7092 50508

44 CFR

65 ..... 52436, 52438
67 52439

Proposed Rules:

67 52501

45 CFR

801 51387

Proposed Rules:

233 51536
1355 50646
1356 50646
1357 50646

46 CFR

10 50964
69 50508

Proposed Rules:

Ch. I 50537, 52276
30 52133
31 52133
32 52133
34 52133
35 52133
70 52133
72 52133
76 52133
77 52133
78 52133
90 52133
92 52133
95 52133
159 52590
160 52590
190 52133
193 52133
540 52133

47 CFR

0 50167
24 50509
73 ..... 50168, 50169, 50850, 51130, 51518, 51866, 51867, 51868, 51869, 52086, 52441, 52442
76 ..... 51869, 52087

Proposed Rules:

1 51538
73 ..... 50719, 50886, 50887, 51153, 51398, 51539, 51540
76 ..... 50538, 51934

48 CFR

209 ..... 51130, 51132
213 50851
225 ..... 50511, 51132
235 52442
247 50851
252 ..... 51130, 51132
538 52450
552 ..... 52253, 52450
570 52253

Proposed Rules:

22 51399
31 51399
42 51399
45 52277
52 52277
242 50539
252 ..... 51130, 51132, 52277
970 52505
1815 51154
1819 51154
1827 51936
1852 ..... 51154, 51936
1870 51154

49 CFR

219 50699
397 51824
571 51229
572 52089
591 52095
592 52095
1249 52099
604 51133
1002 52372
1039 51134

Proposed Rules:

171 51157
177 51157
178 51157
179 51157
180 51157
391 50887
393 51540
571 51158
1002 51546
1160 51546
1161 51546
1162 51546
1163 51546

50 CFR

17 ..... 50796, 50852
20 50424
100 51855
215 50372
216 50372
285 51871
301 51871
625 50512
663 ..... 50857, 51871
672 ..... 50169, 50170, 50699, 51134, 51872, 51873, 52099
675 ..... 50699, 50858, 51387, 51873, 51874, 52452
676 ..... 51135, 51874
678 ..... 51388, 52453

Proposed Rules:

17 ..... 50540, 50550, 50557, 51404
216 51552
285 52277
638 52136
640 52136
642 52136
646 52136
654 52507
659 52136
675 ..... 50893, 52277
678 52277

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 734/P.L. 103–357

To amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes". (Oct. 14, 1994; 108 Stat. 3418; 2 pages)

H.R. 3694/P.L. 103–358

Child Abuse Accountability Act (Oct. 14, 1994; 108 Stat. 3420; 3 pages)

H.R. 4299/P.L. 103–359

Intelligence Authorization Act for Fiscal Year 1995 (Oct. 14, 1994; 108 Stat. 3423; 39 pages)

H.R. 4543/P.L. 103–360

To designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse". (Oct. 14, 1994; 108 Stat. 3462; 1 page)

H.J. Res. 389/P.L. 103–361

To designate the second Sunday in October of 1994 as "National Children's Day". (Oct. 14, 1994; 108 Stat. 3463; 2 pages)

H.J. Res. 398/P.L. 103–362

To establish the fourth Sunday of July as "Parents' Day". (Oct. 14, 1994; 108 Stat. 3465; 1 page)

H.J. Res. 415/P.L. 103–363

Designating the week beginning October 16, 1994, as "National Penny Charity Week". (Oct. 14, 1994; 108 Stat. 3466; 1 page)

S. 316/P.L. 103–364

Saguaro National Park Establishment Act of 1994 (Oct. 14, 1994; 108 Stat. 3467; 2 pages)

S. 1233/P.L. 103–365

Arizona Wilderness Land Title Resolution Act of 1994 (Oct. 14, 1994; 108 Stat. 3469; 3 pages)

S.J. Res. 157/P.L. 103–366

To designate 1994 as "The Year of Gospel Music". (Oct. 14, 1994; 108 Stat. 3472; 1 page)

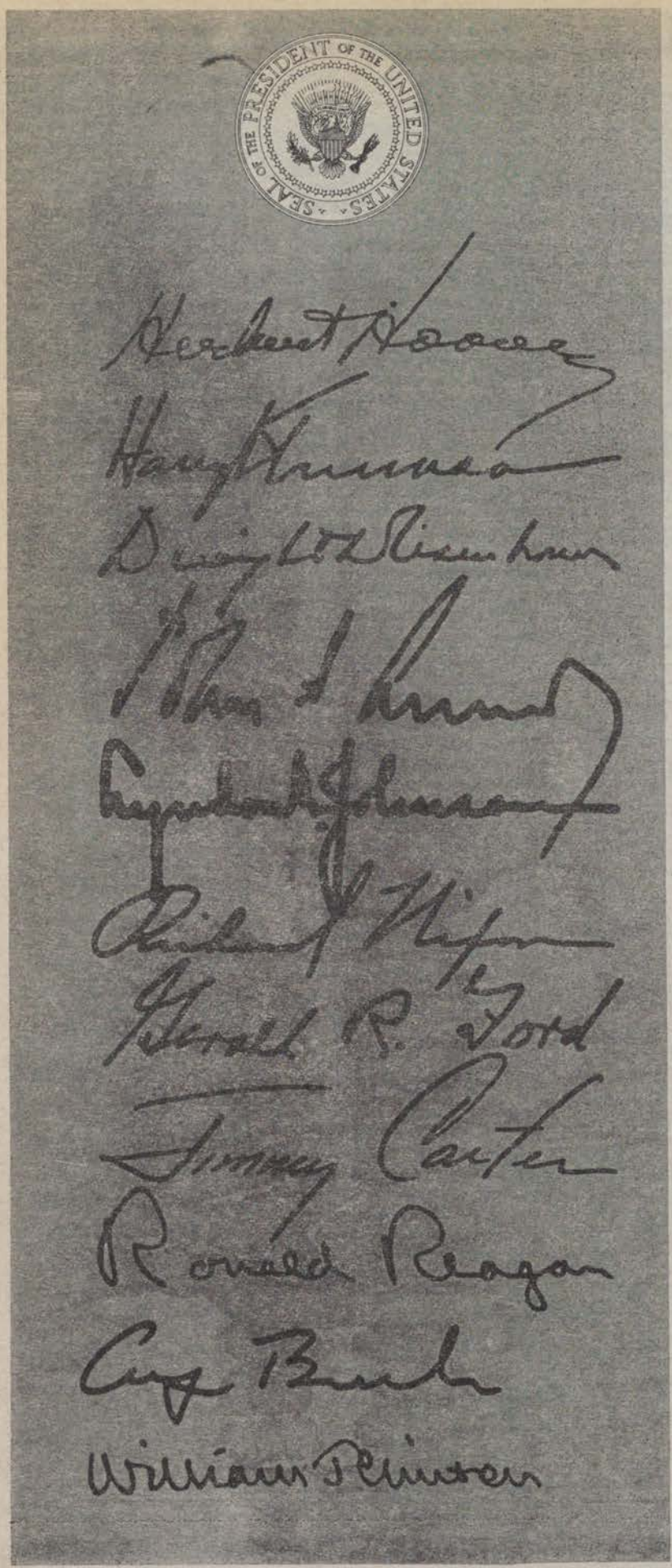
S.J. Res. 185/P.L. 103–367

To designate October 1994 as "National Breast Cancer Awareness Month". (Oct. 14, 1994; 108 Stat. 3473; 2 pages)

S.J. Res. 198/P.L. 103–368

Designating 1995 the "Year of the Grandparent". (Oct. 14, 1994; 108 Stat. 3475; 2 pages)

Last List October 17, 1994



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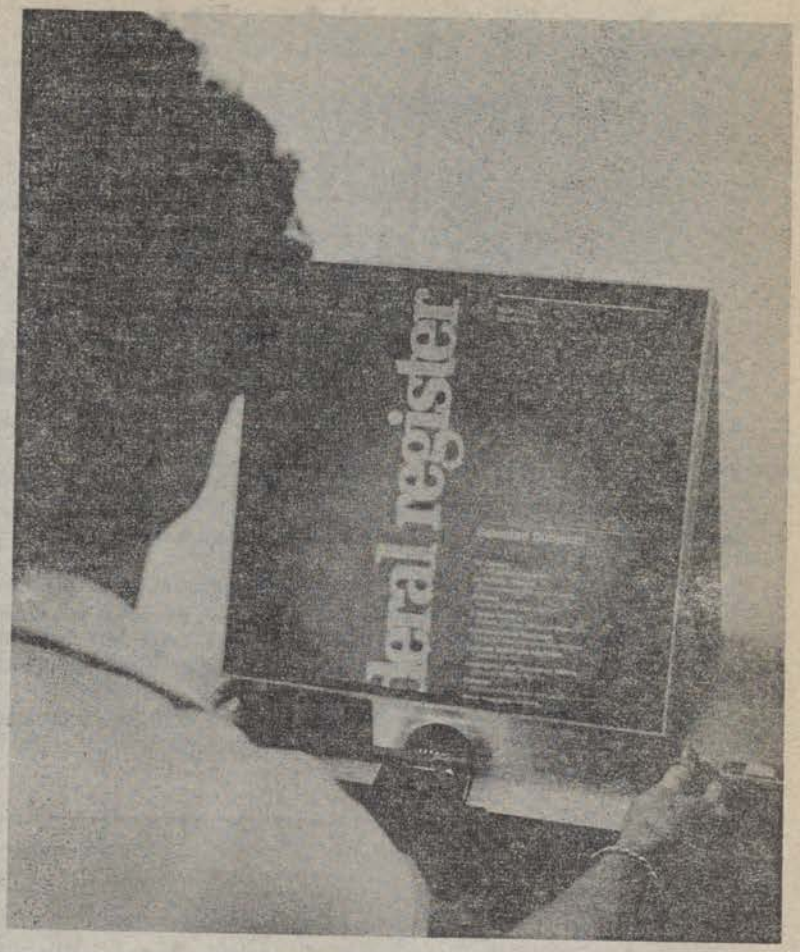

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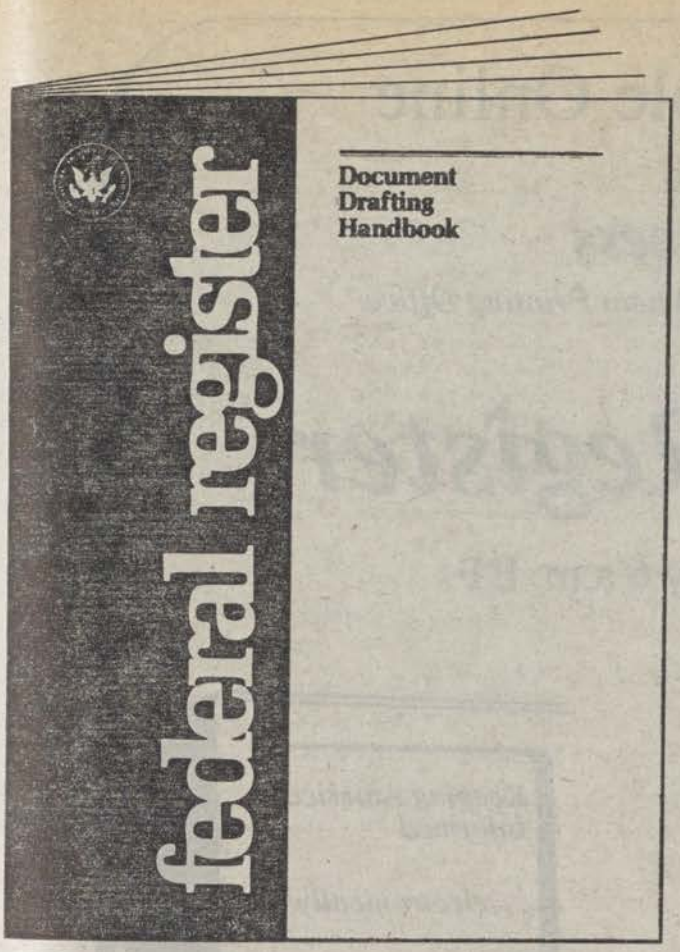

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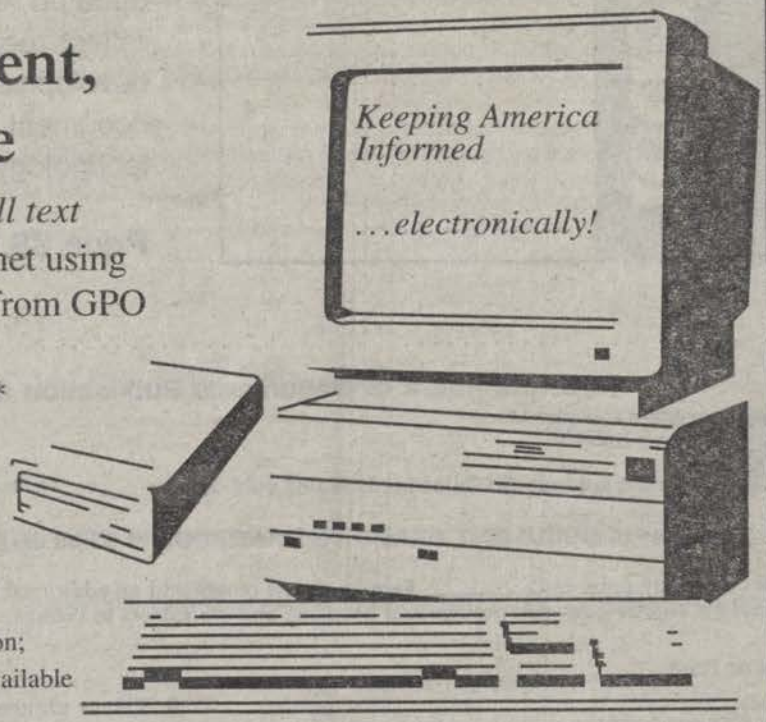

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