

# Federal Register

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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** Sponsored by 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

- WHEN:** October 22, 1996 at 9:00 a.m.
- WHERE:** Office of the Federal Register  
Conference Room  
800 North Capitol Street, NW.  
Washington, DC  
(3 blocks north of Union Station Metro)
- RESERVATIONS:** 202-523-4538



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**Electronic Bulletin Board**

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.

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Title 3—

Proclamation 6922 of September 27, 1996

The President

**To Extend Nondiscriminatory Treatment (Most-Favored-Nation Treatment) to the Products of Bulgaria**

By the President of the United States of America

**A Proclamation**

The United States has had in effect a bilateral Agreement on Trade Relations with Bulgaria since 1991, which was last renewed for an additional 3-year term in 1994. Pursuant to my authority under subsection 405(b)(1) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)), I reconfirm that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement and that actual or foreseeable reductions in U.S. tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily reciprocated by Bulgaria.

Moreover, pursuant to section 2 of Public Law 104-162, and having due regard for the findings of the Congress in section 1 of said Law, I hereby determine that title IV of the Trade Act of 1974 (19 U.S.C. 2431-2441) should no longer apply to Bulgaria.

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 2 of Public Law 104-162, do proclaim that:

(1) Nondiscriminatory treatment (most-favored-nation treatment) shall be extended to the products of Bulgaria, which will no longer be subject to title IV of the Trade Act of 1974.

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(3) The extension of nondiscriminatory treatment to the products of Bulgaria shall be effective as of the date of publication of this proclamation in the Federal Register.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.



# Rules and Regulations

Federal Register  
 Vol. 61, No. 191  
 Tuesday, October 1, 1996

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.

## FEDERAL LABOR RELATIONS AUTHORITY

### 5 CFR Chapter XIV

#### Regional Offices; Jurisdictional Changes

**AGENCY:** Federal Labor Relations Authority (the Authority and the General Counsel of the Federal Labor Relations Authority).

**ACTION:** Amendment of rules and regulations.

**SUMMARY:** This document amends the rules and regulations of the Authority and the General Counsel of the Federal Labor Relations Authority to provide for changes in the geographical jurisdictions of the seven Regional Directors concerning unfair labor practice charges and representation petitions.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Clyde B. Blandford, Jr., Director of Operations and Resource Management, at (202) 482-6680, extension 206.

**SUPPLEMENTARY INFORMATION:** Effective January 28, 1980, the Authority and the General Counsel published, at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority and the General Counsel under chapter 71 of title 5 of the United States Code. These rules and regulations are required by title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq.* (1996).

Appendix A, paragraph (f) of the rules and regulations sets forth the geographic jurisdictions of the Regional Directors of the Federal Labor Relations Authority. In the best interest of maximizing the resources of the Office of the General Counsel and efficient and effective case processing, the General Counsel is realigning the geographical jurisdictions of the Regional Directors to distribute

the caseload, based on a current analysis of case intake and available resources in order to meet the needs of its customers. The resulting change will result in equalizing the work for each regional office employee. The Office of the General Counsel will continue to transfer cases between regions on a recurring basis, as necessary, based on caseload and staffing in order to maximize its resources.

#### Executive Order 12291

This regulation has been reviewed in accordance with Executive Order 12291. It is not classified as major because it does not meet the criteria for major regulations established by the Order.

#### Regulatory Flexibility Act Certification

The General Counsel has determined that this regulation will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

This regulation contains no information collection or recordkeeping requirement under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*)

For the reasons set out in the preamble and under the authority of 5 U.S.C. 7134, Appendix A to 5 CFR Chapter XIV is amended by revising paragraph (f) to read as follows:

#### Appendix A to 5 CFR Chapter XIV—Current Addresses and Geographic Jurisdictions

\* \* \* \* \*

(f) The geographic jurisdictions of the Regional Directors of the Federal Labor Relations Authority are as follows:

State or other locality	Regional office
Alabama .....	Atlanta.
Alaska .....	San Francisco.
Arizona .....	Denver.
Arkansas .....	Dallas.
California .....	San Francisco.
Colorado .....	Denver.
Connecticut .....	Boston.
Delaware .....	Washington, DC.
District of Columbia .....	Washington, DC.
Florida .....	Atlanta.
Georgia .....	Atlanta.
Hawaii and all land water areas west of the continents of North and South America (except coastal islands) to long 90 degrees East.	San Francisco.

State or other locality	Regional office
Idaho .....	Denver.
Illinois .....	Chicago.
Indiana .....	Chicago.
Iowa .....	Chicago.
Kansas .....	Denver.
Kentucky .....	Chicago.
Louisiana .....	Dallas.
Maine .....	Boston.
Maryland .....	Washington, DC.
Massachusetts .....	Boston.
Michigan .....	Chicago.
Minnesota .....	Chicago.
Mississippi .....	Atlanta.
Missouri .....	Denver.
Montana .....	Denver.
Nebraska .....	Denver.
Nevada .....	Denver.
New Hampshire .....	Boston.
New Jersey .....	Boston.
New Mexico .....	Dallas.
New York .....	Boston.
North Carolina .....	Atlanta.
North Dakota .....	Chicago.
Ohio .....	Chicago.
Oklahoma .....	Dallas.
Oregon .....	San Francisco.
Pennsylvania .....	Boston.
Puerto Rico .....	Atlanta.
Rhode Island .....	Boston.
South Carolina .....	Atlanta.
South Dakota .....	Denver.
Tennessee .....	Chicago.
Texas .....	Dallas.
Utah .....	Denver.
Vermont .....	Boston.
Virginia .....	Washington, DC.
Washington .....	San Francisco.
West Virginia .....	Washington, DC.
Wisconsin .....	Chicago.
Wyoming .....	Denver.
Virgin Islands .....	Atlanta.
Panama/limited FLRA jurisdiction.	Dallas.
All land and water areas east of the continents of North and South America to long 90 degrees East, except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands.	Chicago.

(5. U.S.C. § 7134)

Dated: September 26, 1996.

Solly Thomas,

*Executive Director, Federal Labor Relations Authority.*

[FR Doc. 96-25120 Filed 9-30-96; 8:45 am]

BILLING CODE 6727-01-P

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****7 CFR Part 319**

[Docket No. 94-102-3]

**Importation of Fruit Trees From France**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

**SUMMARY:** We are allowing *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Pyrus* spp., and certain *Prunus* spp. plants (except seeds) to be imported into the United States as restricted articles, if grown in private nurseries in France and certified by the French plant protection service to be free of various diseases. This action relieves restrictions on the importation of these articles from France without presenting a significant risk of introducing plant pests (including diseases) into the United States.

We are also removing Laredo, TX, from the list of ports equipped with plant inspection stations.

EFFECTIVE DATE: October 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Petit de Mange or Mr. Peter Grosser, Operations Officers, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD, 20737-1236, (301) 734-8645.

**SUPPLEMENTARY INFORMATION:**

## Background

The Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*) authorize the Animal and Plant Health Inspection Service (APHIS) to prohibit or restrict the importation into the United States of any plants, roots, bulbs, seeds, or other plant products in order to prevent the introduction of plant pests (including diseases) into the United States.

Regulations promulgated under this authority, among others, include 7 CFR 319.37 through 319.37-14, "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" (referred to below as the regulations). These regulations govern the importation of living plants, plant parts, and seeds for or capable of propagation, and related articles. The regulations prohibit or restrict the importation of most plants, roots, bulbs, seeds, and other plant products. These articles are classified as either "prohibited articles" or "restricted articles."

A prohibited article is an article that the Deputy Administrator for Plant

Protection and Quarantine (PPQ), APHIS, has determined cannot feasibly be inspected, treated, or handled to prevent it from introducing plant pests new to or not widely prevalent or distributed within and throughout the United States. Prohibited articles may not be imported into the United States, unless imported by the United States Department of Agriculture (USDA) for experimental or scientific purposes under specified safeguards.

A restricted article is an article that the Deputy Administrator for PPQ has determined can be inspected, treated, or handled to essentially eliminate the risk of its spreading plant pests if imported into the United States. Restricted articles may be imported into the United States if they are imported in compliance with restrictions that may include permit and phytosanitary certificate requirements, inspection, treatment, or postentry quarantine.

On March 13, 1995, we published in the Federal Register (60 FR 13382-13384, Docket No. 94-102-1) a proposed rule to amend § 319.37-5(b) of the regulations to allow *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Pyrus* spp., and certain *Prunus* spp. grown in private nurseries in France to be imported into the United States as restricted articles under the same conditions specified in the regulations for those same articles when grown in government nurseries in France. All of these restricted articles must be accompanied by a phytosanitary certificate of inspection stating where the article was grown and certifying that the article was found by the plant protection service of the country in which it was grown to be free of various plant diseases. Also, all of the restricted articles listed above are subject to a 2-year postentry quarantine period, as specified in § 319.37-7. In postentry quarantine, restricted articles are grown in an approved area and observed in order to detect plant pests undetectable by inspection at the port of entry. In addition, we proposed to amend § 319.37-14(b) of the regulations by removing the port of Laredo, TX, from the list of ports with plant inspection stations.

We solicited comments concerning our proposal for 30 days ending April 12, 1995. On April 26, 1995, we published a notice (60 FR 20436, Docket No. 94-102-2) reopening and extending the comment period until May 26, 1995. We received a total of four comments on or before May 26. They were from producers, industry representatives, and representatives of State governments. These comments are discussed below.

One commenter expressed concerns about the risks associated with allowing the importation of fruit trees from private nurseries in France. The commenter cited Canada's decision to stop importing grapevines from France due to pest interceptions. The commenter suggested random sampling of imported fruit trees to assure compliance with disease-free certification requirements in § 319.37-5 of the regulations.

We are aware of the problems that Canada encountered with grapevines from France. We understand that those problems have been resolved. Canada now allows the importation of grapevines from France under certain restrictions. Canadian officials detected these problems through routine tests of the imported materials. As described below, APHIS performs routine tests of fruit trees imported into the United States in addition to the requirements for inspections at the port of entry and postentry quarantine.

All of the safeguards that are currently in the regulations for *Chaenomeles*, *Cydonia*, *Malus*, *Prunus*, and *Pyrus* spp. imported into the United States from government nurseries in France will also apply to fruit trees imported into the United States from private nurseries in France. Fruit trees must be imported through an APHIS plant inspection station where they will be inspected for plant pests. If the imported fruit trees are free from such plant pests, samples will be taken and sent to the National Plant Germplasm Quarantine Center (NPGQC) at Beltsville, MD. NPGQC tests the fruit trees for viruses and other submicroscopic pathogens. The balance of the fruit tree shipment is grown under postentry quarantine for two growing seasons at an approved postentry quarantine growing site. The plants are inspected during that period by State plant regulatory officials. These postentry quarantine processes are contained in § 319.37-7 and have successfully protected the United States against the introduction of plant pests while allowing the entry of valuable fruit varieties.

We believe that these safeguards are adequate to prevent the introduction of plant pests into the United States on fruit trees imported from private nurseries in France. Therefore, we are making no changes based on this comment.

One commenter was concerned about the manageability of the postentry quarantine inspections and suggested that we limit the volume of imported fruit trees to that which is needed for propagation purposes, not "instant orchards."

The import permits for plants to be grown in postentry quarantine do not limit the number of plants that may be imported into the United States. However, the regulations in § 319.37-7 require that each participating State review pending permit applications for articles to be grown under postentry quarantine conditions in the State and report to APHIS whether the site is of adequate size to contain the number of plants proposed for importation.

As specified in the regulations in § 319.37-7, APHIS issues permits only after determining that State services are available to monitor the postentry quarantine. Therefore, APHIS may withhold approval of a permit application if the applicant indicates the intent to import quantities of postentry plants that the State does not have the resources to inspect, or that exceed an amount that the State believes could be grown at the proposed site. Therefore, APHIS has the ability under § 319.37-7 of the regulations to prevent the importation of an "instant orchard" by denying approval of a permit if such actions are justifiable. Therefore, we are making no changes based on this comment.

One commenter expressed concern about the importation of certain of the *Prunus* species (cherry trees) due to a new strain of the plum pox virus that has been detected in cherry trees in Russia and eastern Europe. Prior to this detection, cherry trees had been considered resistant to the plum pox virus.

APHIS is aware of the reports that a new strain of the plum pox virus was detected in cherry trees in Bulgaria, Moldova, and Russia. APHIS is closely watching any developments of this strain of plum pox. At this time, there has been no report of this strain of plum pox being detected in France or the other European countries from which cherry trees currently may be imported into the United States.

Plum pox is also a disease of quarantine importance to France and the other European countries from which cherry trees may be imported into the United States. Fruit tree certification programs in France and other European countries include serological testing of cherry trees that would detect plum pox if it were present. Additionally, plants of the *Prunus* species imported into France and other European countries are held and tested at quarantine stations. These measures prevent disease from coming into France and other European countries from which cherry trees may be imported into the United States. Also, the tests that APHIS performs for

all fruit trees imported into the United States from Europe would detect plum pox if any trees were infected. These precautions, and a 2-year postentry quarantine, provide adequate safeguards to prevent the introduction of plum pox into the United States. Therefore, we are making no changes based on this comment.

Plum pox is an important disease of fruit trees; should this strain expand beyond eastern Europe, APHIS would reassess our import regulations to ensure that fruit trees imported into the United States are not infected with plum pox.

One commenter questioned previous occurrences of nursery stock or propagative materials being imported into the United States from private nurseries in France.

While the intention of the regulations was to prohibit the importation into the United States of *Chaenomeles*, *Cydonia*, *Malus*, *Prunus*, and *Pyrus* spp. from private nurseries in France, the regulations were interpreted differently by plant regulatory officials in the United States and abroad. As a result, some fruit trees from private nurseries in France were imported into the United States.

To prevent a similar misunderstanding of the requirements for importing *Prunus* spp. not immune to plum pox, we are adding wording to § 319.37-5(b) to make it clear that these plants must be grown in a government operated nursery (research station).

Two commenters expressed concern that the importation of fruit trees from private nurseries in France could have a negative economic impact on domestic producers. One commenter suggested that we impose a tariff on fruit trees from France to make the prices more comparable to U.S. trees. The commenter felt that France grows and sells fruit trees much less expensively than U.S. growers can and that fruit trees from France have glutted the European and U.S. fruit tree markets. The other commenter was concerned that easing trade restrictions would be detrimental to domestic markets.

APHIS bases its decisions to allow fruit trees to be imported into the United States on whether these importations can be made without significant risk of plant pest introduction. We believe that certain fruit trees produced in private nurseries in France, certified as meeting the requirements in the regulations by the plant protection service of France, may be imported into the United States without posing a pest risk to the United States. Furthermore, we have no authority to impose tariffs or to limit

importations based on their economic impact on domestic markets. Therefore, we are making no changes based on this comment.

#### Miscellaneous

In addition, we are making nonsubstantive editorial changes to the regulations to correct typographical errors.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The 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.

We are amending the regulations to allow species of the genera *Chaenomeles*, *Cydonia*, *Malus*, *Pyrus*, and certain species of *Prunus* (those immune to plum pox virus) grown in private nurseries in France to be imported into the United States as restricted articles under the same conditions already applied to those same articles when grown in government nurseries in France. All of these restricted articles must be accompanied by a phytosanitary certificate of inspection stating where the article was grown and certifying that the article was found by the plant protection service of the country in which grown to be free of various plant diseases. Also, all of the restricted articles listed above are subject to a 2-year postentry quarantine period, as specified in § 319.37-7.

Prior to this final rule, the regulations stated that species of the genera *Chaenomeles*, *Cydonia*, *Malus*, *Pyrus*, and certain species of *Prunus* (those immune to plum pox virus) could only be certified from a government operated nursery where the original parent stock is indexed for the appropriate national fruit tree program. The regulations did not specify that the trees also must be grown in the government nursery. Thus the regulatory language resulted in different interpretations of its intent by plant regulatory officials in the United States and abroad.

During the first nine months of fiscal year 1994, approximately 312,893 fruit trees valued at \$1.64 million were imported into the United States from Belgium, France, and The Netherlands. Importations of *Malus* spp. from all three countries accounted for 99.9

percent (312,840) of imported fruit trees. Thirty-two trees of *Prunus* spp. and 21 of *Pyrus* spp. were also imported. There were no imports of *Chaenomeles* spp. or *Cydonia* spp. Prices of imported fruit trees averaged about \$5.25 per tree.

Annually, domestic producers market about 20 million fruit trees of these five genera, valued at approximately \$105 million. Domestic tree prices range from \$5 to \$6 per tree. Imported fruit trees, therefore, currently account for only about 1.5 percent of fruit trees available in the U.S. market.

Shipments from government research stations tend to be small, whereas shipments from private nurseries are generally large. Historically, we have received small shipments from France. In 1994 there was a single importation of 25,000 fruit trees from a private nursery in France. In 1995, there were 4 shipments of fruit trees from France (between 2 and 42 fruit trees per shipment) imported into the United States. Therefore, we expect that as a result of this rule, private nurseries in France could export 20,000 to 30,000 trees to the United States each year. This number of fruit trees would account for less than one-half of one percent of the fruit trees available in the U.S. market. Furthermore, these fruit trees from France probably will compete directly with imports from The Netherlands, thus lessening the impact on U.S. producers. We anticipate, therefore, that this rule will not have a significant economic impact on domestic fruit tree producers or other small entities.

Also, we have determined, using the Small Business Administration definition of a small business involved in the retail nursery business or the wholesale trade of flowers and nursery stock (100 or fewer employees), that there are currently about 9,097 small retail nurseries and 11,347 small wholesale shippers of flowers and nursery stock in the United States. We expect that these small businesses may benefit, if only slightly, from this rule. They will gain access to a greater variety of imported fruit trees, possibly at lower prices.

We are also removing the port of Laredo, TX, from the list of ports with plant inspection stations. About 400 million plants are imported through plant inspection stations into the United States annually. Only 24 shipments of 21,429 plants (less than 1 percent of 400 million) were imported through the plant inspection station at Laredo in 1993. In view of the low volume of plants imported into the United States through the Laredo plant inspection station, we do not believe that this rule

will have a significant economic effect on businesses or other entities, large or small. Moreover, any plants requiring written permits and previously imported through Laredo could be diverted to the ports of Brownsville or El Paso, TX, which still retain plant inspection stations.

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 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.

#### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 319.37-5 is amended as follows:

a. In paragraph (b)(1), the first sentence is amended by adding the words "the article was" immediately before the words "grown to be" and by removing the reference to "(b)(2)" and adding a reference to "(b)(3)" in its place.

b. Footnote 7 and its reference are removed.

c. Paragraph (b)(2) is redesignated as paragraph (b)(3) and a new paragraph (b)(2) is added to read as set forth below.

d. Paragraph (d) is amended by adding a closed parenthesis immediately after the words "sweet-william".

#### § 319.37-5 Special foreign inspection and certification requirements.

\* \* \* \* \*

(b) \* \* \*

(2) Species of *Prunus* not immune to plum pox virus (species other than *P. avium*, *P. cerasus*, *P. effusa*, *P. laurocerasus*, *P. mahaleb*, *P. padus*, *P. sargentii*, *P. serotina*, *P. serrula*, *P. serrulata*, *P. subhirtella*, *P. yedoensis*, and *P. virginiana*) and grown in Belgium, France, Germany, Great Britain, or The Netherlands shall be certified only from the government operated nurseries (research stations) where the certified plants were grown and the original parent stock is indexed for the appropriate national fruit tree certification program.

\* \* \* \* \*

#### §§ 319.37-5, 319.37-6, 319.37-7, 319.37-8, and 319.37-13 [Amended]

3. Footnotes 8 through 12 and their references are redesignated as footnotes 7 through 11, respectively.

#### § 319.37-14 [Amended]

4. In § 319.37-14, paragraph (b), under the list of ports of entry in Texas, the asterisk immediately preceding the entry for Laredo is removed.

Done in Washington, DC, this 25th day of September 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-25100 Filed 9-30-96; 8:45 am]

BILLING CODE 3410-34-P

### Agricultural Research Service

#### 7 CFR Part 502

#### Conduct on Beltsville Agricultural Research Center Property, Beltsville, Maryland

**AGENCY:** Agricultural Research Service; Research, Education, and Economics; USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Research Service (ARS) is revising regulations governing conduct on Beltsville Agricultural Research Center (BARC) property. This action is being taken because a review of the regulations identified certain words in the current regulations that are out of date. Other minor changes, corrections and deletions will be made to clarify the regulations.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Area Administrative Officer, Beltsville Area, ARS, Building 003, Room 203, Beltsville, MD 20705; (301) 504-5392.

**SUPPLEMENTARY INFORMATION:** A review of this regulation was done in response to the President's Regulatory Review Initiative. As a result, certain words describing the property and personnel contained in the current regulations were identified as obsolete. The amendments change these obsolete descriptions and make other minor revisions and deletions to the current regulations. Pursuant to 5 U.S.C. 553(b) it has been determined that notice and public comment procedures are unnecessary because the changes being made are minor changes to obsolete words and will not substantively alter the regulation. Further, since this rule involves minor revision to existing regulations it is not a "major rule" and is exempt from the provisions of Executive Order 12291. The amendments will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule has been determined to be not significant for the purpose of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget. This rule is exempt from the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*) and the requirements of the Paperwork Reduction Act (44 U.S.C. Ch. 35). Among other minor changes, the amendment changes the phrase "Agricultural Research Center" to "Beltsville Agricultural Research Center (BARC)"; the phrase "seeing eye dogs" is replaced with "assistance trained animals"; references to "guards" are changed to "BARC Security"; and references to "innoculations" are changed to "vaccinations."

#### List of Subjects in 7 CFR Part 502

Beltsville Agricultural Research Center, Federal buildings and facilities, Security measures.

For the reasons set out in the preamble, 7 CFR Part 502 is amended as set forth below.

### **PART 502—CONDUCT ON BELTSVILLE AGRICULTURE RESEARCH CENTER PROPERTY, BELTSVILLE, MARYLAND**

1. The heading for Part 502 is revised as set forth above.

2. The authority citation for part 502 is revised to read as follows:

Authority: Secs. 2, 4, 62 Stat. 281; 40 U.S.C. 318 (a), (c); sec. 103, 63 Stat. 380; 40 U.S.C. 753; sec. 205(d), 63 Stat. 389; 40 U.S.C. 486(d); 36 FR 18440 and 60 FR 56392.

3. Section 502.1 is revised to read as follows:

#### **§ 502.1 General.**

The rules and regulations in this part apply to the buildings and grounds of the Beltsville Agricultural Research Center (BARC), Beltsville, MD, and to any persons entering in or on such property. The Administrator, General Services Administration, has delegated to the Secretary of Agriculture, with authority to redelegate, the authority to make all the needful rules and regulations for the protection of the buildings, grounds, equipment, and experimental plants and animals of BARC (36 FR 18440). The Secretary of Agriculture has delegated this authority to the Under Secretary for Research, Education, and Economics (60 FR 56392) who in turn has delegated such authority to the Administrator, Agricultural Research Service (60 FR 56392). The rules and regulations in this part are issued pursuant to such delegations.

4. Section 502.2 is revised to read as follows:

#### **§ 502.2 Admission.**

Admission to BARC during "off duty" hours shall be restricted to the main arteries and any deviation therefrom by individuals shall be limited to authorized individuals who may be required to sign a register and display identification documents when requested by BARC Security or other authorized individual. "Off duty" hours will be posted at BARC. Admission during "duty" hours when BARC is closed to the public in emergency situations will be limited to authorized individuals who may be required to sign a register and display identification documents when requested by BARC Security or other authorized individual.

5. Section 502.4 is revised to read as follows:

#### **§ 502.4 Conformity with signs and emergency directions.**

Persons in and on property of BARC shall comply with official signs of a prohibitory or directory nature, and with the directions of authorized individuals.

6. Section 502.5 is revised to read as follows:

#### **§ 502.5 Nuisances.**

The use of loud, abusive or otherwise improper language, unwarranted loitering, sleeping, or assembly, the creating of any hazard to persons or things, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other unseemly or disorderly conduct, throwing articles of any kind from a building, or climbing upon any

part of a building is prohibited. Further, conduct which obstructs the usual use of entrances, foyers, corridors, office elevators, stairways and parking lots, or which otherwise tends to impede or disturb BARC employees in the performance of their duties or which otherwise impedes the general public from obtaining the administrative services provided by BARC is prohibited.

7. Section 502.6 is revised to read as follows:

#### **§ 502.6 Hunting, fishing, camping, horseback riding.**

The use of BARC grounds for any form of hunting, fishing, camping, or horseback riding is prohibited. Further, the use of these grounds for unauthorized picnicking is also prohibited.

8. Section 502.7 is revised to read as follows:

#### **§ 502.7 Gambling.**

Participating in games for money or other personal property, or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on BARC property, is prohibited.

9. Section 502.8 is revised to read as follows:

#### **§ 502.8 Intoxicating beverages and narcotics.**

Entering BARC property or the operation of a motor vehicle thereon, by a person under the influence of intoxicating beverages or narcotic drug, hallucinogen, marihuana, barbiturate, or amphetamine (unless prescribed by a physician) or the consumption of such beverages, or the use of any such drug or substance in or on BARC property, is prohibited.

10. Section 502.9 is revised to read as follows:

#### **§ 502.9 Soliciting, vending, debt collection, and distribution of handbills.**

The soliciting of alms and contributions, commercial soliciting and vending of all kinds or the display or distribution of commercial advertising, or the collecting of private debts, in or on BARC property, is prohibited. This section does not apply to national or local drives for funds for welfare, health, and other purposes sponsored or approved by the Agricultural Research Service, concessions, or personal notices posted by employees on authorized bulletin boards. Distribution of material such as pamphlets, handbills, and flyers or the posting of materials on bulletin boards or elsewhere is prohibited without prior approval of the Director, Beltsville Area.

11. Section 502.10 is revised to read as follows:

**§ 502.10 Photographs by visitors or for news, advertising, or commercial purposes.**

Photographs may be taken by visitors or for news purposes without prior permission. Photographs for advertising and commercial purposes may be taken at BARC only with the prior written approval of the Director, Beltsville Area.

12. Section 502.11 is revised to read as follows:

**§ 502.11 Pets.**

Pets, except assistance trained animals, brought upon BARC property must be kept on a leash and have proper vaccinations. Pets that are the property of employees residing on BARC must be up to date on their vaccinations, in accordance with State or local laws, and be kept on a leash or similarly restrained. The abandonment of unwanted animals on BARC grounds is prohibited.

13. Section 502.12 is amended by revising paragraphs (a) through (c) to read as follows:

**§ 502.12 Vehicular and pedestrian traffic.**

(a) Drivers of all vehicles whether or not motorized in or on BARC property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of the security staff and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on BARC property is prohibited;

(c) Except in emergencies, parking in or on BARC property in other than designated areas is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or contrary to the direction of posted signs is prohibited. This section may be supplemented from time to time, by the issuance and posting of specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part hereof.

\* \* \* \* \*

**§ 502.13 [Removed]**

**§§ 502.14 through 502.17 [Redesignated as § 502.13 through 502.16]**

14. Section 502.13 is removed and §§ 502.14 through 502.17 are redesignated as §§ 502.13 through 502.16 and newly redesignated § 502.13 is revised to read as follows:

**§ 502.13 Weapons and explosives.**

No person while in or on BARC property shall carry firearms, other

dangerous or deadly weapons, or explosives, either openly or concealed, except as officially authorized for official purposes.

15. Newly designated § 502.14 is revised to read as follows:

**§ 502.14 Nondiscrimination.**

There shall be no discrimination by segregation or otherwise against any person or persons because of race, religion, color, sex, age, disability or national origin, in furnishing, or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on BARC property.

16. Newly designated § 502.15 is revised to read as follows:

**§ 502.15 Exceptions.**

The Administrator, Agricultural Research Service, may in individual cases, make prior, written exceptions to the rules and regulations in this part, if a determination is made that the exception is not adverse to the public interest.

Done at Washington DC, this 18th day of September 1996.

Floyd P. Horn,

*Administrator, Agricultural Research Service.*

[FR Doc. 96-25006 Filed 9-30-96; 8:45 am]

BILLING CODE 3410-03-M

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 96-NM-129-AD; Amendment 39-9677; AD 96-13-09]

RIN 2120-AA64

**Airworthiness Directives; Jetstream Model 4101 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This amendment clarifies information in an existing airworthiness directive (AD), applicable to all Jetstream 4101 airplanes, that currently requires a review of maintenance records to determine the time-in-service of the bearings in the starter/generators of both engines. It also establishes a new time-in-service limit for the bearings, and requires replacement of the starter/generator unit with a serviceable unit, if necessary. The actions specified in that AD are intended to prevent failure of the bearings of the starter/generator, which

could cause severe vibrations and resultant in-flight shutdown of one or both engines. This amendment clarifies the requirements of the current AD by specifying the name of the manufacturer of the starter/generator units that are affected by the requirements of this AD.

**DATES:** Effective July 15, 1996.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of July 15, 1996 (61 FR 33647, June 28, 1996).

**FOR FURTHER INFORMATION CONTACT:** William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1149.

**SUPPLEMENTARY INFORMATION:** On June 17, 1996, the FAA issued AD 96-13-09, amendment 39-9677 (61 FR 33647, June 28, 1996), which is applicable to all Jetstream Model 4101 airplanes. That AD requires a review of maintenance records to determine the time-in-service of the bearings in the starter/generators of both engines. It also establishes a new time-in-service limit for the bearings, and requires replacement of the starter/generator unit with a serviceable unit, if necessary. That AD was prompted by reports of controlled in-flight engine shutdowns resulting from severe vibration caused by the failure of the bearings in the direct current (DC) starter/generator unit. The actions specified in that AD are intended to prevent such failure of the bearings of the starter/generator, which could cause severe vibrations and resultant in-flight shutdown of one or both engines.

Actions Since Issuance of AD 96-13-09

Since the issuance of that AD, the FAA has been advised that there may be confusion on the part of operators as to which specific make and model of starter/generator units are susceptible to the bearing problem and should be subject to the requirements of the AD. Additionally, operators of airplanes other than Jetstream Model 4101 airplanes may be confused as to whether starter/generator units installed on those airplanes are also susceptible to the bearing problem. Such confusion arises because the name of the manufacturer of the affected units was not specified in AD 96-13-09.

The FAA notes that there are several manufacturers of starter/generator units, but only those manufactured by Lucas Aerospace Power Systems for Jetstream Model 4101 airplanes are installed on the affected airplanes and are subject to

the AD. Lucas Aerospace Power Systems starter/generator units installed on other makes and models of airplanes are not affected by this AD. Likewise, other makes and models of starter/generator units installed on airplanes other than the Model 4101 are not affected by this AD.

In light of the possible confusion that may have been created relative to this point, the FAA finds that AD 96-13-09 should be clarified to specify the name of the manufacturer of the affected starter/generator units.

In all other respects, however, the AD is correct and adequate as issued.

#### Action Taken by FAA

Action is taken herein to clarify AD 96-13-09 by identifying the name of the manufacturer of the subject starter/generators, and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The final rule is being reprinted in its entirety for the convenience of affected operators. The effective date remains July 15, 1996.

Since this action only clarifies a current requirement, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

#### List of Subjects in 14 CFR Part 39

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

#### Adoption of the Correction

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

### **PART 39—AIRWORTHINESS DIRECTIVES**

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

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

#### **§ 39.13 [Amended]**

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

96-13-09 Jetstream Aircraft Limited:  
Amendment 39-9677. Docket 96-NM-129-AD.

*Applicability:* All Model 4101 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For

airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent severe vibration of one or both engines, which could cause in-flight engine shutdown, accomplish the following:

(a) Within 7 days after the effective date of this AD, review the airplane maintenance records to determine the hours time-in-service (TIS) accumulated on the bearings in the Lucas Aerospace Power Systems starter/generator units of both engines, in accordance with Jetstream Alert Service Bulletin J41-A24-036, dated February 26, 1996.

(1) If the bearings on both of the starter/generator units have accumulated 300 or more hours TIS: Prior to further flight, replace at least one of the starter/generator units with a unit having bearings with less than 300 hours TIS, in accordance with the alert service bulletin.

(2) If the bearings on one or both starter/generator units have bearings with less than 300 hours TIS: Prior to the accumulation of 300 hours TIS on the bearings on both starter/generator units, remove at least one of the units and replace it with a unit having bearings with less than 300 hours TIS, in accordance with the alert service bulletin.

(b) As a continuing requirement thereafter: Prior to the accumulation of 300 hours TIS on the bearings on both of the Lucas Aerospace Power Systems starter/generator units on the airplane, remove at least one of those units and replace it with a unit having bearings with less than 300 hours TIS, in accordance with Jetstream Alert Service Bulletin J41-A24-036, dated February 26, 1996.

(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, 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 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.

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

(e) The actions shall be done in accordance with Jetstream Alert Service Bulletin J41-A24-036, dated February 26, 1996. This

incorporation by reference was approved previously by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of July 15, 1996 (61 FR 33647, June 28, 1996). Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 15, 1996.

Issued in Renton, Washington, on September 24, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-25039 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 216

[Docket No. 960917260-6260-01; I.D. 090596B]

RIN 0648-XX67

### Taking and Importing of Marine Mammals; Small Takes of Marine Mammals Incidental to Specified Activities

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** NMFS issues this technical amendment to remove expired regulations governing the small take of marine mammals incidental to conducting specified activities in the marine environment. This technical amendment is intended to provide the public with uniform, updated and streamlined regulations. This action is consistent with the President's Regulatory Reform Initiative.

**EFFECTIVE DATE:** September 24, 1996.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, NMFS, Office of Protected Resources, NMFS (telephone 301-713-2055).

#### **SUPPLEMENTARY INFORMATION:**

On August 21, 1991 (56 FR 41628), NMFS published final regulations effective from September 23, 1991, through September 23, 1996, to

authorize the incidental take of a small number of marine mammals during launches of Titan IV rockets from Vandenberg Air Force Base, California (Vandenberg). Under section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA), an authorization under this provision may not exceed 5 years.

On April 30, 1994, the President signed Public Law 103-238, the MMPA Amendments of 1994. One part of this law added a new subsection 101(a)(5)(D) to the MMPA, establishing an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to 1 year. Under this provision, the U.S. Air Force applied on January 24, 1996, for a 1-year authorization to incidentally take by harassment a small numbers of harbor seals, California sea lions, northern elephant seals, northern fur seals, and possibly Guadalupe fur seals in the vicinity of Vandenberg, to replace the authorization expiring on September 24, 1996. These harassment takes would result from launchings of both Titan II and Titan IV rockets. A notice of receipt of the Titan II and IV application and a proposed authorization was published on March 15, 1996 (61 FR 10727) and a 30-day public comment period was provided on the application and proposed authorization.

NMFS anticipates that this 1-year authorization, if issued, along with others issued previously for Lockheed launch vehicles (60 FR 38308, July 26, 1995 and 61 FR 38437, July 24, 1996) and McDonnell Douglas Delta II launch vehicles (60 FR 52653, October 10, 1995; see also 61 FR 45404, August 29, 1996), will be replaced later this year by new regulations, under section 101(a)(5)(A) of the MMPA, authorizing and governing incidental take of marine mammals by launches of all rocket types from Vandenberg. An application for such an authorization is presently under development by the U.S. Air Force.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the Federal Register to the Assistant Administrator for Fisheries, NOAA (AA).

#### Classification

This final rule is exempt from review under E.O. 12866. Because this rule only removes unnecessary and outdated text, the AA, under section 553(b)(B) and (d) of the Administrative Procedure Act, for good cause finds that it is

unnecessary to provide prior notice and opportunity for public comment on this rule or to delay for 30 days its effective date. Because this rule is being issued without prior notice and opportunity for public comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, and none has been prepared. This rule is not expected to result in economic costs to the public.

This action is categorically excluded from the requirement to prepare an environmental assessment by section 6.02b.3(b) (ii) (aa) of NOAA Administrative Order 216-6 as revised.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number. This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

#### List of Subjects

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: September 25, 1996.

Nancy Foster,

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.*

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter II are amended as follows:

#### 15 CFR Chapter IX

##### **PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

##### **§ 902.1 [Amended]**

2. In § 902.1, paragraph (b), the table is amended by removing, in the left column under 50 CFR, the entry "216.125" and, in the right column, the corresponding OMB control number.

#### 50 CFR Chapter II

##### **PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS**

3. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

##### **Subpart K—[Removed and Reserved]**

4. Subpart K (§§ 216.121 through 216.126) is removed and reserved.

[FR Doc. 96-25161 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-22-F

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

[Region II, Docket No. 152, NY21-1-6732a; FRL-5555-2]

##### **Approval and Promulgation of Implementation Plans; Transportation Control Measures, State of New York**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request submitted on November 15, 1992 by the State of New York to revise its ozone state implementation plan (SIP) which addresses the need for transportation control measures (TCMs) to offset growth in emissions from growth in vehicle miles travelled (VMT) as required by the Clean Air Act (Act). New York has indicated that VMT growth will not result in increased emissions and, therefore, TCMs are not needed for this purpose.

**DATES:** This action is effective on December 2, 1996 unless adverse or critical comments are received by October 31, 1996. If adverse comments are received, this notice will be withdrawn in the Federal Register prior to the effective date of this rule.

**ADDRESSES:** All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Air and Waste Management Division, Environmental Protection Agency, Region II Office, 290 Broadway, 20th Floor, New York, New York 10007-1866

Copies of New York's submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch,

290 Broadway, 20th Floor, New York, New York 10007-1866.  
New York Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-1010  
Environmental Protection Agency, Air and Radiation Docket and Information Center (MC 6102), 401 M Street, S.W., Washington, D.C. 20460

**FOR FURTHER INFORMATION CONTACT:**

Linda Kareff, Environmental Protection Specialist, Technical Evaluation Section, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 20th Floor, New York, New York 10007-1866, (212) 637-4249

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 182(d)(1)(A) of the Clean Air Act Amendments of 1990 requires states containing ozone nonattainment areas classified as "severe" pursuant to section 181(a) of the Act to adopt transportation control measures (TCMs) and transportation strategies to offset growth in emissions from growth in vehicle miles travelled (VMT) or number of vehicle trips, and to attain reductions in motor vehicle emissions (in combination with other emission requirements) as necessary to comply with the Act's Reasonable Further Progress (RFP) milestone and attainment requirements. The requirements for establishing a VMT offset program are discussed in the April 16, 1992 General Preamble to Title I of the Act (57 FR 13498), in addition to section 182(d)(1)(A) of the Act.

The VMT offset provision requires that states submit by November 15, 1992 specific enforceable TCMs and strategies to offset any growth in emissions from growth in VMT or number of vehicle trips sufficient to allow total area emissions to comply with the RFP and attainment requirements of the Act.

EPA has observed that these three elements (i.e., offsetting growth in mobile source emissions, attainment of the RFP reduction, and attainment of ozone national ambient air quality standards (NAAQS)) create a timing problem of which Congress was perhaps not fully aware. As discussed in EPA's April 16, 1992 General Preamble to Title I, ozone nonattainment areas affected by this provision were not otherwise required to submit SIPs that show attainment of the 1996 15% RFP milestone until November 15, 1993, and likewise are not required to demonstrate post-1996 RFP and attainment of the NAAQS until November 15, 1994. The SIP demonstrations due on November 15, 1993, and on November 15, 1994 are broader in scope than growth in VMT or

trips in that they necessarily address emission trends and control measures for non-motor vehicle emission sources and, in the case of attainment demonstrations, complex photochemical modeling studies.

EPA does not believe that Congress intended the VMT offset provision to advance dates for these broader submissions. Further, EPA believes that the November 15, 1992 date would not allow sufficient time for states to have fully developed specific sets of measures that would comply with all of the elements of the VMT offset requirements of section 182(d)(1)(A) over the long term. Consequently, EPA believes it would be appropriate to interpret the Act to provide the following alternative set of staged deadlines for submittal of elements of the VMT offset SIP. Under this interpretation, the three required elements of section 182(d)(1)(A) are separable, and can be divided into three separate submissions on different dates. Section 179(a) of the Act, in establishing how EPA would be required to apply mandatory sanctions if a state fails to submit a full SIP also provides that the sanctions clock starts if a state fails to submit one or more SIP elements, as determined by the Administrator. EPA believes that this language provides EPA the authority to determine that the different elements of a SIP submission are separable. Moreover, given the continued timing problems addressed above, EPA believes it is appropriate to allow states to separate the VMT offset SIP into three elements, each to be submitted at different times: (1) The initial requirement to submit TCMs that offset growth in emissions; (2) the requirement to comply with the 15% Rate of Progress requirement of the Act; and (3) the requirement to comply with the post-1996 periodic reduction and attainment of the ozone NAAQS.

Under this approach, the first element, the emissions offset element was due on November 15, 1992. EPA believes this element is not necessarily dependent on the development of the other elements. A state could submit the emissions growth offset element independent of an analysis of that element's consistency with the periodic reduction and attainment requirements of the Act. Emissions trends from other sources need not be considered to show compliance with the offset requirement. As submitting this element in isolation does not implicate the timing problems of advancing deadlines for RFP and attainment demonstrations, EPA does not believe it is necessary to extend the statutory deadline for submittal of the emissions growth offset element.

The second element, which requires the VMT offset SIP to comply with the 15% RFP requirement of the Act was due on November 15, 1993 which is the same date on which the 15% RFP SIP itself was due under section 182(b)(1) of the Act. EPA believes it is reasonable to extend the deadline for this VMT offset element from November 15, 1992 to the date on which the entire 15% SIP was due, as this allows states to develop the comprehensive strategy to address the 15% requirement and assure that the TCM elements required under section 182(d)(1)(A) are consistent with the remainder of the 15% demonstration. Indeed, EPA believes that only upon submittal of the broader 15% plan can a state have had the necessary opportunity to coordinate its VMT strategy with its 15% plan.

The third element, which requires the VMT offset SIP to comply with the post-1996 RFP and attainment requirements of the Act was due on November 15, 1994, the statutory deadline for those broader submissions. EPA believes it is reasonable to similarly extend the deadline for this VMT element to the date on which the post-1996 RFP and attainment SIPs are due for the same reason it is reasonable to extend the deadline for the second element. First, it is arguably impossible for a state to make the showing required by section 182(d)(1)(A) for the third element until the broader demonstrations have been developed by the State. Moreover, allowing states to develop the comprehensive strategy to address post-1996 RFP and attainment by providing a fuller opportunity to assure that the TCM elements comply with the broader RFP and attainment demonstrations, will result in a better program for reducing emissions in the long term.

**State Submittal**

On November 15, 1992, the State of New York submitted its ozone SIP revision dealing with, in part, whether TCMs are needed to offset growth in emissions. The submittal was found to be incomplete and was resubmitted with additional information on September 9, 1993. The EPA found the SIP complete with the supplemental information on November 5, 1993. In this submittal, the State has indicated that it does not need to submit a revision adopting specific TCMs under the first element of the VMT offset requirement because it has determined that it will not need to offset growth in emissions from growth in VMT into the next century. EPA's independent analysis (included in the technical support document) supports this finding and demonstrates that New York will

not need to offset growth in emissions until at least the year 2007, the year New York is required to demonstrate attainment. The second and third TCM elements will be addressed in future rulemaking when EPA evaluates New York's 15% Rate of Progress requirement to be resubmitted by New York and the post-1996 attainment SIP submittals.

#### Conclusion

Section 182(d)(1)(A) of the Act requires the State to offset any growth in emissions from growth in VMT. As discussed in the General Preamble, the purpose is to prevent a growth in motor vehicle emissions from canceling out the emission reduction benefits of the federally mandated programs in the Act. EPA interprets this provision to require that sufficient measures must be adopted so that projected motor vehicle volatile organic compound (VOC) emissions will never be higher during the ozone season in one year than during the ozone season in the year before. When growth in VMT and vehicle trips would otherwise cause a vehicle upturn in emissions from motor vehicles, this upturn must be prevented. The emissions level at the point of upturn becomes a ceiling on motor vehicle emissions. This requirement applies to projected emissions in the years between the submission of the SIP revision and the attainment demonstrations. The ceiling level is defined, therefore, up to the point of upturn, as motor vehicle emissions that would occur in the ozone season of that year, with VMT growth, if all measures for that area in that year were implemented by the Act. When this curve begins to turn up due to growth in VMT or vehicle trips, the ceiling becomes a fixed value. The ceiling line would include the effects of federal measures such as new motor vehicle standards, phase II Reid vapor pressure (RVP) controls, and reformulated gasoline, as well as the Act-mandated SIP requirements.

The State of New York has indicated in its submittal on November 15, 1992 that the predicted growth in VMT is not expected to result in an increase in motor vehicle emissions that will negate the effects of the reductions mandated by the Act. Because the current modelling does not indicate a need for TCMs to offset growth in emissions before 2007, the year New York State is to demonstrate attainment, we are approving the part of the ozone state implementation plan that determines that New York is not required to adopt specific, enforceable TCMs to meet the first element of the offset requirement.

EPA is therefore approving the New York State SIP revision submittals as satisfying the first of the three VMT offset plan requirements. With respect to the second element, EPA will address this element when New York's 15% Rate of Progress plan is resubmitted to EPA. With respect to the third element, New York will periodically be updating its emissions projections as a part of its post-1996 RFP and attainment SIPs. Upon review of the updated projections, EPA will determine if revised emissions estimates have changed creating a necessity for TCMs.

Nothing in this rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because 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. Thus, this direct final action will be effective December 2, 1996, unless, by October 31, 1996, adverse or critical comments are received.

If the EPA receives such comments, this rule 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. EPA will not institute a second comment period on this action. Any parties interested in commenting on this rule should do so at this time. If no adverse comments are received, the public is advised that this rule will be effective December 2, 1996. (See 47 FR 27073 and 59 FR 24059).

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 Clean Air Act do not create any new requirements, but simply approve requirements that the

State is already imposing. Therefore, because the federal SIP approval does not 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 Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under section 182(d)(1)(A) of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is

not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 29, 1996.

William Muszynski,  
*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 HH—New York

2. Section 52.1683 is amended by adding new paragraph (c) to read as follows:

#### § 52.1683 Control Strategy; Ozone

\* \* \* \* \*

(c) EPA approves on December 2, 1996, a request submitted by the State of New York to revise its ozone state implementation plan (SIP) which addresses the need for transportation control measures (TCMs) to offset growth in emissions from growth in vehicle miles travelled (VMT) as required by the Clean Air Act (Act). New York has indicated that VMT growth will not result in increased emissions and, therefore, TCMs are not needed for this purpose.

[FR Doc. 96–24534 Filed 9–30–96; 8:45 am]

BILLING CODE 6560–50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Parts 412, 413, and 489

[BPD–847–N]

RIN 0938–AH34

#### Medicare Program; Notice of Effective Date for Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1997 Rates

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

ACTION: Notice of effective date.

**SUMMARY:** On August 30, 1996, we published a final rule—Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1997 Rates—at 61 FR 46166 *et seq.* At that time, we indicated that, by operation of section 801(a)(3) of title 5, United States Code, the final rule might not take effect until October 29, 1996. On September 17, 1996, the Senate voted to reject a joint resolution of disapproval of the final rule under section 802 of title 5, United States Code. Accordingly, pursuant to section 801(a)(5) of title 5, United States Code, the provisions of the August 30, 1996 final rule are effective on October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Nancy Edwards (410) 786–4531.

(Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 23, 1996.

Bruce C. Vladek,  
*Administrator, Health Care Financing Administration.*

Dated: September 27, 1996.

Donna E. Shalala,  
*Secretary.*

[FR Doc. 96–25275 Filed 9–30–96; 8:45 am]

BILLING CODE 4120–01–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 62

RIN 3067–AC40

#### National Flood Insurance Program; Audit Program Revision

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Final rule.

**SUMMARY:** The Federal Insurance Administration (FIA) has amended its regulations regarding the manner in which its audits are conducted under the National Flood Insurance Program's (NFIP) Write Your Own (WYO) Program. The regulations develop a comprehensive, less burdensome, more efficient audit program. FIA anticipates that these revisions will result in greater economy of resources and new savings to the NFIP public.

**EFFECTIVE DATE:** October 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Roland E. Holland, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (tel.) (202) 646–3439.

**SUPPLEMENTARY INFORMATION:** Recently, after reviewing the programs and services provided to the NFIP public, the Federal Insurance Administrator concluded that the services currently being provided could be enhanced and improved by revising the audit procedures. As a result, FIA will discontinue the self-audit program, as well as the triennial claims and underwriting operations reviews. The triennial audit will be revised to be conducted on a biennial basis, and expanded to encompass greater claims and underwriting audits that Certified Public Accountant (CPA) firms, selected by the WYO companies, will conduct at the companies' expense. These changes are being made to facilitate improved management control over the audit process. FIA believes these efforts will result in appreciable program savings to both the WYO companies and the FIA. FIA published in the Federal Register a proposed rule to implement these changes on February 1, 1996, 61 FR 3635–3644. A 45-day public comment period expired on March 18, 1996. However, because FIA only received one set of comments, the comment period was kept open to allow other interested parties additional time to respond. Since that time, we have not received any further comments. We concur with the six comments received and, therefore, the final rule reflects these changes, as well as other changes made for consistency and for continuity.

*Reference in proposed rule:* § 62.23(h)(1). "To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance and to transfer to the WYO company, at the time of policy renewal, business placed by its producers with the NFIP Bureau and Statistical Agent."

*Comment:* This section contains information that appears inconsistent with the present intent of the WYO program and NFIP Servicing Agent contracts. Since there is no longer a rollover vehicle to transfer policies from the NFIP to a WYO Company, the references to this appear in error. This section also refers to "business placed by its producers with the NFIP Bureau and Statistical Agent". However, the NFIP Bureau and Statistical Agent does not handle policies directly for business producers.

*Revision in final rule:* § 62.23(h)(1). "To expedite business growth, the WYO company will encourage its present property insurance policyholders to purchase flood insurance through the NFIP WYO program."

*Reference in proposed rule:* § 62.23(h)(4). "The WYO company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NIP Servicing Agent \* \* \*."

*Comment:* The acronym "NIP" at the end of the last sentence is incorrect.

*Revision in final rule:* § 62.23(h)(4). "The WYO company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NFIP Bureau and Statistical Agent \* \* \*."

*Reference in proposed rule:* § 62.23(h)(8). "NFIP business will not be assumed by the WYO companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property. Where the insurance agent or producer of record of a flood insurance policy issued by the Administrator has authorized the NFIP, in writing, to release policy information for the conversion of the NFIP coverage to a designated WYO company represented by the agent or producer of record, in order to facilitate policy issuance and reduce administrative burdens upon the NFIP and WYO companies and their agents and producers, countersignature requirements in the several States shall not apply."

*Comment:* This section contains references to a "conversion of the NFIP

coverage to a designated WYO Company \* \* \*" which appears to be former practice of rollover conversion.

*Practice in final rule:* § 62.23(h)(8). "NFIP business will not be assumed by the WYO companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property."

*Reference in proposed rule:* § 62.23(I)(1). "Under the terms of the Arrangement set forth at Appendix A of this part, WYO companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO company."

*Comment:* The Appendix A referenced is Article II, §§ C.1.0, C.2.0, C.3.0, and C.4.0, the requirements of the Single Adjuster Program. The example given in the last paragraph appears to be inconsistent with these changes.

*Revision in final rule:* § 62.23(I)(1). "Under the terms of the Arrangement set forth at Appendix A of this part, WYO companies will adjust claims in accordance with general company standards, guided by the NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment of flood-alone claims is the responsibility of the WYO company. The responsibility for providing a proper adjustment for combined wind and water claims is to be conducted in concert with the Single Adjuster provisions listed in Appendix A."

*Reference in proposed rule:* p. 3639, Appendix B, Part 1, ¶ A.4.:

"To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NEIP to review the quality of submitted data will be so identified, but will be maintained whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP."

*Comment:* The acronym "NEIP" in the first sentence is a typographical error.

*Revision in final rule:* Part (1)(A)(4) "To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NFIP to

review the quality of submitted data will be so identified, but will be maintained whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP."

*Reference in proposed rule:* page 3642, Appendix B, Part 3, ¶ B.1.e.: "Problems with Rollover from National Flood Insurance Program (NFIP) to WYO (duplication of coverage, timeliness of changeover)."

*Comment:* The Rollover provision no longer is available to WYO companies.

*Revision in final rule:* We deleted this reference entirely and redesignated paragraphs 1.f. and 1.g. as paragraphs 1.e. and 1.f., respectively.

*Reference in proposed rule:* Appendix B, Part 3, ¶ B.3.j.: "Repeated failure to respond fully in a timely manner to questions raised by the NFIP or its servicing agent concerning monthly financial reporting."

*Comment:* The use of the phrase "its servicing agent" is somewhat misleading since the October 1, 1993 contract changes that named a Bureau and Statistical Agent and an NFIP Servicing Agent as separate contracts.

*Revision in final rule:* Appendix B, Part 3, ¶ B.3.j.: "Repeated failure to respond fully in a timely manner to questions raised by the NFIP Bureau and Statistical Agent concerning monthly financial reporting."

#### National Environmental Policy Act

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

#### Executive Order 12898, Environmental Justice

The socioeconomic conditions relating to this final rule were reviewed and a finding was made that no disproportionately high and adverse effect on minority or low income populations result from this final rule.

#### Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1983, 58 FR 51735, and has not been reviewed by the Office of Management and Budget (OMB). Nonetheless, this final rule adheres to the regulatory principles set forth in E.O. 12866.

#### Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the collections of information contained in this final rule

have been submitted to and approved by the Office of Management and Budget. To request additional information or copies of the OMB submissions, contact the FEMA Information Collections Officer, Muriel B. Anderson, by calling (202) 646-2625, or by writing to FEMA, 500 C Street SW., Washington, D.C. 20472. The approved collections of information are:

OMB Number 3067-0169, Write Your Own (WYO) Program. To maintain adequate financial control over Federal funds, the National Flood Insurance Program requires each WYO company to meet the requirements of the WYO Transaction Record Reporting and Processing Plan and to submit monthly financial and statistical reports as required in FEMA regulation 44 CFR, part 62, Appendix B. The number of respondents is estimated at 105. The burden estimates per respondent are as follows: Reconciliation Report, 30 minutes; Biennial Audit Administrative Review Checklist, 1 hour; Monthly Financial and Statistical Reconciliation Reports Certification Statement, 3 minutes; and Monthly Statistical Transaction Reports Certification Statement, 3 minutes.

OMB Number 3067-0229, Mortgage Portfolio Protection Program (MPPP). Lending institutions, mortgage servicing companies and others servicing mortgage loan portfolios can bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. The number of respondents is estimated at 6,526. The burden estimates per respondent are as follows: 150 hours for WYO companies to set up initial operations under the MPPP; 30 minutes per lender to sign an agreement with a WYO company to participate in the program; 30 minutes per WYO company to notify each mortgagor (3 notices at 10 minutes per notice); and 30 minutes for each mortgagor to ask questions and respond to the notices.

#### Executive Order 12612

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

#### Executive Order 12778, Civil Justice Reform

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

#### List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, 44 CFR part 62 is amended as follows:

## **PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS**

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., 376.

2. Section 62.23 is revised to read as follows:

### **§ 62.23 WYO Companies authorized.**

(a) Pursuant to section 1345 of the Act, the Administrator may enter into arrangements with individual private sector property insurance companies whereby such companies may offer flood insurance coverage under the Program to eligible applicants for such insurance, including policyholders insured by them under their own property business lines of insurance pursuant to their customary business practices including their usual arrangements with agents and producers, in any State in which such WYO Companies are licensed to engage in the business of property insurance. Arrangements entered into by WYO Companies under this subpart shall be in the form and substance of the standard arrangement, entitled "Financial Assistance/Subsidy Arrangement", a copy of which is included in appendix A of this part and made a part of these regulations.

(b) Any duly licensed insurer so engaged in the Program shall be a WYO Company.

(c) A WYO Company is authorized to arrange for the issuance of flood insurance in any amount within the maximum limits of coverage specified in § 61.6 of this subchapter, as Insurer, to any person qualifying for such coverage under parts 61 and 64 of this subchapter who submits an application to the WYO Company; coverage shall be issued under the Standard Flood Insurance Policy.

(d) A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from policies of flood insurance it issues under the Program, based upon the terms and conditions of the Standard Flood Insurance Policy.

(e) In carrying out its functions under this subpart, a WYO Company shall use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act and regulations prescribed by the Administrator under the Act.

(f) To facilitate the marketing of flood insurance coverage under the Program to policyholders of WYO Companies, the Administrator will enter into arrangements with such companies whereby the Federal Government will be a guarantor in which the primary relationship between the WYO Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended. In furtherance of this end, the Administrator has established "A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program", a copy of which is included in appendix B of this part and made a part of these regulations.

(g) WYO Companies shall not be agents of the Federal Government and are solely responsible for their obligations to their insureds under any flood insurance policies issued under agreements entered into with the Administrator.

(h) To facilitate the underwriting of flood insurance coverage by WYO Companies, the following procedures will be used by WYO Companies:

(1) To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance through the NFIP WYO Program.

(2) To conform its underwriting practices to the underwriting rules and rates in effect as to the NFIP, the WYO Company will establish procedures to carry out the NFIP rating system and provide its policyholders with the same coverage as is afforded under the NFIP.

(3) The WYO Company may follow its customary billing practices to meet the Federal rules on the presentment of premium and net premium deposits to a Letter of Credit bank account authorized by the Administrator and reduction of coverage when an underpayment is discovered.

(4) The WYO Company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NFIP Bureau & Statistical Agent. A monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of WYO Company submissions, the disposition of transactions that have not passed systems edits and the reconciliation of the totals generated from transaction reports with those submitted on the WYO Company's reconciliation reports.

(5) If a WYO Company rejects an application from an agent or a producer, the agent or producer shall be notified so that the business can be placed through the NFIP Servicing Agent, or another WYO Company.

(6) Flood insurance coverage will be issued by the WYO Company on a separate policy form and will not be added, by endorsement, to the Company's other property insurance forms.

(7) Premium payment plans can be offered by the WYO Company so long as the net premium depository requirements specified under the NFIP/WYO Program accounting procedures are met. A cancellation by the WYO Company for non-payment of premium will not produce a pro rata return of the net premium deposit to the WYO Company.

(8) NFIP business will not be assumed by the WYO Companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO Company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property.

(i) To facilitate the adjustment of flood insurance claims by WYO Companies, the following procedures will be used by WYO Companies.

(1) Under the terms of the Arrangement set forth at appendix A of this part, WYO Companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO Company. The responsibility for providing a proper adjustment for combined wind and water claims is to be conducted by listing in concert with the Single Adjuster provisions listed in appendix A.

(2) The WYO Company may use its staff adjusters, independent adjusters, or both. It is important that the Company's Claims Department verifies the correctness of the coverage interpretations and reasonableness of the payments recommended by the adjusters.

(3) An established loss adjustment Fee Schedule is part of the Arrangement and cannot be changed during an Arrangement year. This is the expense allowance to cover costs of independent or WYO Company adjusters.

(4) The normal catastrophe claims procedure currently operated by a WYO Company should be implemented in the event of a claim catastrophe situation. Flood claims will be handled along with other catastrophe claims.

(5) It will be the WYO Company's responsibility to try to detect fraud (as it does in the case of property insurance) and coordinate its findings with FIA.

(6) Pursuant to the Arrangement, the responsibility for defending claims will be upon the Write Your Own Company and defense costs will be part of the unallocated or allocated claim expense allowance, depending on whether a staff counsel or an outside attorney handles the defense of the matter. Claims in litigation will be reported by WYO Companies to FIA upon joinder of issue and FIA may inquire and be advised of the disposition of such litigation.

(7) The claim reserving procedures of the individual WYO Company can be used.

(8) Regarding the handling of subrogation, if a WYO Company prefers to forego pursuit of subrogation recovery, it may do so by referring the matter, with a complete copy of the claim file, to FIA. Subrogation initiatives may be truncated at any time before suit is commenced (after commencing an action, special arrangement must be made). FIA, after consultation with FEMA's Office of the General Counsel (OGC), will forward the cause of action to OGC or to the NFIP Bureau and Statistical Agent for prosecution. Any funds received will be deposited, less expenses, in the National Flood Insurance Fund.

(9) Special allocated loss adjustment expenses will include such items as: nonstaff attorney fees, engineering fees and special investigation fees over and above normal adjustment practices.

(10) The customary content of claim files will include coverage verification, normal adjuster investigations, including statements where necessary, police reports, building reports and investigations, damage verification and other documentation relevant to the adjustment of claims under the NFIP's and the WYO Company's traditional claim adjustment practices and procedures. The WYO Company's claim examiners and managers will supervise the adjustment of flood insurance claims by staff and independent claims adjusters.

(11) The WYO Company will extend reasonable cooperation to FEMA's Office of the General Counsel on matters pertaining to litigation and subrogation, under paragraph (i)(8) of this section.

(j) To facilitate establishment of financial controls under the WYO Program, the WYO Company will:

(1) Select a Certified Public Accountant (CPA) firm to conduct biennial audits of the financial, claims and underwriting records of the company. These audits shall be performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (commonly known as the "yellow book"). FIA further requires that pre-selected policy and claims files the CPA firm is asked to review are in addition to any files that the auditors may select for their sample. A report of the detailed biennial audit conducted will be filed with the FIA which, after a review of the audit report, will convey its determination to the Standards Committee. The CPA firm chosen to conduct the audit is expected to use qualified, skilled persons with the requisite background in property insurance and a knowledge of the NFIP. Persons performing claims audits are expected to possess claims expertise which would allow them to ascertain whether the scope of damage was proper, and if all applicable NFIP policy provisions were properly followed. Persons performing underwriting audits should be able to ascertain if the risk has been properly rated, which would necessitate being aware of special NFIP rating situations, such as elevated buildings.

(2) Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual. Transactions reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company submissions, the disposition of transactions which do not pass systems edits and the reconciliation of the totals generated from transaction reports with those submitted on WYO Company reconciliation reports.

(3) Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

(4) Cooperate with FIA in the implementation of a claims reinspection program.

(5) Cooperate with FIA in the verification of risk rating information.

(6) Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

(k) To facilitate the operation of the WYO Program and in order that a WYO Company can use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act, the Administrator, for good cause shown, may grant exceptions to and waivers of the regulations contained in this title relative to the administration of the NFIP.

(l)(1) WYO Companies may, on a voluntary basis, elect to participate in the Mortgage Portfolio Protection Program (MPPP), under which they can offer, as a last resort, flood insurance at special high rates, sufficient to recover the full cost of this program in recognition of the uncertainty as to the degree of risk a given building presents due to the limited underwriting data required, to properties in a lending institution's mortgage portfolio to achieve compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. Flood insurance policies under the MPPP may only be issued for those properties that:

(i) Are determined to be located within special flood hazard areas of communities that are participating in the NFIP, and

(ii) Are not covered by a flood insurance policy even after a required series of notices have been given to the property owner (mortgagor) by the lending institution of the requirement for obtaining and maintaining such coverage, but the mortgagor has failed to respond.

(2) WYO Companies participating in the MPPP must provide a detailed implementation package to any lending institution that, on a voluntary basis, chooses to participate in the MPPP to ensure the lending institution has full knowledge of the criteria in that program and must obtain a signed receipt for that package from the lending institution. Participating WYO Companies must also maintain evidence of compliance with paragraph (l)(3) of this section for review during the audits and reviews required by the WYO Financial Control Plan contained in appendix B of this part.

(3) The mortgagor must be protected against the lending institution's arbitrary placing of flood insurance for which the mortgagor will be billed by being sent three notification letters as described in paragraphs (l)(4) through (6) of this section.

(4) The initial notification letter must:

(i) State the requirements of the Flood Disaster Protection Act of 1973, as amended;

(ii) Announce the determination that the mortgagor's property is in an identified special flood hazard area as delineated on the appropriate FEMA map, necessitating flood insurance coverage for the duration of the loan;

(iii) Describe the procedure to follow should the mortgagor wish to challenge the determination;

(iv) Request evidence of a valid flood insurance policy or, if there is none, encourage the mortgagor to obtain a Standard Flood Insurance Policy (SFIP) promptly from a local insurance agent (or WYO Company);

(v) Advise that the premium for a MPPP policy is significantly higher than a conventional SFIP policy and advise as to the option for obtaining less costly flood insurance; and

(vi) Advise that a MPPP policy will be purchased by the lender if evidence of flood insurance coverage is not received by a date certain.

(5) The second notification letter must remind the mortgagor of the previous notice and provide essentially the same information.

(6) The final notification letter must:

(i) Enclose a copy of the flood insurance policy purchased under the MPPP on the mortgagor's (insured's) behalf, together with the Declarations Page,

(ii) Advise that the policy was purchased because of the failure to respond to the previous notices, and

(iii) Remind the insured that similar coverage may be available at significantly lower cost and advise that the policy can be cancelled at any time during the policy year and a pro rata refund provided for the unearned portion of the premium in the event the insured purchases another policy that is acceptable to satisfy the requirements of the 1973 Act. "(Approved by the Office of Management and Budget under OMB control number 3067-0229.)"

3. Appendix B to Part 62—National Flood Insurance Program, is revised to read as follows:

#### Appendix B to Part 62—National Flood Insurance Program

##### *A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program*

Under the Write Your Own (WYO) Program, the Federal Insurance Administrator (Administrator) may enter into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance, whereby these companies may offer flood insurance coverage to eligible property

owners using their customary business practices. To facilitate the marketing of flood insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO Company policies issued under the WYO Arrangement. To ensure that any taxpayer funds are accounted for and appropriately expended, the Federal Insurance Administration (FIA) and WYO Companies will implement this Financial Control Plan. Any departures from the requirements of this Plan must be approved by the Administrator. The authority for the WYO Program is contained in section 1345 of the National Flood Insurance Act of 1968, 42 U.S.C. 4081, and 44 CFR parts 61 and 62, §§ 61.13 and 62.23. The WYO Financial Assistance/Subsidy Arrangement (Arrangement) which is included in appendix A of this part is hereby made a part of this Financial Control Plan.

WYO Companies are subject to audit, examination, and regulatory controls of the various states. Additionally, insurance company operating departments are customarily subject to examinations and audits performed by Company internal audit or quality control departments, or both, and independent CPA firms. It is intended that this Plan use to the extent possible, the findings of these examinations and audits as they pertain to business written under the WYO Program (Parts 3 and 4).

The WYO Financial Control Plan contains several checks and balances that can, if properly implemented by the WYO Company, significantly reduce the need for extensive on-site reviews of Company files by the FIA staff or their designee. Furthermore, we believe that this process is consistent with customary reinsurance practices and avoids duplication of examinations performed under the auspices of individual State Insurance Departments, NAIC Zone examinations, and independent CPA firms.

The WYO Financial Control Plan requires the WYO Company to meet the minimum requirements established by the Standards Committee. The Standards Committee consists of four (4) members from FIA, one (1) member from the Federal Emergency Management Agency's (FEMA's) Office of Financial Management, one (1) member designated by the Administrator who is not directly involved in the WYO Program, and one (1) member from each of six (6) designated WYO Companies, pools or other entities.

The WYO Financial Control Plan must require the WYO Company to:

1. Have a biennial audit of the flood insurance financial statements and claims and underwriting activity conducted by an independent accounting firm at the Company's expense to ensure that the financial data reported to FIA accurately represents the flood insurance activities of the Company. Require that the CPA firm's audit be performed in accordance with GAO yellow book requirements. Require that the auditors conduct their own review sample, even if pre-selected policy and claims files are given to them for review.

2. Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions

reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company's submissions, the disposition of transactions that do not pass systems edits, and the reconciliation of the total generated from transaction reports with those submitted on the WYO Company's reports (part 1).

3. Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

4. Cooperate with FIA in the implementation of a claims reinspection program (part 2).

5. Cooperate with FIA in the verification of risk rating information.

6. Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

The Standards Committee will review and make a recommendation to the Administrator concerning any adverse action arising from the implementation of the Financial Control Plan. Adverse actions include, but are not limited to, the FIA Operations Division's recommendation not to renew a particular Company's WYO arrangement.

This Plan includes the following guidelines:

Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures

Part 2—Claims Reinspection Program

Part 3—Financial Audits, Underwriting Audits, Claims Audits, Audits for Cause, and State Insurance Department Audits

Part 4—Reports Certifications

Part 5—WYO Financial Assistance/Subsidy Arrangement (Incorporated by Reference)

Part 6—Transaction Record Reporting and Processing Plan (Incorporated by Reference)

Part 7—Write Your Own (WYO)

Accounting Procedures Manual (Incorporated by Reference)

*Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures, Transaction Record Reporting and Processing Plan Reconciliation Objectives*

The objectives are: To reconcile transaction detail with monthly financial statements submitted by the WYO Companies; to assess the quality and timeliness of submitted data; and to provide for the identification and resolution of discrepancies in the data. The reliance on computer processing to perform the review of transaction and financial data will help minimize the necessity for on-site audits of WYO Companies. Reconciliation of the statistical reports submitted will be performed by the WYO Companies and independently by the NFIP Bureau and Statistical Agent.

The review of monthly financial statements and transaction level detail will involve six areas:

A. Financial control;

B. Quality control (audit trails);

C. Quality review of submitted data;

D. Policy rating;

E. Timeliness of reporting; and

F. Monthly reports.

A. Financial Control

1. WYO Companies are required to submit a reconciliation report (Exhibit "A") with the submission of transaction level detail. This report will reconcile the transaction records data to the financial report, explaining any discrepancies.

2. WYO Companies are required to submit, on a form approved by the Administrator, a tape transmittal document with the submission of the statistical tape containing transaction detail. This will be used to validate record counts and dollar amounts.

3. The NFIP will review, at a minimum, the categories on the attached format and produce a similar report reconciling the transaction data to the monthly financial statement submitted by each WYO Company.

4. To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NFIP to review the quality of submitted data will be so identified, but will be maintained whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP.

B. Quality Control

Transaction level detail will be maintained in policy and claim history files for record-keeping and audit purposes.

C. Quality Review of Submitted Data

1. Transaction records will be edited for correct format and values.

2. Relational edits will be performed on individual transactions as well as between policy and claim transactions submitted against those policies.

3. Record validation will be performed to check that the transaction type is allowable for the type of policy or claim indicated.

4. Errors will be categorized as critical or non-critical. The rate of critical errors in the submission of statistical data will be the basis by which company performance is reported to the Standards Committee. Critical errors include those made in required data elements. Required data elements:

a. Identify the policyholder, the policy, the loss, and the property location;

b. Provide information necessary to rate the policy;

c. Provide information used in financial control; and

d. Provide information used for actuarial review of NFIP experience.

5. Non-critical errors are those made in data elements reported by the WYO Companies at their option.

D. Policy Rating

1. The rating will be validated by the NFIP for all policies for which the following transactions have been submitted:

a. New Business;

b. Renewals;

c. Endorsements involving type A transaction records; and

d. Corrections of type A transaction records previously submitted for premium transactions.

2. Incorrect rating will be considered a critical error.

E. Timeliness of Reporting

1. WYO Companies will be expected to submit monthly statistical and financial reports within thirty days of the end of the month of record.

2. The NFIP will produce reports based on review of submitted data within thirty days after the due date or the first processing cycle subsequent to the receipt of WYO Company submissions, whichever is later.

F. Monthly Reports

1. Reports for each WYO Company's data submission will be sent to the respective WYO Company and the FIA explaining any discrepancies found by the NFIP review.

2. Report to WYO Companies. Transaction records that fail to pass the quality review or policy rating edits will be reported to the appropriate Company in transaction detail with error codes, classification of errors as either critical or non-critical and any codes used by the Company to identify the source of the transaction data.

3. Reports to WYO Companies and the FIA:

a. Summary statistics will be generated for each monthly submission of transaction data. These will include:

i. Absolute numbers of transactions read and transactions rejected by transaction type; and

ii. Dollar amounts associated with transactions read and transactions rejected.

b. Summary statistics for all policy and claim records submitted to date (which may each be the result of multiple transactions) will be generated, separately for critical and non-critical errors. These will include:

i. Absolute number of policy and claim records on file and those containing errors; and

ii. Relative values for the number of records containing critical errors.

c. Control totals will be generated for tapes submitted to and processed by the NFIP. This front-end balancing procedure will include:

i. Numbers of records submitted according to the NFIP compared with numbers of records submitted according to the WYO Company transmittal document; and

ii. Dollar amounts submitted according to the NFIP compared with dollar amounts submitted according to the WYO Company transmittal document.

d. If there is any discrepancy between the NFIP reading of dollar amounts from the tape and the WYO Company tape transmittal document, then the monthly statistical tape submission will be rejected and returned to the Company. The rejected tape must be corrected and resubmitted by the next monthly submission due date.

e. In cases where the NFIP reconciliation of transaction level detail with the financial statements does not agree with the reconciliation report submitted by the WYO Company, a separate report will be generated and transmitted to the Company for resolution and to the FIA.

*Reporting of Company Rating to the Standards Committee and the Administrator*  
A. Satisfactory Rating

An annual end of the year report will be submitted to convey the satisfactory rating of WYO Companies' submission of transaction

data and the reconciliation of these data with financial reports.

**B. Unsatisfactory Rating**

The report of an unsatisfactory rating will be submitted as soon as errors and problems reach critical threshold levels. This rating will be based on: Continuing problems in reconciling transaction data with financial reports; statistics on the percentage of transactions submitted with critical errors; the percentage of policy and claim records on file that contain critical errors; and late submission of statistical and financial reports.

Exhibit "A".—WYO Statistical Tape—  
Transmittal Document  
Date Sent: \_\_\_\_\_  
WYO Prefix Code: \_\_\_\_\_  
Address: \_\_\_\_\_  
  
Reel Number(s) of Enclosed  
Tapes: \_\_\_\_\_  
Density \_\_\_\_\_  
LRECL \_\_\_\_\_  
Blocksize \_\_\_\_\_  
File Name (DSN) \_\_\_\_\_

Contact Person \_\_\_\_\_  
Contact Number \_\_\_\_\_  
IBU No. (WYO Use Only) \_\_\_\_\_  
Monthly Reconciliation—Net Written  
Premiums  
Company name \_\_\_\_\_  
Co. NAIC No. \_\_\_\_\_  
Month/year ending \_\_\_\_\_  
Date submitted \_\_\_\_\_  
Preparer's name \_\_\_\_\_  
Telephone No \_\_\_\_\_

Monthly financial report	Monthly statistical transactions report		
	Trans. code	Record count	Premium amount
Net Written premiums .....	\$		
(Income statement = Line 100 .....	11		\$
	15		
	17		
Unprocessed statistical:			
(+) Prior month's .....	20		
(-) Current month's .....	23		
Other—Explain:			
(+) Current month's .....	26		(-)
(-) Prior month's .....	29		(-)
	14 and 81		(+)
Total .....	Total:		
	(Add 11 Through 23 less 26 and 29)		
Comments:			

**Monthly Reconciliation—Losses**

Company name \_\_\_\_\_  
Co. NAIC No. \_\_\_\_\_  
Month/year \_\_\_\_\_  
Date submitted \_\_\_\_\_

	Trans. code	Record count	Loss/paid recoveries
100 Net paid losses .....	\$		
(Income statement line 115)			
Unprocessed statistical:			
140 (+) Prior month's .....	31		\$
	34		
	37		
150 (-) Current month .....	40		
	43		
160 Salvage not to be reported by transaction (explain).			
170 Other—Explain .....	46 and 61		
	49		
	64		
	84 and 87		
	52 Recovery		
	Salvage		
	Subrogation		
	67 Recovery		
	Salvage		
	Subrogation		
Total: .....	Total:		
(Sum of Lines 100, 140, 160, and 170 less 150) .....	(Add 31, 34, 40 through 64 less 52 and 67)		
Comments:			

**Monthly Reconciliation—Special Allocated LAE**

Company name \_\_\_\_\_  
Co. NAIC No. \_\_\_\_\_

Month/year ending \_\_\_\_\_  
 Date submitted \_\_\_\_\_

Monthly financial report	Monthly statistical transaction report		
	Trans. code	Record count	Amounts
Special allocated loss adjustment expenses ..... (Other loss and LAE Calc.—Line 655)	71 74	.....	.....
		.....	\$ .....
Unprocessed statistical:			
(+) Prior Month .....		.....	.....
(-) Current Month .....		.....	.....
Other—Explain:			
(1) .....		.....	.....
(2) .....		.....	.....
Total: .....	Total:	.....	.....
Comments:			

Monthly Reconciliation—Net Policy Service Fees  
 Company Name \_\_\_\_\_  
 Co. NAIC No. \_\_\_\_\_  
 Month/Year Ending \_\_\_\_\_  
 Date Submitted \_\_\_\_\_  
 Monthly Financial Report  
 Net Policy Service Fees (Income Statement Line 170):  
 \$ \_\_\_\_\_  
 Unprocessed statistical:  
 (+) Prior Month's \_\_\_\_\_  
 (-) Current Month's \_\_\_\_\_  
 Other—Explain:  
 (1) \_\_\_\_\_  
 (2) \_\_\_\_\_  
 Total \_\_\_\_\_  
 Comments:

D. An agreed upon sample of closed files, by event, will be subjected to reinspection as well.  
 E. A WYO representative will conduct the reinspection, accompanied by an NFIP General Adjuster.  
 F. A joint, single report will be issued by the WYO Company representative and the NFIP General Adjuster.  
 G. Copies of reinspection reports will be forwarded to the Claims Management of both the WYO Company and the NFIP.

*Part 3—Biennial Financial Audits, Underwriting Audits, Claims Audits, Audits for Cause, and State Insurance Department Audits*

A. Biennial Financial, Underwriting and Claims Audits  
 1. Objectives of WYO Biennial Financial Underwriting and Claims Audit. The biennial, financial, underwriting and claims audit is intended to provide the Federal Emergency Management Agency with independent assessment of the quality of financial controls over activities relating to the Company's participation in the National Flood Insurance Program as well as the integrity of the underwriting and claims data reported to FEMA.

- a. Participating WYO companies are responsible for selecting and funding independent Certified Public Accounting firms to conduct the biennial audits. Such costs are considered part of the normal administrative cost of operating the WYO program and as such are included in the WYO expense allowance.
- b. The WYO Company's representative will be notified in writing to arrange for a biennial audit. This notice should provide the WYO Company at least 120 days to prepare for the biennial audit.
- c. It is also intended that the biennial audit will reduce if not eliminate the need for FEMA auditors or their designees to conduct on-site visits to WYO companies in their review of financial activity. However, the requirement may still exist for such visits to occur as determined by the auditors. The CPA firm's audit shall be performed in accordance with GAO yellow book

requirements. Further, the CPA firm is required to select its own sample, even though FIA may provide them with pre-selected policy and claim files for review. In addition, nothing in this section should be construed as limiting the ability of the General Accounting Office or FEMA's Office of Inspector General to review the activities of the WYO Program.

d. The purpose of the biennial audit is to provide opinion on the fairness of the financial statements, the adequacy of internal controls, and the extent of compliance with laws and regulations.

e. Any WYO Company which has been subject to a comprehensive audit by the CPA firm under contract with the FEMA OIG is exempted by its selected Certified Public Accountant firm. Only the remaining unaudited fiscal year of the two years normally to be reviewed under the biennial audit will be examined. Policy and claim related financial data as reported to the NFIP are proper and adequately supported by underlying documentation.

B. Audits for Cause

In accordance with the terms of the Arrangement, the Administrator, on his/her own initiative or upon recommendation of the WYO Standards Committee or the FEMA Inspector General, may conduct for-cause audits of participating companies. The following criteria, in combination or independently, may constitute the basis for initiation of such an audit.

1. Underwriting

- a. Excessively high frequency of errors in underwriting.
  - i. Issuing policies for ineligible risks.
  - ii. Issuing policies in ineligible communities.
  - iii. Consistent premium rating errors.
  - iv. Missing or insufficient documentation for submit for rate policies.
  - v. Other patterns of consistent errors.
- b. Abnormally high rate of policy cancellations or non-renewals.
- c. Policies not processed in a timely fashion.
- d. Duplication of policy coverage noted.

*Part 2—Claims Reinspection Program*

WYO—NFIP Claims Reinspection Program  
 To keep WYO—NFIP Claims Management informed, to assist in the overall claims operation, and to provide necessary assurances and documentation for dealing with GAO, Congressional Oversight Committees, and the public, the FIA and WYO Companies have established a Claims Reinspection Program. The Program is comprised of the following major elements:  
 A. All files are subject to reinspection.  
 B. Files for reinspection may be randomly selected by flood event, or size of loss, or class of business, as determined by WYO—NFIP Claims Management.

C. WYO—NFIP Claims Management will utilize a binomial table to define sample size for reinspections prior to payment. A larger sample may be used depending upon error ratio.

e. Relational type edits indicate an usually high or low premium amount per policy for the geographical area.

f. Biennial audit results indicate usual volume of errors in underwriting.

## 2. Claims

a. Reinspection indicates consistent patterns of:

i. Losses being paid when not covered.

ii. Statistical information being reported on original loss adjustment found to be incorrect on reinspection.

iii. Salvage/subrogation not being adequately addressed.

iv. Consistent overpayment of claims.

b. Unusually high count of erroneous assignments and/or claims closed without payment (CWP).

c. Unusually low count of CWP. (May indicate inadequate follow-up of claims submitted).

d. Average claim payments that significantly exceed the average for the Program as a whole.

e. Lack of (adequate) documentation for paid claims.

f. Claims not processed in a timely fashion.

g. Consistent failure of WYO Company to receive authorization for special allocated loss adjustment expenses prior to incurring them.

h. High submission of Special Allocated Loss Adjustment Expenses (SALAE).

i. Consistently high policyholder complaint level.

j. Low/high count of salvage/subrogation.

k. Biennial audit indicates significant problems.

## 3. Financial Reporting/Accounting

a. Consistently high reconciliation variations and/or errors in statistical information.

b. Financial and/or statistical information not received in a timely fashion.

c. Letter of Credit violations are found.

d. WYO Company is not depositing funds to the Restricted Account in a timely manner, or funds are not being transferred through the automated clearinghouse on a timely basis.

e. Premium suspense is consistently significant, older than 60 days, and/or cannot be detailed sufficiently, or both.

f. Large/unusual balance in Cash-Other (Receivables and/or Payable).

g. Large, unexplained differences in cash reconciliation.

h. Large/unusual balances or variations between months noted for key reported financial data.

i. Financial statement to statistical data reconciliation sheets improperly completed indicating proper review of information is not being performed prior to signing certification statement.

j. Repeated failure to respond fully in a timely manner to questions raised by FIA or the NFIP Bureau and Statistical Agent concerning monthly financial reporting.

k. Biennial audit indicates significant problems.

## C. Underwriting Audit

1. Samples of new business policies, renewals, endorsements and cancellations will be provided by the FIA with the biennial audit instructions, including samples of the Mortgage Portfolio Protection business,

where applicable. The audit is to be conducted in accordance with GAO yellow book requirements. The CPA firm may supplement with its own sample of risks which were in force during all or part of the Arrangement Year under audit for detail testing.

## 2. Underwriting Audit Outline

a. Review of the Underwriting Department's responsibilities, authorities and composition.

b. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

c. Administrative review to verify compliance with company procedures.

d. Thorough examination of a random sample of underwriting files to measure the quality of work. The CPA firm is expected to provide a representative sample of its review to substantiate its opinion and findings. At a minimum, the files should be reviewed to verify the following:

i. Policies are issued for eligible risks;

ii. Rates are correct and consistent with the amount of insurance requested on the application;

iii. Waiting period for new business is consistent with government regulations;

iv. Elevation certification or difference is correctly shown on application;

v. The coverage does not include more than one building and/or its contents per policy;

vi. No binder is effective unless issued with the authorization of FIA;

vii. The FIRM zone shown on the application to the community in which the property is located;

viii. Community shown on application is eligible to purchase insurance under the NFIP;

ix. Information on type of building, etc., is fully complete;

x. Applicable deductibles are recorded;

xi. A new, fully completed application or a photocopy of the most recent application, or similar documentation, with the appropriate updates to reflect current information is on file for each risk, including those formerly written by the NFIP Servicing Facility;

xii. If any files to be audited are unavailable, determine the reason for the absence.

e. Endorsement Processing.

1. Complete tasks as applicable.

2. Review requests for additional coverage to ensure that they are subject to the waiting period rule.

3. Review controls established to ensure that no risk is insured under endorsement provisions that are not acceptable as a new business risk (i.e., a property located in a suspended community).

f. Cancellation Processing. Verify controls to ensure that one of the necessary reasons for cancellation exists and that the transaction is accompanied by proper documentation.

g. Renewal Processing. Determine controls to ensure that all necessary information needed to complete the transaction is provided.

h. Expired Policies. Determine controls to ensure that each step is carried out at the proper time.

i. Observance of Waiting Period. Establish procedures to document, as a matter of WYO Company business record and in each transaction involving a new application, renewal, and endorsement, that any applicable effective date and premium receipt rules have been observed (44 CFR 61.11). Documentation reasonably suitable for the purpose includes retention of postmarked envelopes (for three (3) years) from date, date stamping and retention (via hard copy or microfilm process) of application, renewal and endorsement documents and checks received in payment of premium; computer input of document and premium receipt transactions and retention of such records in the computer system; and other reasonable insurer methods of verifying transactions involving requests for coverage and receipts of premium.

## D. Claims Audit Outline

1. Review of the Claims Department's responsibilities, authorities, and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Thorough examination of a random sample of claims files which may be provided by FIA to measure the quality of work. At a minimum, the files should be reviewed to verify the following:

a. Verify controls to ensure that a file is set up for each Notice of Loss Received.

b. Review adjuster reports to determine whether they contain adequate evidence to substantiate the payment or denial of claims, including amount of losses claimed, any salvage proceeds, depreciation and potential subrogation.

c. Ascertain that building and contents allocations are correct.

d. Determine whether the file contains evidence identifying subrogation possibilities.

e. Verify that partial payments were properly considered in processing the final draft or check.

f. Verify that the loss payees are listed correctly (consider insured and mortgagee).

g. Verify that the total amount of the drafts or checks is within the policy limits.

h. Ascertain the relevance and validity of the criteria used by the carrier to judge effectiveness of its claims servicing operation.

i. Confirm that when information is received from an independent adjuster, the examiner either acts promptly to give proper feedback with instructions or takes action to pay or deny the loss.

j. Determine whether the Claims Department is using an "impression of risk" program in reporting misrated policies, etc.

k. Where attempts at fraud occur, verify that these instances are being reported to FIA for referral to the FEMA Inspector General's office.

i. If any files to be audited are unavailable, determine the reason for their absence. In undertaking this portion of the biennial audit, the Administrative Review Checklist (Exhibit B) below should be utilized.

Exhibit "B"—Administrative Review Checklist

Policy #:  
 Insured's Name:  
 State:  
 Date of loss:  
 Date paid:  
 Date reported:  
 Amt. of loss: \$  
 Bldg: \$  
 Contents: \$  
 Adjusting firm:  
 Examiner's name:  
 Comments:

1. Investigation and Adjustments

	Yes	No	N/A
<b>A. Application of Coverage.</b>			
(1) Insurable Interest? .....	[ ]	[ ]	[ ]
(2) Is loss from the flood peril? .....	[ ]	[ ]	[ ]
(3) Did loss occur within the policy term? .....	[ ]	[ ]	[ ]
(4) Does location and description of risk coincide with policy information? .....	[ ]	[ ]	[ ]
(5) Were proper deductibles applied? .....	[ ]	[ ]	[ ]
(6) Other insurance considered? .....	[ ]	[ ]	[ ]
(7) Other losses? .....	[ ]	[ ]	[ ]
<b>B. Application of Sound Adjusting Practices:</b>			
(1) Was adjuster's report accurate/complete? .....	[ ]	[ ]	[ ]
(2) Was an attorney used in the settlement? .....	[ ]	[ ]	[ ]
(3) Was a technical expert used in the settlement? .....	[ ]	[ ]	[ ]
<b>C. Documentation:</b>			
(1) Are damages clearly identified? .....	[ ]	[ ]	[ ]
(2) Are damages flood related? .....	[ ]	[ ]	[ ]
(3) Are damages clearly and completely itemized and documented by the adjuster? .....	[ ]	[ ]	[ ]
(4) Was depreciation considered? .....	[ ]	[ ]	[ ]
(5) Has subrogation been considered? .....	[ ]	[ ]	[ ]
(6) Has salvage been properly handled? .....	[ ]	[ ]	[ ]
(7) Was salvage timely? .....	[ ]	[ ]	[ ]
<b>2. Supervision:</b>			
<b>a. Assignments:</b>			
(1) Are assignments made promptly? .....	[ ]	[ ]	[ ]
(2) Is insured contacted promptly? .....	[ ]	[ ]	[ ]
<b>b. Reserves:</b>			
(1) Are initial reserves indicated on the first report? .....	[ ]	[ ]	[ ]
(2) Are they adequate? .....	[ ]	[ ]	[ ]
(3) Does final settlement compare favorably with last reserve established? .....	[ ]	[ ]	[ ]
<b>c. Diary Control:</b>			
(1) Automatic? .....	[ ]	[ ]	[ ]
(2) Timely? .....	[ ]	[ ]	[ ]

(3) Is file reviewed at diary date with examiner's comments? .....	[ ]	[ ]	[ ]
<b>d. Examiner Evaluation and Settlement Performances:</b>			
(1) Is examiner directing adjuster when needed? .....	[ ]	[ ]	[ ]
(2) Are files documented? .....	[ ]	[ ]	[ ]
(3) Is adequate control maintained over in-house adjuster? .....	[ ]	[ ]	[ ]
(4) Is adequate control maintained over outside adjuster? .....	[ ]	[ ]	[ ]
<b>e. Salvage and subrogation:</b>			
(1) Is salvage evaluated by salvors? .....	[ ]	[ ]	[ ]
(2) Is salvage disposed of promptly? .....	[ ]	[ ]	[ ]
(3) Are salvage returns adequate? .....	[ ]	[ ]	[ ]
(4) Is potential subrogation being promptly and properly investigated? .....	[ ]	[ ]	[ ]
(5) Are proper subrogation forms used? .....	[ ]	[ ]	[ ]
(6) Are subrogation and salvage files properly opened, diaried, and referred (if appropriate)? .....	[ ]	[ ]	[ ]
(7) Are recovery funds for subrogation and salvage being properly handled? .....	[ ]	[ ]	[ ]
<b>f. Suits:</b>			
(1) Are suits properly identified? .....	[ ]	[ ]	[ ]
(2) Are suits being properly evaluated? .....	[ ]	[ ]	[ ]
(3) Are suits being referred to attorneys promptly? .....	[ ]	[ ]	[ ]
(4) Are attorneys being advised as to handling settlement or compromise? .....	[ ]	[ ]	[ ]
(5) Are suits being properly controlled? .....	[ ]	[ ]	[ ]
(6) Are suits files properly diaried? .....	[ ]	[ ]	[ ]
<b>(7)-(8) [Reserved].</b>			
<b>g. Other:</b>			
(1) Was there other coverage by the WYO Company? .....	[ ]	[ ]	[ ]
(2) Were damages correctly apportioned? .....	[ ]	[ ]	[ ]
(3) Was a solo adjuster used? .....	[ ]	[ ]	[ ]
(4) Were there prior flood claims? .....	[ ]	[ ]	[ ]
(5) Were prior damages repaired? .....	[ ]	[ ]	[ ]
(6) Were prior claim files reviewed? .....	[ ]	[ ]	[ ]
(7) Was a Congressional complaint letter in file? .....	[ ]	[ ]	[ ]
(8) Was it responded to promptly? .....	[ ]	[ ]	[ ]
(9) Is the statistical reporting correction file being properly managed? .....	[ ]	[ ]	[ ]
<b>E. State Insurance Department Examination</b>			
1. It is expected that audits of WYO companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and providing a brief statement of the overall conclusions			

that relate to flood insurance and the insurer's financial condition, when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided to the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

2. The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusion. " (Approved by the Office of Management and Budget under OMB control number 3067-0169) "

**a. Certification Statement for Monthly Financial and Statistical Reconciliation Reports.**

I have reviewed the accompanying financial and statistical reconciliation reports of XYZ Company as of \_\_\_\_\_. All information included in these statements is the representation of the XYZ Company.

Based on my review (with the exception of the matter(s) described in the following paragraphs, if applicable), I certify that I am not aware of any material modifications that should be made to the accompanying reports.

Signed \_\_\_\_\_  
 (Responsible Financial Officer)  
 Date \_\_\_\_\_

**B. Certification Statement for Monthly Statistical Transaction Report**

I have reviewed the accompanying statistical transaction report control totals in conjunction with appropriate statistical reconciliation reports. All information included in these reports is the representation of the XYZ Company. " (Approved by the Office of Management and Budget under OMB control number 3067-0169). "

Signed \_\_\_\_\_  
 (Responsible Reporting Officer)  
 Date \_\_\_\_\_

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

Dated: September 20, 1996.

Spence W. Perry,  
*Executive Administrator, Federal Insurance Administration.*

[FR Doc. 96-25088 Filed 9-30-96; 8:45 am]

**BILLING CODE 6718-03-P**

**44 CFR Part 64**

[Docket No. FEMA-7649]

**List of Communities Eligible for the Sale of Flood Insurance**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed

to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by

publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

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

**Regulatory Flexibility Act.** The Acting Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

**Regulatory Classification.** This final rule is not a significant regulatory action

under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**Executive Order 12612, Federalism.** This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

**Executive Order 12778, Civil Justice Reform.** This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

1. The authority citation for Part 64 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.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
<b>New Eligibles—Emergency Program</b>			
Nebraska: Winnebago Indian Tribe, Thurston County ...	315498	Aug. 6, 1996 .....	
Texas: Aubrey, city of, Denton County .....	480776	.....do .....	June 4, 1976.
Michigan: Martiny, township of, Mecosta County .....	260958	Aug. 23, 1996 .....	
Kentucky: Shelby County, unincorporated areas .....	210209	.....do .....	July 15, 1996.
<b>Reinstatements</b>			
Pennsylvania:			
Connellsville, township of, Fayette County .....	421623	Mar. 3, 1977, Emerg.; July 16, 1991, Reg.; July 16, 1991, Susp.; Aug. 7, 1996, Rein.	July 16, 1991.
Cheswick, borough of, Allegheny County .....	420022	July 30, 1975, Emerg.; June 18, 1980, Reg.; Oct. 4, 1995, Susp.; Aug. 7, 1996, Rein.	Oct. 4, 1995.
Masontown, borough of, Fayette County .....	422572	July 9, 1975, Emerg.; Sept. 4, 1991, Reg. Oct. 4, 1995, Susp.; Aug. 7, 1996, Rein.	February 2, 1995.
West Virginia: Reedsville, town of, Preston County .....	540269	Nov. 24, 1975, Emerg.; Aug. 1, 1987, Reg.; Aug. 1, 1987, Susp.; Aug. 7, 1996, Rein.	Aug. 1, 1987.
Pennsylvania:			
Forest Hills, borough of Allegheny County .....	420035	Oct. 15, 1973, Emerg.; Sept. 1, 1986, Reg.; Sept. 1, 1986, Susp.; Oct. 14, 1986, Rein.; Oct. 4, 1995, Susp.; Aug. 13, 1996, Rein.	Oct. 4, 1995.
Lincoln, borough of, Allegheny County .....	420049	April 2, 1975, Emerg.; Sept. 28, 1979, Reg.; Oct. 4, 1995, Susp.; Aug. 13, 1996, Rein.	Do.
Mt. Lebanon, municipality of, Allegheny County .....	421272	Oct. 8, 1976, Emerg.; June 30, 1976, Reg.; Oct. 4, 1995, Susp.; Aug. 13, 1996, Rein.	Do.
New York: Triangle, town of, Broome County .....	360055	Aug. 11, 1976, Emerg.; July 20, 1984, Reg.; Nov. 4, 1992, Susp.; Aug. 13, 1996, Rein.	July 20, 1984.
Pennsylvania: Bradford Woods, borough of Allegheny County.	421262	Mar. 9, 1977, Emerg.; Nov. 6, 1981, Reg.; Oct. 4, 1995, Susp.; Aug. 21, 1996, Rein.	Oct. 4, 1995.

State/location	Community No.	Effective date of eligibility	Current effective map date
<b>Regular Program Conversions</b>			
<b>Region II</b>			
New York:			
Bolton, town of, Warren County .....	360869	Aug. 16, 1996, Suspension Withdrawn .....	Aug. 16, 1996.
Lake George, town of, Warren County .....	360876	.....do .....	Do.
Queensbury, town of, Warren County .....	360879	.....do .....	Do.
<b>Region V</b>			
Illinois: Centralia, city of, Marion and Clinton Counties	170453	.....do .....	Do.
Indiana: Seymour, city of, Jackson County .....	180099	.....do .....	Do.
Michigan:			
Coldwater, city of, Branch County .....	260813	.....do .....	Do.
Coldwater, township of, Branch County .....	260826	.....do .....	Do.
Wisconsin: Dunn County, unincorporated areas .....	550118	.....do .....	Do.
<b>Region VII</b>			
Missouri: Howard County, unincorporated areas .....	290162	.....do .....	Do.
<b>Region X</b>			
Washington:			
Ferry County, unincorporated areas .....	530041	.....do .....	Do.
Stevens County, unincorporated areas .....	530185	.....do .....	Do.

Code for reading third column: Emerg.;- Emergency; Reg.;- Regular; Rein.;- Reinstatement; Susp.;-Suspension; With.- Withdrawn.

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

Issued: September 24, 1996.

Richard W. Krimm,

Acting Associate Director, Mitigation Directorate.

[FR Doc. 96-25090 Filed 9-30-96; 8:45 am]

BILLING CODE 6718-05-P

**44 CFR Part 64**

[Docket No. FEMA-7650]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

**EFFECTIVE DATE:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date,

contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW, Room 417, Washington, DC 20472, (202) 646-3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of

the communities will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Acting Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this

final rule may take effect within less than 30 days.

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

**Regulatory Flexibility Act.** The Acting Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory

requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

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

**Paperwork Reduction Act.** This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**Executive Order 12612, Federalism.** This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

**Executive Order 12778, Civil Justice Reform.** This rule meets the applicable

standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

1. The authority citation for Part 64 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.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
<b>Region I</b>				
Massachusetts: West Tisbury, town of, Dukes County.	250074	March 29, 1978 Emerg.; October 15, 1985, Reg.; September 29, 1996, Susp.	September 29, 1996	September 29, 1996
<b>Region II</b>				
New York:				
Elimira, town of, Chemung County ....	360151	February 9, 1973, Emerg.; October 16, 1984, Reg.; September 29, 1996, Susp.	.....do .....	Do.
Horseheads, town of, Chemung County.	360153	June 20, 1973, Emerg.; September 4, 1986, Reg.; September 29, 1996, Susp.	.....do .....	Do.
Lake George, village of, Warren County.	360877	April 27, 1975, Emerg.; June 22, 1984, Reg.; September 29, 1996, Susp.	.....do .....	Do.
<b>Region V</b>				
Minnesota: Koochiching County, unincorporated areas.	270233	July 1, 1974, Emerg.; June 1, 1988, Reg.; September 29, 1996, Susp.	.....do .....	Do.
Ohio: Montgomery County, unincorporated areas.	390775	September 27, 1977, Emerg.; December 15, 1981, Reg.; September 29, 1996, Susp.	.....do .....	Do.
Wisconsin: Platteville, city of, Grant County.	550154	June 24, 1975, Emerg.; September 29, 1996, Reg.; September 29, 1996, Susp.	.....do .....	Do.
<b>Region IV</b>				
Florida: Sewall's Point, town of, Martin County.	120164	July 26, 1973, Emerg.; August 15, 1978, Reg.; October 16, 1996, Susp.	October 16, 1996 ....	October 16, 1996.
Tennessee:				
Carter County, unincorporated areas	470024	May 30, 1979, Emerg.; January 3, 1990, Reg.; October 16, 1996, Susp.	.....do .....	Do.
Elizabethton, city of, Carter County ....	475425	March 30, 1970, Reg.; October 16, 1996, Susp.	.....do .....	Do.
Jonesborough, town of, Washington County.	470198	January 16, 1974, Emerg.; September 30, 1982, Reg.; October 16, 1996, Susp.	.....do .....	Do.
Watauga, city of, Carter County .....	470331	October 16, 1996, Reg.; October 16, 1996, Susp.	.....do .....	Do.
<b>Region V</b>				
Michigan: Arcadia, township of, Manistee County.	260306	September 24, 1974, Emerg.; September 1, 1986, Reg.; October 16, 1996, Susp.	.....do .....	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

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

Issued: September 23, 1996.

Robert H. Volland,

Director, National Earthquake Loss Reduction Program.

[FR Doc. 96-25089 Filed 9-30-96; 8:45 am]

BILLING CODE 6718-05-P

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## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 501, 502, 514 and 583

#### Reorganization of Enforcement Components

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

**SUMMARY:** The Federal Maritime Commission is amending its rules to reflect the establishment of the Bureau of Enforcement and the replacement of its District Offices with Area Representatives.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Vern W. Hill, Director, Bureau of Enforcement, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523-5783.

**SUPPLEMENTARY INFORMATION:** The Federal Maritime Commission is amending various provisions of Part 500 to end of Title 46 of the Code of Federal Regulations to reflect the reorganization of its enforcement components, which includes the consolidation of the Bureau of Hearing Counsel and the Bureau of Investigations into a new Bureau of Enforcement and the replacement of its District Offices with individual Area Representatives. Notice and public comment are not necessary prior to the issuance of this rule because it deals solely with matters of agency organization. Neither is a delayed effective date required. This action does not affect the substantive duties and functions of the Commission's enforcement components.

#### List of Subjects

##### 46 CFR Part 501

Administrative practice and procedure, Authority delegations, Organization and functions, Seals and insignia.

##### 46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers,

Reporting and recordkeeping requirements.

##### 46 CFR Part 514

Freight, Harbors, Maritime carriers, Reporting and recordkeeping requirements.

##### 46 CFR Part 583

Freight, Maritime carriers, Reporting and recordkeeping requirements, Surety bonds.

Title 46 of the Code of Federal Regulations is amended as follows:

#### **PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL**

1. The authority citation for Part 501 continues to read as follows:

Authority: 5 U.S.C. 551-557, 701-706, 2903 and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501-520 and 3501-3520; 46 U.S.C. app. 801-848, 876, 1111, and 1701-1720; Reorganization Plan No. 7 of 1961, 26 FR 7315, August 12, 1961; Pub. L. 89-56, 79 Stat. 195; 5 CFR Part 2638.

2. Section 501.3(l) is revised to read as follows:

**§ 501.3 Organizational components of the Federal Maritime Commission.**

\* \* \* \* \*

(l) Bureau of Enforcement.

\* \* \* \* \*

Section 501.4(c) is revised to read as follows:

**§ 501.4 Lines of Responsibility.**

\* \* \* \* \*

(c) Bureau of Enforcement and Area Representatives. The Area Representatives report to the Director, Bureau of Enforcement.

4. Section 501.5(i) introductory paragraph and (i)(6) introductory text are revised to read:

**§ 501.5 Functions of the organizational components of the Federal Maritime Commission.**

\* \* \* \* \*

(i) Bureau of Enforcement; Area Representatives. Under the direction and management of the Bureau Director, the Bureau of Enforcement:

\* \* \* \* \*

(6) Maintains a presence in locations other than Washington, D.C. through Area Representatives whose activities include the following:

\* \* \* \* \*

5. Section 501.28(b) is revised to read:

**§ 501.28 Delegation to the Director, Bureau of Enforcement.**

\* \* \* \* \*

(b) Authority to approve administrative leave for Area Representatives.

6. In section 501.41 paragraph (a) is amended by removing the words "District Offices" and adding in their place the words "Area Representatives," and paragraph (d) is revised to read as follows:

**§ 501.41 Public requests for information and decisions.**

\* \* \* \* \*

(d) The Area Representatives will provide information and decisions to the public within their geographic areas, or will expedite the obtaining of information and decisions from headquarters. The addresses of these Area Representatives are as follows. Further information on Area Representatives, including Internet E-mail addresses, can be obtained on the Commission's home page on the World Wide Web at "www.fmc.gov."

*Los Angeles*

Los Angeles Area Representative, U.S. Customs House Building, P.O. Box 3164, 300 S. Ferry Street, Room 1018,

Terminal Island Station, San Pedro, CA 90731

*Miami*

Miami Area Representative, Customs Management Center, 909 SE, 1st Ave., Room 736, Miami, FL 33131

*New Orleans*

New Orleans Area Representative, U.S. Customs House, 423 Canal Street, Room 303, New Orleans, LA 70130

*Seattle*

Seattle Area Representative, U.S. Customs, 3236 16th Ave., SW, Seattle, WA 98134

*North Atlantic*

North Atlantic Area Representative, Federal Maritime Commission, 800 North Capitol Street, NW., Suite 928, Washington, DC 20573

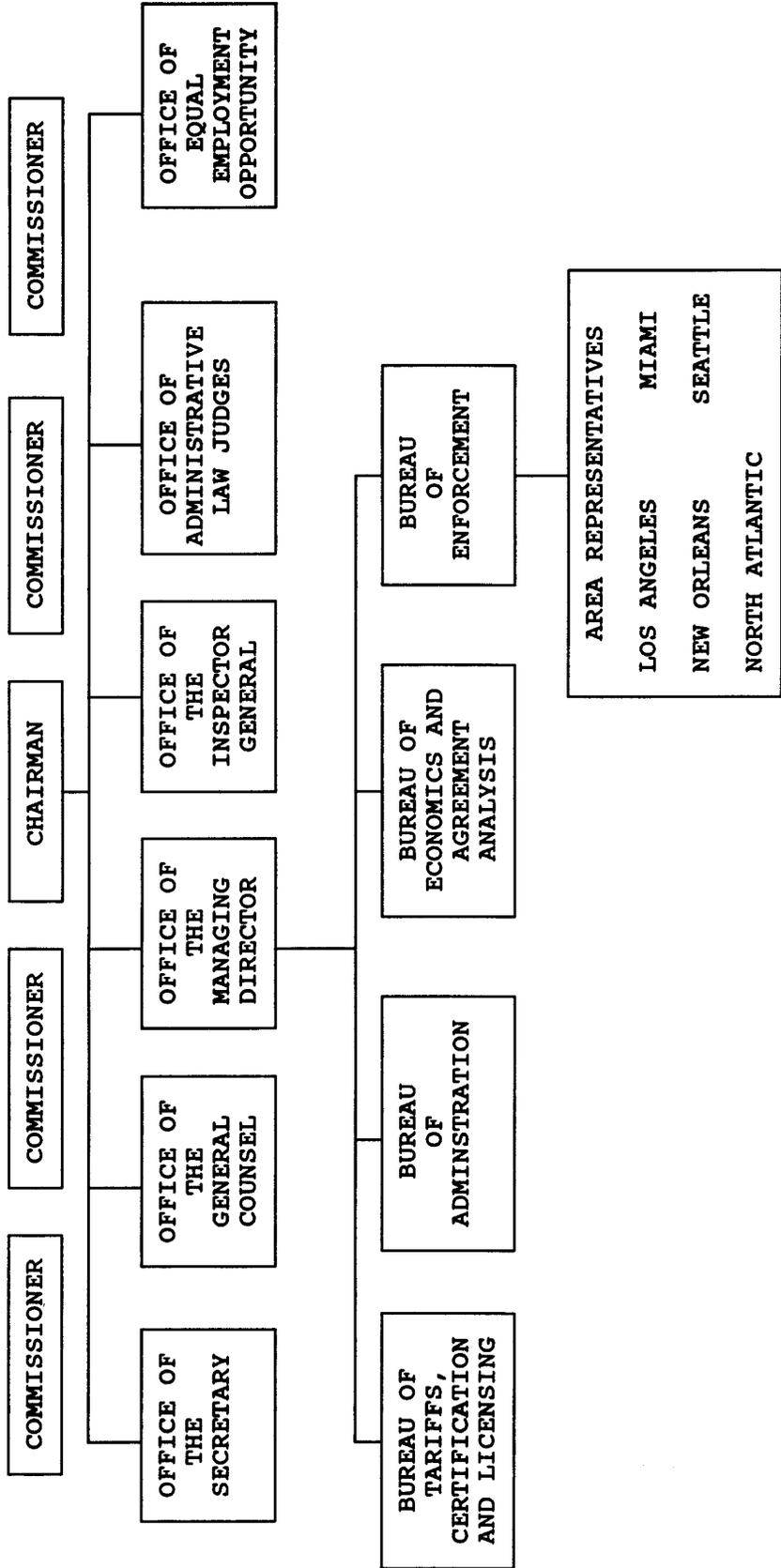
\* \* \* \* \*

7. Appendix A to Part 501, Federal Maritime Commission Organization Chart, is revised to read as follows:

BILLING CODE 6730-01-M

APPENDIX A

FEDERAL MARITIME COMMISSION  
ORGANIZATION CHART



**PART 502—RULES OF PRACTICE AND PROCEDURES**

8. The authority citation for Part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 853a; and Pub. L. 88–777 (46 U.S.C. app. 817d, 817e).

9. Section 502.42 is revised to read as follows:

**§ 502.42 Bureau of Enforcement.**

The Director, Bureau of Enforcement, shall be a party to all proceedings governed by the rules in this part, except that in complaint proceedings under § 502.62, the Director may become a party only upon leave to intervene granted pursuant to § 502.72, and in rulemaking proceedings, the Director may become a party by designation, if the Commission determines that the circumstances of the proceeding warrant such participation. The Director or the Director's representative shall be served with copies of all papers, pleadings, and documents in every proceeding in which the Bureau of Enforcement is a party. The Bureau of Enforcement shall actively participate in any proceeding to which the Director is a party, to the extent required in the public interest, subject to the separation of functions required by section 5(c) of the Administrative Procedure Act. (See § 502.224.) [Rule 42.]

**§ 502.68 [Amended]**

In § 502.68, *Declaratory orders and fee*, paragraph (f)(1) is amended by removing the words "Hearing Counsel" and adding in their place the word "Enforcement".

**§ 502.221 [Amended]**

11. In § 502.221, *Briefs; requests for findings*, paragraph (c) is amended by removing the words "Hearing Counsel" and adding in their place the words "the Bureau of Enforcement".

**§ 502.604 [Amended]**

12. In § 502.604, *Compromise of penalties; Relation to assessment proceedings*, paragraph (g) is amended by removing the words "Hearing Counsel" and adding in their place the word "Enforcement".

**Appendix A to Subpart W—[Amended]**

13. In *Appendix A to Subpart W—Example of Compromise Agreement*, paragraph 2 is amended by removing the words "Hearing Counsel" and

adding in their place the word "Enforcement" and The Approval and Acceptance clause is amended by removing the words "Hearing Counsel" and adding in their place the word "Enforcement".

**PART 514—TARIFFS AND SERVICE CONTRACTS**

14. The authority citation for Part 514 continues to read as follows:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

15. Section 514.7(m)(3) is revised to read:

**§ 514.7 Service contracts in foreign commerce.**

\* \* \* \* \*

(m) \* \* \*

(3) Production for audit within 30 days of request. Every common carrier or conference shall, upon written request of the FMC's Director, Bureau of Enforcement or any Area Representative, submit requested service contract records within 30 days from the date of the request.

**PART 583—SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS**

16. The authority citation for Part 583 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710–1712, 1716, and 1721.

**§ 583.4 [Amended]**

17. In § 583.4 *Financial responsibility requirements*, the undesignated paragraph following paragraph (d)(6)(ii), is amended by removing the words "other Commission's district offices located in New York, NY; New Orleans, LA; San Francisco, CA; Hato Rey, PR; Los Angeles, CA; Miami, FL; and Houston, TX" and adding in their place the words "Area Representative listed at 46 CFR 501.41(d)".

By the Commission,  
Joseph C. Polking,  
Secretary.  
[FR Doc. 96–25061 Filed 9–30–96; 8:45 am]  
BILLING CODE 6730–01–M

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 20 and 24**

[WT Docket No. 96–59; GN Docket No. 90–314; FCC 96–278]

**Broadband Personal Communications Services; Correction**

**AGENCY:** Federal Communications Commission.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains amendments to the final rules (47 CFR Parts 20 and 24) which were published July 1, 1996 (61 FR 33859). The rules relate to the competitive bidding and ownership regulations for Personal Communications Services in the 2 GHz band ("broadband PCS").

**EFFECTIVE DATE:** July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mark Bollinger, Wireless Telecommunications Bureau, (202) 418–0660.

**SUPPLEMENTARY INFORMATION:****Background**

The final regulations that are the subject of these corrections modify the competitive bidding and ownership provisions for broadband PCS.

**Need for Correction**

As published, the final rules contain errors which are misleading and are in need of clarification. Specifically, the amendatory language to 47 CFR § 20.6 incorrectly identified the newly added note as "Note 1 to § 20.6(d)." The correct designation of this note should be "Note 3 to § 20.6." Also, with regard to § 24.720, the amendatory language should have indicated that paragraph (l)(11)(ii) is omitted and paragraph (l)(11)(i) is redesignated as paragraph (l)(11).

**Correction of Publication**

Accordingly, the publication on July 1, 1996 of amendments to the final rules (47 CFR Parts 20 and 24), which were the subject of FR Doc. 96–16665, is corrected as follows:

**§ 20.6 CMRS spectrum aggregation limit [Corrected]**

On page 33867, the amendatory language to § 20.6 is corrected to read as follows, "Section 20.6 is amended by revising paragraphs (d)(2), (e) and adding a new Note 3 to § 20.6. \* \* \*"

**§ 24.720 Definitions [Corrected]**

On page 33869, in the first column, the amendatory language to § 24.720 is corrected to read as follows, "Section

24.720 is amended by revising the heading of paragraph (b); redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(3) and (b)(4) and revising them; redesignating paragraph (l)(11)(i) as paragraph (l)(11) and removing paragraph (l)(11)(ii); adding new paragraphs (b)(2) and (b)(5); and revising paragraphs (c)(2), (e), (f), (g), (j)(2), (n)(1), (n)(3) and (n)(4) \* \* \*."

As corrected, paragraph (l)(11) reads as follows:

**§ 24.720 Definitions.**

\* \* \* \* \*

(l) \* \* \*

(11) For purposes of §§ 24.709(a)(2) and paragraphs (b)(2) and (d) of this section, Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), or entities owned and controlled by such tribes or corporations, are not considered affiliates of an applicant (or licensee) that is owned and controlled by such tribes, corporations or entities, and that otherwise complies with the requirements of § 24.709 (b)(3) and (b)(5) or § 24.709 (b)(4) and (b)(6), except that gross revenues derived from gaming activities conducted by affiliated entities pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) will be counted in determining such applicant's (or licensee's) compliance with the financial requirements of § 24.709(a) and paragraphs (b) and (d) of this section, unless such applicant establishes that it will not receive a substantial unfair competitive advantage because significant legal constraints restrict the applicant's ability to access such gross revenues.

\* \* \* \* \*

Dated: September 25, 1996.

Federal Communications Commission  
Kathleen O'Brien Ham,  
Chief, Auctions Division, Wireless  
Telecommunications Bureau.

[FR Doc. 96-25136 Filed 9-30-96; 8:45 am]

BILLING CODE 6712-01-P

**INTERNATIONAL DEVELOPMENT  
COOPERATION AGENCY**

**Agency for International Development**

**48 CFR Parts 702, 706, 715, 716, 722,  
726, 733, 737, and 752**

[AIDAR Notice 96-1]

RIN 0412-AA29

**Miscellaneous Amendments to  
Acquisition Regulations; Corrections**

**AGENCY:** U.S. Agency for International  
Development (USAID), IDCA.

**ACTION:** Final rule; Correction.

**SUMMARY:** This document contains corrections to rule document 96-18495, AIDAR Notice 96-1, Miscellaneous Amendments to Acquisition Regulations, in the issue of Friday, July 26, 1996 (61 FR 39089).

**EFFECTIVE DATE:** October 31, 1996.

**FOR FURTHER INFORMATION CONTACT:**  
M/OP/P, Ms. Diane M. Howard, (703)  
875-1310.

**SUPPLEMENTARY INFORMATION:** AIDAR Notice 96-1, Miscellaneous Amendments to Acquisition Regulations, published on July 26, 1996 (61 FR 39089), contained 59 amendments to the AID Acquisition Regulation (AIDAR). Several omissions from and errors in the Notice have been identified and require corrective action. The specific corrections to the Notice are:

(1) The Preamble and section 702.170-13 are corrected to show the new Agency Procurement Executive.

(2) Three amendments, numbers 15, 18 and 46, should have included language to reserve the section heading (in #15 for section 715.605), the Subpart heading (in #18 for Subpart 716.5) and the Part heading (in #46 for Part 737), respectively.

(3) Amendment 26 redesignated section 722.103-70 as 722.103-1 which already existed with the title "Definitions". This part of the Amendment should have removed the heading "722.103-70 Compensatory time off." and allowed the definition that followed this heading to fall under the existing 722.103-1. The entire instruction is corrected, even though the remaining instructions under this Amendment were right.

(4) Section 726.302 was omitted from the chart in Amendment 37 and should have been redesignated as 726.7008, and the heading for subpart 726.3 should be removed; further, several references in section 706.302-71 require correction due to the redesignations of 726.101 to 726.7002 and 726.103 to 726.7004.

(5) FAC 90-40 was published on the same day as AIDAR Notice 96-1 and contained changes to FAR 33.103 which in turn rendered incorrect references in Amendment 43, which revised new sections 733.103-71 and 733.103-72.

(6) Amendment 44 incorrectly redesignated sections 733.7101 and 733.7102 as 733.2701 and 733.2702, respectively; the correct redesignations should be 733.270-1 and 733.270-2, respectively.

(7) Amendment 58 incorrectly removed "living quarters allowance". The phrase that should have been removed was "temporary lodging allowance", since this is the term that "temporary quarters subsistence allowance" replaced in the Standardized Regulations (Government Civilians, Foreign Areas) upon which these allowances are based.

**Correction of Publication**

Accordingly, the publication on July 26, 1996 of final rule [AIDAR Notice 96-1] Miscellaneous Amendments to Acquisition Regulations (61 FR 39089), the subject of FR document 96-18495, is corrected as follows:

1. In the Preamble on page 39090, in the first column under D. Administrative Changes and Clarifications, items (2) through (9) are redesignated as (3) through (10) respectively, and insert item (2) to read as follows: "(2) Section 702.170-13 is amended to name the new Agency Procurement Executive."

**702.170 [Corrected]**

2. On page 39091 in the second column, between amendatory instruction 8 and the heading for Part 706—Competition Requirements, insert the following:

8a. Paragraph (b) of section 702.170-13 is amended in the first sentence by removing "Mr. Michael D. Sherwin, the Principal Deputy Assistant Administrator for Management" and replacing it with "Mr. Marcus L. Stevenson, the Director, Office of Procurement, Bureau for Management", in the second sentence by removing "Mr. Sherwin" and replacing it with "Mr. Stevenson", and in the third sentence by removing "Principal Deputy Assistant Administrator" and replacing it with "Director, Office of Procurement".

**706.302-71 [Corrected]**

3. On the same page and column, between amendatory instruction 9 and the heading for Part 709—Contractor Qualifications, insert the following:

**706.302-71 [Amended]**

9a. In section 706.302-71, paragraph (a)(2) is amended by removing "726.101" wherever it appears and replacing it with "726.7002", and paragraph (b) is amended by removing "726.103" and replacing it with "726.7004".

**715.605 [Corrected]**

4. On the same page in the third column, in amendatory instruction 15, insert "and 715.605 is reserved" after "removed".

**716.501 [Corrected]**

5. On page 39092, in the first column, in amendatory instruction 18, insert "and Subpart 716.5 is reserved" after "removed".

**722.103 [Corrected]**

6. In the second column on the same page, amendatory instruction 26 is corrected to read as follows:

26. The heading "722.103-70 Compensatory time off." is removed and Sections 722.103-2 and 722.103-4 respectively, and section 722.103-3 is added and reserved.

**726.101-726.310 [Corrected]**

7. On page 39093, in the third column, in the chart under amendatory instruction 37, insert "726.302" below "726.301 under "Old section", and "726.7008" below "726.7007" under "New section"; in instruction 37a, "Subpart 726.2 is" is corrected to read "Subparts 726.2 and 726.3 are".

**733.103-71 [Corrected]**

8. On page 39094, in the third column, under section 733.103-71, in paragraph (b) on the third line, "33.103(b)(3)" is corrected to read "33.103(d)(2)", and in paragraph (c) on the first line, "protestor" is corrected to read "protester".

**733.103-72 [Corrected]**

9. On the same page and column, in section 733.103-72, paragraph (b) is corrected to read as follows:

(b) Contracting Officer. The Contracting Officer is responsible for requesting an extension of time for acceptance of offers as described in FAR 33.103(f)(2).

**733.27 [Corrected]**

10. On page 39095, in the first column, in amendatory instruction 44 on the fourth line, "733.2701" and "733.2702" are corrected to read "733.270-1" and "733.270-2" respectively.

**PART 737.2—CORRECTED**

11. On the same page and column, in amendatory instruction 46, insert "and Part 737 is reserved" after "removed".

**752.7028 [Corrected]**

12. On page 39096, in the second column, in lines six and seven of amendatory instruction 58, "living quarters allowance" is corrected to read "temporary quarters allowance".

Dated: September 18, 1996.

Marcus L. Stevenson,  
*Procurement Executive.*

[FR Doc. 96-25059 Filed 9-30-96; 8:45 am]

BILLING CODE 6116-01-M

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration****49 CFR Part 171**

[Docket HM-207C, Amdt. No. 171-141]

RIN 2137-AC63

**Exemption, Approval, Registration and Reporting Procedures; Miscellaneous Provisions**

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

**ACTION:** Response to petition for reconsideration.

**SUMMARY:** RSPA is publishing a letter in which it denied a petition for reconsideration of a provision in the final rule in the HM-207C proceeding which revised procedures for applying for exemptions and established procedures for applying for approvals, and registering and filing reports with RSPA. That provision deleted a paragraph that specified when State or local hazardous waste requirements would be preempted.

**EFFECTIVE DATE:** The effective date for the final rule published under Docket HM-207C on May 9, 1996 (61 FR 21084) remains October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Stokes Molinar, Office of the Chief Counsel, (202) 366-4400, or Diane LaValle, Office of Hazardous Materials Standards, (800) 467-4922, RSPA, US Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590-0001.

**SUPPLEMENTARY INFORMATION:** On May 9, 1996, RSPA published a final rule which amended the Hazardous Materials Regulations by changing and clarifying RSPA's procedures and requirements for its exemptions, approvals, registration, reporting,

preemption, and enforcement procedures and programs. These changes and clarifications included a modification of 49 CFR 171.3 pertaining to hazardous waste.

RSPA deleted 49 CFR 171.3(c) concerning preemption of State or local hazardous waste transportation requirements. That section preempted a requirement if it applied because the material in issue was a waste material and if the non-Federal requirement applied differently from, or in addition to, the HMR requirements concerning packaging, marking, labeling, or placarding, format or contents of discharge reports, and format or contents of shipping papers (including hazardous waste manifests).

RSPA received one petition for reconsideration of this issue. On September 20, 1996, RSPA denied the petition for reconsideration in a letter which has been sent to the petitioner. This document publishes verbatim the letter of denial as follows:

September 20, 1996.

Mr. Charles Dickhut,

*Chairman, Association of Waste Hazardous Materials Transporters, 2200 Mill Road, Alexandria, Virginia 22314*

Dear Mr. Dickhut: This letter responds to your May 22, 1996 Petition for Reconsideration (Petition) regarding a provision of the Final Rule issued under Docket HM-207C, published in the Federal Register on May 9, 1996, at 61 FR 21084. The Petition requests that the Research and Special Programs Administration (RSPA) reconsider the decision to delete 49 C.F.R. 171.3(c), which provided that certain requirements of a State or political subdivision pertaining to hazardous waste which applied differently from, or were in addition to, the Federal requirements would be found to be inconsistent with the Federal requirements.

The Petition is based upon four considerations. First, you state that "no mention, let alone justification, of RSPA's intent to delete the provision was included in the notice of proposed rulemaking on docket HM-207C," and you further state that "no support was voiced for this amendment. On the other hand, several comments asked that the provision be retained." Second, you state that 49 C.F.R. 171.3(c) has served as regulatory support for voluntary harmonization of non-Federal requirements with Federal requirements. Third, you contend that where voluntary harmonization has not been achieved, 49 C.F.R. 171.3(c) has been relied upon and cited by RSPA in each binding preemption determination issued since 1990 which has dealt exclusively with hazardous waste. Fourth, you assert that deletion of 49 C.F.R. 171.3(c) undermines the Congressional mandate for implementation of a uniform program of regulation for the transportation of hazardous waste.

As more fully explained below, RSPA does not believe that the decision to eliminate 49 C.F.R. 171.3(c) should be reversed.

#### *The Federal Hazardous Materials Law*

In 1975, Congress enacted the Hazardous Materials Transportation Act (HMTA) to provide DOT with greater authority to protect the Nation against the risks to life and property which are inherent in the transportation of hazardous materials. In 1990, the HMTA was amended by Congress' enactment of the Hazardous Materials Transportation Uniform Safety Act. In 1994, the provisions of the HMTA, as amended, were codified in the present-day Federal hazardous materials transportation law, which includes provisions setting out an all-inclusive, comprehensive preemption program. Under the preemption authority, DOT may issue binding Federal preemption determinations in all areas of hazardous materials transportation, including hazardous waste.

The law now specifies "covered subjects" with which State, local, and tribal requirements are required to be "substantively the same." These "covered subjects" include shipping papers, packaging, marking, labeling, placarding and written reports of hazardous materials releases. The "covered subjects" preemption provisions have obviated the necessity to maintain a separate regulatory provision which addresses only hazardous waste.

#### *Analysis/Decision*

The Petition's first argument in support of the request for reconsideration is that RSPA's September 24, 1995 Notice of Proposed Rulemaking (NPRM) failed to provide notice of its proposal to delete 49 C.F.R. 171.3(c). The Petition also states that RSPA received no support for the deletion from the commenters who responded to the NPRM. Although the preamble did not address this issue, the NPRM did expressly propose deletion of 49 C.F.R. 171.3(c) in the proposed rule text of the NPRM. (60 FR 47734). Comments opposing the proposed deletion were considered; however, for the reasons stated in the preamble to the May 9, 1996 final rule and in this letter, RSPA believes that deletion of 49 C.F.R. 171.3(c) is appropriate.

Second, the Petition cites 49 CFR 171.3(c) as historically serving as a basis for voluntary harmonization of non-Federal requirements with Federal requirements. Absent voluntary harmonization, the Petition's third point of consideration is an argument that RSPA has cited the regulation in every binding preemption determination concerning hazardous waste. RSPA does not dispute the historical usefulness of 49 CFR 171.3(c) for harmonizing non-Federal hazardous waste requirements with Federal requirements. However, RSPA believes that utilization of the "covered subjects" preemption authority in the Federal hazardous materials transportation law facilitates harmonization of non-Federal requirements with Federal law. This preemption language goes far beyond the limited provisions of 49 CFR 171.3(c).

As a fourth and final point, the Petition argues that deletion of the regulation

undermines Congress' directive that a uniform program of regulation be utilized for the transportation of hazardous waste.

RSPA agrees that Congress has called for a uniform Federal program for the regulation of hazardous waste transportation.

RSPA believes that because deletion of 49 CFR 171.3(c) removes hazardous waste as a separate area of consideration, deletion of this regulation achieves Congress' goal of implementing a uniform, comprehensive system of regulation of hazardous waste transportation. As noted previously, the preemption provisions of the Federal hazardous materials transportation law address all issues pertaining to transportation of hazardous materials, including hazardous waste.

For the foregoing reasons, your petition for reconsideration is denied.

Sincerely,

Alan I. Roberts,

*Associate Administrator for Hazardous Materials Safety.*

Issued in Washington, D.C., on September 20, 1996, under authority delegated in 49 CFR Part 1.

Alan I. Roberts,

*Associate Administrator for Hazardous Materials Safety.*

[FR Doc. 96-24715 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-60-P

#### **49 CFR Part 172**

**[Docket HM-222B; Amdt. No. 172-149]**

**RIN 2137-AC76**

#### **Revision of Miscellaneous Hazardous Materials Regulations; Regulatory Review; Responses to Petitions for Reconsideration**

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

**ACTION:** Final rule; Responses to petitions for reconsideration.

**SUMMARY:** RSPA is publishing two letters in which it denied petitions for reconsideration on provisions of a May 30, 1996, final rule dealing with reducing the requirements pertaining to training frequency and emergency response telephone numbers.

**DATES:** The effective date for the final rule published under Docket HM-222B on May 30, 1996 (61 FR 27166) remains October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** John A. Gale, (202) 366-8553; Office of Hazardous Materials Standards, or Karin V. Christian, (202) 366-4400, Office of the Chief Counsel, RSPA, Department of Transportation, Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** On May 30, 1996, RSPA published a final rule under Docket HM-222B (61 FR 27166)

which amended the Hazardous Materials Regulations (HMR) based on its review of the HMR and on written and oral comments received from the public concerning regulatory reform. These changes included reducing the requirements pertaining to training frequency, incident reporting, and emergency response telephone numbers. RSPA's review of the HMR was based on the March 4, 1995, memorandum from President Clinton calling for a review of all agency regulations and elimination or revision of those regulations that are outdated or in need of reform. The effective date of the rule was October 1, 1996, but immediate compliance was authorized.

RSPA has received three petitions for reconsideration in regard to the amendments made under Docket HM-222B. Two of the petitioners, the Air Transport Association of America and the Air Line Pilot Association (ALPA), requested that RSPA reconsider its decision to decrease the recurrent training requirements from two to three years. The Air Transport Association and ALPA requested that, for shippers of hazardous materials by air, the training frequency be increased from three years to one year. The other petitioner, the American Trucking Association, requested that RSPA reconsider its decision to grant exceptions from the 24-hour emergency response telephone number requirement for limited quantities and specific materials, such as engines, internal combustion. On September 20, 1996, RSPA denied the petitions for reconsideration in letters which have been sent to each petitioner. This document publishes verbatim the letters of denial as follows:

Response to American Trucking Associations

September 20, 1996.

Mr. Paul Bomgardner,  
*Hazardous Materials Specialist, American Trucking Associations, 2200 Mill Road, Alexandria, VA 22314-4677*

Dear Mr. Bomgardner: This letter responds to your July 18, 1996, Petition for Reconsideration (Petition) regarding a provision of the Final Rule issued under Docket HM-222B, published in the Federal Register on May 30, 1996, at 61 FR 27166. The Petition requests that the Research and Special Programs Administration (RSPA) reconsider the decision to amend 49 CFR 172.604 to except additional materials from the requirement to have a 24-hour emergency response telephone number.

The final rule in Docket HM-222B excepted the following materials from the requirement to have a 24-hour emergency response telephone number: limited quantities of hazardous materials; and

materials described under the shipping names "Engines, internal combustion"; "Battery powered equipment"; "Battery powered vehicle"; "Wheelchair, electric"; "Carbon dioxide, solid"; "Dry ice"; "Fish meal, stabilized"; "Fish scrap, stabilized"; "Castor bean"; "Castor meal"; "Castor flake"; "Castor pomace"; and "Refrigerating machine". This change is effective October 1, 1996; however, voluntary compliance with this change, and the other amendments made under Docket HM-222B to the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180 was authorized as of May 30, 1996.

The basis for the Petition was that the exception would create a "training nightmare" and possibly promote non-compliance. The Petition went on to say that drivers and stock workers will have to memorize the list of materials and proper shipping names listed in § 172.604 and that this change will cause additional burdensome training which only tends to add confusion to the regulations and costs to compliance.

RSPA acknowledges that the exceptions from the 24-hour emergency response telephone number adopted under Docket HM-222B may cause a minimal increase in the training costs of carriers of hazardous materials. However, this cost is far outweighed by the cost savings to shippers of hazardous materials who do not have to maintain a 24-hour emergency response telephone number. RSPA notes that many of the materials, such as "Engines, internal combustion," which have been excepted from this requirement present a very limited hazard in transportation. Other materials excepted from this requirement, such as dry ice, are not subject to the HMR when transported by highway and are currently being transported without emergency response information accompanying the shipments. The exceptions provided in this final rule only apply to the maintenance of a 24-hour telephone number. Shipments subject to the HMR which are transported by highway would still be accompanied by shipping papers and emergency response information. Motor carriers, therefore, will still have access to appropriate initial actions to mitigate incidents. Based on the foregoing, RSPA is denying ATA's petition to rescind the amendment dealing with exceptions from the 24-hour emergency response telephone number requirement.

Sincerely,  
Alan I. Roberts,  
*Associate Administrator for Hazardous Materials Safety.*

**Response to Air Transport Association of America and Air Line Pilots Association**

September 20, 1996

Captain Larry Farris,  
*Chairman, Dangerous Goods Committee, Air Line Pilots Association, Post Office Box 1189, Herndon, VA 22070*

Mr. Frank J. Black,  
*Director, Cargo Services and Secretary, Air Transport Association of America, 1301 Pennsylvania Avenue, NW., Washington, DC 20004-1707.*

Dear Messrs. Farris and Black: The Research and Special Programs Administration (RSPA) denies your petitions for reconsideration on the provisions in RSPA's final rule in Docket HM-222B that decreased the training frequency for hazmat employees from two to three years.

The final rule in Docket HM-222B decreases the training frequency for hazmat employees from two to three years (49 CFR 172.704). See 61 FR 27166 (May 30, 1996). This change is effective October 1, 1996; however, voluntary compliance with this change, and the other amendments made under Docket HM-222B to the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180, was authorized as of May 30, 1996.

On June 21, 1996, the Air Transport Association of America (ATA) and on June 28, 1996, the Air Line Pilot's Association (ALPA) petitioned RSPA to rescind its decision to decrease the recurrent training requirements from two to three years. The ATA and ALPA requested that, for shippers of hazardous materials by air, the training frequency be increased from three years to one year. The ATA stated that: "[w]e feel strongly that reducing the training frequency will adversely affect safety. It is common knowledge that many unsophisticated shippers do a very poor job of training today. The extension of time will only make it worse." The ATA went on to say that it is important that training and awareness of the HMR be properly reinforced at every opportunity. ALPA stated that it believes that RSPA has compromised public safety by extending the training cycle to three years and that it has elected wrongly to divert from the international regulations. ALPA went on to say that the transportation environment by air is different than other modes and that it is very important that those persons shipping and/or offering hazmat have knowledge and current recent awareness of potential dangers which hazardous materials may pose while being transported in this environment.

RSPA stated in the preamble to the final rule that one of the most important regulatory requirements in the HMR is its training requirements. Proper training increases a hazmat employee's awareness of safety considerations involved in the loading, unloading, handling, storing, and transportation of hazardous materials. An effective training program reduces hazardous materials incidents resulting from human error and mitigates the effects of incidents when they occur. In the final rule, RSPA went on to say that the "importance of RSPA's training requirements is not diminished by a decrease in the frequency of training from two to three years."

We do not believe that safety has been compromised by decreasing the training frequency from two to three years. Under the training requirements in the HMR, any person who performs a function subject to the HMR may not perform that function unless trained in accordance with the requirements that apply to that function. In addition, a hazmat employer must ensure that each hazmat employee is thoroughly instructed in the requirements that apply to functions performed by that employee. If RSPA adopts a new regulation, or changes an

existing regulation, that relates to a function performed by a hazmat employee, that hazmat employee must be instructed in those new or revised function-specific requirements without regard to the three year training cycle. It is not necessary to completely retrain the employee sooner than the required three year cycle. The only instruction required is that necessary to assure knowledge of the new or revised regulatory requirement. For example, if a new requirement is added to the shipping paper requirements, a hazmat employee must be instructed regarding the new requirement prior to preparation of a shipping paper or performance of a similar function affected by the new or revised rule. It is not necessary to test the hazmat employee or retain records of the instruction provided in the new or revised requirements until the next scheduled retraining at or within the three year cycle. Under HM-222B, RSPA revised the training rules to make it clear that RSPA does not intend that millions of detailed records be created and retained and associated testing be conducted each time a hazmat employee is instructed in regard to a change in the regulations within the three year cycle.

RSPA also does not believe that it was wrong to divert from the international regulations by decreasing the training frequency from two to three years. The decrease in training frequency for persons who offer for transportation and transport hazardous materials in domestic transportation does not in any way impede international transportation. A person who complies with the international requirement to retrain every two years will also satisfy the domestic requirement to retrain every three years.

The ATA and ALPA petitions exceed the scope of the Docket HM-222B rulemaking, which involved changing a two-year training cycle to a three-year training cycle. The petitions also fail to explain whether or how the proposed air transportation requirement would apply to shippers that offer for transportation by both air transportation and one or more other modes of transportation. The multi-modal impact, as well as cost/benefit ramifications, of this proposal deserves public notice and comment.

RSPA believes that there are alternatives to a regulatory requirement that will enhance the safety of hazardous material transported by air. We are distributing informational brochures to educate the flying public. We are also preparing a video to better inform shippers of the requirements for hazardous materials transported by air. Finally, we will be expanding our training efforts for shippers, carriers, and Federal enforcement personnel.

In conclusion, neither ATA nor ALPA provided any information that would warrant changing the frequency of training from three years to one year. Furthermore, you have not demonstrated that the benefits of your proposal would outweigh the costs. If you have additional information, we request that you provide it in a petition for rulemaking. Our rules on petitions for rulemaking are found in § 106.31. These rules were amended in a Final Rule published on June 14, 1996 (61 FR 30175).

Sincerely,  
Alan I. Roberts,  
Associate Administrator for Hazardous  
Materials Safety.

Issued in Washington, DC on September  
20, 1996, under the authority delegated in 49  
CFR part 1.

Alan I. Roberts,  
Associate Administrator for Hazardous  
Materials Safety.  
[FR Doc. 96-24714 Filed 9-30-96; 8:45 am]  
BILLING CODE 4910-60-P

#### 49 CFR Part 172 and 173

[Docket HM-220A; Amdt Nos. 172-150 and  
173-258]

RIN 2137-AC59

#### Periodic Inspection and Testing of Cylinders; Response to Petitions for Reconsideration, Clarification and Editorial Correction

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

**ACTION:** Final rule; response to petitions  
for reconsideration, clarification and  
editorial correction.

**SUMMARY:** On May 28, 1996, RSPA  
published a final rule under Docket  
HM-220A which amended the  
Hazardous Materials Regulations (HMR;  
49 CFR Parts 171-180) pertaining to the  
maintenance and requalification of DOT  
specification and exemption cylinders  
used for the transport of compressed  
gases in commerce. The intent of these  
changes was to enhance public safety by  
clarifying the regulations for those  
persons who perform periodic  
inspection and testing of these  
cylinders. This final rule responds to  
petitions for reconsideration, further  
clarifies the regulations for cylinder  
retest, and makes minor editorial  
corrections.

**EFFECTIVE DATE:** The effective date of  
these amendments is October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:**  
Theresa Gwynn, telephone (202) 366-  
4488, Office of Hazardous Materials  
Standards, Research and Special  
Programs Administration, Washington,  
DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** On May  
28, 1996, RSPA published a final rule  
under Docket HM-220A (61 FR 26750)  
that revised the HMR by clarifying  
current inspection and retest  
requirements for compressed gas  
cylinders used to transport hazardous  
materials in commerce. The final rule  
also incorporated certain long-standing  
regulatory interpretations, and added  
several new provisions. RSPA received

four petitions for reconsideration of  
provisions in the final rule. These  
petitions were from representatives of  
compressed gas suppliers and fire  
extinguisher manufacturers, including  
petitions from the National Propane Gas  
Association (NPGA) and the Fire  
Equipment Manufacturers Association  
(FEMA). In this document, RSPA  
responds to these petitions, clarifies two  
additional provisions and corrects three  
editorial errors.

#### Petitions Granted

##### *Retest Intervals for Fire Extinguishers using CO<sub>2</sub>*

FEMA and another petitioner  
requested that RSPA reconsider the  
language adopted in § 173.34(e)(19)(ii).  
Both petitioners stated that the revisions  
could be easily misconstrued to allow  
DOT 3A, 3AA, and 3AL cylinders used  
as fire extinguishers to be retested at a  
12-year interval "regardless of their  
lading" instead of a 5-year interval. In  
addition, they stated that because fire  
extinguishers containing carbon dioxide  
or certain carbon dioxide mixtures may  
be corrosive to cylinders, a 12-year  
retest is insufficient to detect possible  
corrosion before an unsafe condition  
might occur.

It is not RSPA's intent for a cylinder  
containing a corrosive extinguishing  
agent to be granted a 12-year periodic  
inspection and retest, nor is it  
authorized in the final rule. Section  
173.34(e)(19) specifically states that "[a]  
DOT specification cylinder used as a  
fire extinguisher in compliance with  
§ 173.309 may be retested in accordance  
with this paragraph (e)(19)." Under  
§ 173.309, cylinders used for fire  
extinguishers may only contain  
extinguishing agents that are  
nonflammable, non-poisonous, *non-  
corrosive and commercially free from  
corroding components*, and must be  
charged with nonflammable,  
nonpoisonous, *dry gas that has a dew-  
point at or below minus 46.7°C (minus  
52°F) at 101 kPa (1 atmosphere) and is  
free of corroding components*.

RSPA stated in the preambles to the  
notice of proposed rulemaking (60 FR  
54008; October 18, 1995) and the final  
rule that any fire extinguisher  
containing a fire extinguishing medium  
or propellant gas not meeting the  
requirements in § 173.309(b) (1) and (2)  
may not be shipped under those  
provisions. Therefore, they do not  
qualify under § 173.34(e)(19) for the 12-  
year retest interval. For greater  
emphasis, RSPA is adding Special  
provision 18, in column 7, for the entry  
"Fire extinguishers *containing  
compressed or liquefied gas*" in the

Hazardous Materials Table. This special  
provision is added in § 172.102 and  
contains the lading restriction currently  
found in § 173.309(b). It further  
provides that any lading not conforming  
to these requirements, including  
mixtures of 30% or more carbon dioxide  
by volume, must be described by a  
proper shipping name other than "Fire  
extinguishers *containing compressed or  
liquefied gas*". In § 173.309(b) paragraph  
(b) (1), (2), and (3) are removed, and the  
introductory text is revised for  
consistency with this change.

##### *Computing Wall Stress for Overfill Authorization*

In the final rule, RSPA adopted an  
option in Note 3 of § 173.302(c)(3) to  
provide an alternative for the  
determination of average wall stress  
limitation through the computation of  
the Elastic Expansion Rejection limit  
(REE) by using CGA Pamphlet C-5. A  
petitioner wrote RSPA in regard to a  
May 20, 1991, letter of interpretation  
from the Office of Hazardous Materials  
Standards (RSPA) which stated, "\* \* \*  
an elastic expansion rejection limit  
marked on a cylinder may be used to  
comply with § 173.302(c)(3)." Upon  
further review, RSPA is allowing the use  
of REE values computed in accordance  
with CGA Pamphlet C-5 or marked on  
cylinders by the manufacturer. This  
change is incorporated in Note 3.

#### Petition Denied

##### *Request for Adoption of NPGA Safety Bulletin 118 as an Alternative Standard for Visual Inspection*

In the May 28 final rule, RSPA  
adopted and updated, as material  
incorporated by reference, several  
Compressed Gas Association (CGA)  
Pamphlets. Among these, CGA  
Pamphlet C-6, "Standards for Visual  
Inspections of Steel Compressed Gas  
Cylinders", was updated from the 1984  
to the 1993 edition.

The NPGA petitioned RSPA to  
reconsider the language in § 173.34(e)  
(3) and (10), requiring cylinders to be  
visually inspected, internally and  
externally, in accordance with CGA  
Pamphlet C-6. NPGA stated:

The present provisions of  
§ 173.34(e)(10) read as follows:

(10) Cylinders made in compliance with  
the specifications listed in the table below  
and used exclusively in the service indicated  
may, in lieu of the periodic hydrostatic retest,  
be given a complete external visual  
inspection at the time such periodic retest  
becomes due. External visual inspection as  
described in CGA Pamphlet C-6 will, in  
addition to the following requirements  
prescribed herein, meet the requirements for  
visual inspection. When this inspection is

used in lieu of hydrostatic retesting, subsequent \* \* \*

As proposed in the NPRM published in the October 18, 1995 Federal Register, on page 54016, § 173.34(e)(13) would read:

(13) A cylinder made in conformance with a specification listed in the table in this paragraph (e)(13) and used exclusively in the service indicated may, instead of a periodic hydrostatic retest, be given a complete external visual inspection at the time periodic retest becomes due. External visual inspection in accordance with CGA Pamphlets C-6 or C-6.1, as applicable, in addition to the other requirements of this section, meets the requirement for visual inspection. When this inspection is used instead of hydrostatic testing, \* \* \*

Both of these provisions carry the same feature—they recognize CGA Pamphlet C-6 as one means of performing the subject external visual inspection for requalification of certain cylinders in specified services, while at the same time allowing for other means of inspection that will accomplish an inspection of equal detail and purpose.

However, in the final rule, § 173.34(e)(13) was amended to read:

(13) A cylinder made in conformance with a specification listed in the table in this paragraph (e)(13) and used exclusively in the service indicated may, instead of a periodic hydrostatic retest, be given a complete external visual inspection at the time periodic retest becomes due. External visual inspection must be in accordance with CGA Pamphlets C-6 or C-6.1. When this inspection is used instead of hydrostatic testing, \* \* \*

As a consequence of this change, which was not published for public review and comment in the Notice of Proposed Rulemaking, CGA C-6 is now the only recognized method for external visual inspection of these cylinders for the purposes of requalification under the provisions of the Hazardous Materials Regulations, precluding any other valid, equally suitable procedure.

NPGA publishes a safety bulletin presenting an external visual inspection procedure (Safety Bulletin 118 Recommended Procedures for Visual Inspection and Requalification of DOT (ICC) Cylinders in LP-Gas Service) [SB 118-91] for the precise purpose of providing a valid means of compliance with the provisions of the present § 173.34(e)(10) regarding requalification of LP-gas cylinders for continued service. \* \* \*

NPGA strongly objects to the exclusion of SB-118-91 as a valid means of compliance with the provisions of § 173.34(e)(13) as amended under HM-220A. Moreover, we object to a substantive rulemaking change of this kind without the opportunity for public review and comment.

We respectfully request your reconsideration of this amendment and either (1) restoration of the relevant wording from the present § 173.34(e)(10) or from the Notice of Proposed Rulemaking or (2) adoption of SB 118-91 by reference in § 173.34(e)(13) as an alternative procedure of equal stature to CGA Pamphlet C-6.

RSPA disagrees with NPGA's understanding of these requirements.

Neither language in § 173.34(e)(10) of Title 49 CFR (parts 100 to 177, revised as of Oct. 1, 1995) or the language in § 173.34(e)(13) of the notice of proposed rulemaking (60 FR 54016, Oct 18, 1995) provide for performing an external visual inspection in accordance with other than the identified CGA pamphlets. RSPA editorially re-worded the cumbersome text in the final rule for clarity only. No advance notice of this editorial change was necessary because RSPA only clarified the provision.

As a part of the review of the NPGA petition, RSPA reviewed NPGA Safety Bulletin SB 118-91. RSPA found this bulletin not to be equivalent to the CGA pamphlets in detail or scope, particularly for the visual inspection of compressed gas cylinders. RSPA believes use of the NPGA bulletin would not achieve the same level of safety as provided in the CGA pamphlets. Therefore, both of the NPGA requests are denied.

RSPA did make an editorial error, however, in the identification of these CGA pamphlets in the final rule. In the final rule, section 173.34(e)(13) was revised to read, "[e]xternal visual inspection must be in accordance with CGA Pamphlets C-6 or C-6.1." See 61 FR 26762. Both pamphlets contain procedures for performing visual inspections. Pamphlet C-6 contains requirements for steel cylinders and C-6.1 contains requirements for high pressure aluminum cylinders. Pamphlet C-6.3 contains requirements for the visual inspection of low pressure aluminum cylinders. The table in paragraph (e)(13) does not list any high pressure aluminum cylinders, but does list a DOT 4E which is a low pressure aluminum cylinder. Therefore, paragraph (e)(13) is corrected to reference CGA Pamphlets C-6 and C-6.3 in this final rule. For this same reason, in § 173.34(e)(10), the reference to CGA Pamphlet C-6.1 is corrected to read C-6.3. Finally, in § 173.34(e)(19)(ii), the parenthetical reference to § 173.36 is corrected to read § 178.36.

#### Clarification

*Must a Visual Examiner Who Does Not Hold a Registered Inspector Number (RIN) Maintain a Copy of CGA Pamphlet C-6 on file?*

Since the publication of the final rule, several propane cylinder retailers who conduct only visual inspections of their cylinders have inquired if they must have copies of CGA Pamphlets C-6 and C-6.3 on file when they perform visual inspections. The answer is no, a person who only performs visual inspections is

not required to have a RIN or maintain a copy of this pamphlet. However, the person must have been trained and be able to perform the visual inspections in accordance with the appropriate CGA Pamphlet either C-6 or C-6.3.

Although the HMR allow an external visual inspection without the person having a copy of the CGA pamphlets on hand, RSPA discourages this practice. RSPA recommends that a hazmat employer have a copy of all training materials that each hazmat employee is expected to use in the performance of his or her duties, including technical materials. However, as adopted in § 173.34(e)(2)(v)(C) of the May 28 final rule, an approved retester with a RIN shall maintain, at each location at which it inspects, retests or marks cylinders, copies of each CGA pamphlet incorporated by reference in § 171.7 that applies to the retester's cylinder inspection, retesting and marking activities at that location. Finally, the regulated community should be aware that CGA has submitted a petition for rulemaking (P-1090) requesting that any person who only performs visual inspections and marks the cylinder with the inspection date must possess a current RIN. This issue will be addressed in a future rulemaking.

#### Rulemaking Analyses and Notices

##### 1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). The economic impact of this rule is minimal to the extent that preparation of a regulatory evaluation is not warranted.

##### 2. Executive Order 12612

This May 28, 1996 final rule, as amended herein, was analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous material that cover certain subjects and are not "substantively the same" as the Federal requirements. 49 U.S.C. 5125(b)(1). These covered subjects are:

- (A) The designation, description, and classification of hazardous material;
- (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements respecting the number, contents, and placement of those documents;

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container which is represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule preempts State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements. RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

Federal law (49 U.S.C. 5125(b)(2)) provides that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the Federal Register the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA determined that the effective date of Federal preemption for these requirements in the June 5, 1996 final rule would be October 1, 1996. The effective date of Federal preemption for the changes made in this final rule will be December 30, 1996.

**3. Regulatory Flexibility Act**

This final rule responds to petitions for reconsideration and agency review. It is intended to make editorial and technical corrections, provide clarification of the regulations and relax certain requirements. Therefore, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

**4. Paperwork Reduction Act**

There are no new information collection requirements in this final rule. The May 28, 1996 final rule contains information collection requirements, in § 173.34 pertaining to the testing, inspection and marking of cylinders, that were approved by the Office of Management and Budget under OMB control number 2137-0022 and expires August 31, 1999.

**5. Regulation Identifier Number**

A regulation identifier number is assigned to each regulatory action listed

in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The regulation identifier number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects**

**49 CFR Part 172**

Hazardous materials transportation, Hazardous waste, Labeling, Marking, Packaging and containers, Reporting and recordkeeping requirements.

**49 CFR Part 173**

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, 49 CFR parts 172 and 173 are amended as follows:

**PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS**

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

**§ 172.101 [Amended]**

2. In the Hazardous Materials Table for the entry "Fire extinguishers containing compressed or liquefied gas", in Column (7), Special Provision "18" is added.

**§ 172.102 [Amended]**

3. In § 172.102 (c)(1), Special Provision 18 is added to read as follows:

**§ 172.102 Special provisions.**

(c) \* \* \*  
(1) \* \* \*

18 This description is authorized only for fire extinguishers listed in § 173.309(b) of this subchapter meeting the following conditions:

a. Each fire extinguisher may only have extinguishing contents that are nonflammable, non-poisonous, non-corrosive and commercially free from corroding components.

b. Each fire extinguisher must be charged with a nonflammable, non-poisonous, dry gas that has a dew-point at or below minus 46.7 °C (minus 52 °F) at 101kPa (1 atmosphere) and is free of corroding components, to not more than the service pressure of the cylinder.

c. A fire extinguisher may not contain more than 30% carbon dioxide by volume or any other corrosive extinguishing agent.

d. Each fire extinguisher must be protected externally by suitable corrosion-resisting coating.

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

4. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

**§ 173.34 [Amended]**

5. In § 173.34(e), as revised at 61 FR 26758, effective October 1, 1996, the following changes are made:

a. In paragraphs (e)(10) and (e)(13), the wording "CGA Pamphlets C-6 or C-6.1" is removed and "CGA Pamphlets C-6 or C-6.3" is added in its place.

b. In paragraph (e)(19)(ii), "§ 173.36" is revised to read "§ 178.36".

6. In § 173.34, as amended at 61 FR 26758, effective October 1, 1996, paragraph (e)(19) introductory text is revised to read as follows:

**§ 173.34 Qualification, maintenance and use of cylinders.**

(e) \* \* \*

(19) *Cylinders used as fire extinguishers.* Only DOT specification cylinders used as fire extinguishers and meeting Special Provision 18 in § 172.102(c)(1) of this subchapter may be retested in accordance with this paragraph (e)(19).

7. In § 173.302, in paragraph (c)(3), as amended at 61 FR 26764, effective October 1, 1996, Note 3 following the table is revised to read as follows:

**§ 173.302 Charging of cylinders with nonliquefied compressed gases.**

(c) \* \* \*  
(3) \* \* \*

Note 3: Compliance with average wall stress limitation may be determined through computation of the elastic expansion rejection limit in accordance with CGA Pamphlet C-5 or through the use of the manufacturer's marked elastic expansion rejection limit (REE) on the cylinder.

8. In § 173.309, as amended at 61 FR 26764, effective October 1, 1996, paragraph (b) is revised to read as follows:

**§ 173.309 Fire extinguishers.**

(b) Specification 3A, 3AA, 3E, 3AL, 4B, 4BA, 4B240ET or 4BW (§§ 178.36, 178.37, 178.42, 178.46, 178.50, 178.51, 178.55 and 178.61 of this subchapter)

cylinders are authorized for use as fire extinguishers.

Issued in Washington, DC on September 23, 1996, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

*Deputy Administrator.*

[FR Doc. 96-24711 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-60-P

#### 49 CFR Part 173

[Docket HM-207C, Amdt. No. 173-249]

RIN 2137-AC63

#### Exemption, Approval, Registration and Reporting Procedures; Miscellaneous Provisions

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

**ACTION:** Final rule; Revision made in response to petition for reconsideration.

**SUMMARY:** In response to a petition for reconsideration, this final rule deletes a requirement that, when the provisions of an exemption require that a copy be in a carrier's possession during transportation, the carrier must maintain a copy of the exemption in the same manner as required for shipping papers. This amendment will allow the carrier to use any appropriate method for making the exemption available, unless otherwise specified by the provisions of the exemption.

**EFFECTIVE DATE:** The effective date of this final rule and the final rule published under Docket HM-207C on May 9, 1996 (61 FR 21084) is October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Stokes Molinar, Office of the Chief Counsel, (202) 366-4400, or Diane LaValle, Office of Hazardous Materials Standards, (202) 366-8553, RSPA, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590-0001.

**SUPPLEMENTARY INFORMATION:** On May 9, 1996, RSPA published a final rule under docket HM-207C (61 FR 21084) that revised and clarified RSPA's procedures and requirements for its exemption, approvals, registration, reporting, preemption, and enforcement procedures and programs. These revisions and clarifications included addition of a new paragraph (c) to 49 CFR 173.22a. The last sentence of this paragraph states: "When the provisions of the exemption require it to be in the possession of a carrier during transportation in commerce, the carrier shall maintain the copy of the exemption in the same manner as required for a shipping paper."

On June 3, 1996, United Parcel Service (UPS) filed a petition for reconsideration, requesting that RSPA delete the last sentence of paragraph (c) to 49 CFR 173.22a. UPS claimed that the new requirement is not practicable, is both unreasonable and unnecessary, and was issued without notice and opportunity for comment.

UPS contended that the requirement would cause major operational difficulties within its system, especially in ensuring that a copy of the exemption when detached from the package "tracks" with the package. UPS stated that its daily business operations include transporting thousands of DOT exemption packages. Typically, UPS stated, an exemption package may be transported aboard up to five UPS vehicles, and subjected to as many sorting and transferral operations. UPS stated that, prior to the publication of HM-207C, when an exemption contained language mandating that the exemption must be carried by the carrier, UPS physically attached a copy of the exemption to each exemption package, thus facilitating the transportation of the exemption with the package through the myriad of sorting, transfer, and transportation operations necessary to deliver the package to its destination. UPS stated that requiring a driver to detach the exemption from the package, place it with the shipping papers, and transfer it each time the package was rerouted would render it extremely difficult to ensure that each exemption document was able to "track" its attendant package to the package's final destination.

UPS further stated that this new requirement would achieve little, if anything, in terms of improved safety and cannot be justified in light of the increased administrative and paperwork burdens associated with the new requirement. Further, UPS claimed that the new requirement was adopted without proper notice and without affording the public an opportunity for comment.

RSPA adopted the new requirement in the May 9, 1996 final rule as a clarification, with the understanding that the provision would impose no additional costs and that the vast majority of carriers already conform to the new requirement, as the most practicable way to ensure that the exemption is available during transportation. RSPA did not consider that some companies, such as UPS, may use other methods of ensuring that an exemption is on the transport vehicle and that costs would be incurred by them in conforming to the new requirement. Based on the comments

presented by UPS, RSPA agrees that there may be operational burdens imposed on UPS and others which were not considered in the May 9, 1996 final rule and that the requirement may entail costs which would exceed its benefits. RSPA notes that if there is a need to ensure that an exemption is immediately accessible during transportation, such as where an exemption contains information related to the safe handling of a shipment, RSPA can specify the manner of maintaining the exemption in specific provisions in the exemption.

Based on the foregoing, RSPA is deleting the requirement as requested by UPS. Because this revision is within the scope of the rulemaking under docket HM-207C, lessens the requirements placed upon a carrier in the May 9, 1996 final rule, imposes no new regulatory burden on any person, and does not adversely impact emergency response, additional public notice and comment are unnecessary. Because the requirement was to go into effect on October 1, 1996, and to ensure publication of this amendment in the 1996 Code of Federal Regulations, there is "good cause," under the Administrative Procedure Act, to make the amendment effective on the same effective date as the May 9, 1996 final rule, i.e., October 1, 1996, without the usual 30-day delay following publication.

#### Regulatory Analyses and Notices

##### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget (OMB). The rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

This final rule will not result in any additional costs to persons subject to the HMR. Therefore, preparation of a regulatory impact analysis or regulatory evaluation is not warranted.

##### B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 U.S.C. 5101-5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (i) the designation, description, and classification of hazardous material;
- (ii) the packing, repacking, handling, labeling, marking, and placarding of hazardous material;
- (iii) the preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of such documents;
- (iv) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or
- (v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

Title 49 U.S.C. 5125(b)(2) provides that DOT must determine and publish in the Federal Register the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The effective date of Federal preemption for this final rule is January 1, 1997. Because RSPA lacks discretion in this area, preparation of a Federalism assessment is not warranted.

#### C. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule merely deletes a requirement scheduled to go into effect on October 1, 1996, and it does not impose any new requirements. Thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

#### D. Paperwork Reduction Act

Information collection requirements applicable to exemptions are unchanged by this final rule in substance and amount of burden from those currently approved by the Office of Management and Budget (OMB) under OMB control number 2137-0051. Under the Paperwork Reduction Act of 1995, no person is required to respond to a requirement for collection of information unless the requirement displays a valid OMB control number.

#### E. Regulation Identification Number (RIN)

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes

the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

### PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

#### § 173.22a [Amended]

2. In § 173.22a, paragraph (c), as added at 61 FR 21102 effective October 1, 1996, is amended by removing the last sentence.

Issued in Washington, D.C., on September 20, 1996, under authority delegated in 49 CFR Part 1.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 96-24712 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-60-P

### National Highway Traffic Safety Administration

#### 49 CFR Part 593

[Docket No. 96-097; Notice 1]

RIN 2127-AG57

#### List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

**SUMMARY:** This rule amends NHTSA's regulations establishing procedures for decisions on whether a vehicle not originally manufactured to conform to the Federal motor vehicle safety standards is eligible for importation into the United States, by adding an appendix that lists all vehicles that have been decided to be eligible for importation.

**DATES:** The amendment established by this final rule will become effective October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle

that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.—certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made "on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)]." The Secretary's authority to make these decisions has been delegated to the Administrator of NHTSA under 49 CFR 1.50(a). The Administrator initially redelegate to the Associate Administrator for Enforcement (now Safety Assurance) the authority to grant or deny petitions for import eligibility decisions submitted by motor vehicle manufacturers and registered importers, and subsequently transferred this authority to the Director, Office of Vehicle Safety Compliance (49 CFR 501.8(l)). Thus far, a number of import eligibility decisions have been made on the Administrator's own initiative, and the Associate Administrator and Office Director have granted many petitions for such decisions submitted by registered importers.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the Federal Register. NHTSA has previously published these lists on four occasions, at 57 FR 29553 (July 2, 1992), 59 FR 8671 (February 23, 1994), 60 FR 8268 (February 13, 1995), and 61 FR 8097 (March 1, 1996). To ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public, NHTSA is now publishing the list as an appendix to its regulations at 49 CFR Part 593 that establish procedures for decisions on

whether a vehicle not originally manufactured to conform to the Federal motor vehicle safety standards is eligible for importation into the United States. NHTSA intends to annually revise the list published in the appendix to include any additional vehicles for which import eligibility decisions are made. The Federal Register notices that announce these revisions, together with the publication of the list in the Code of Federal Regulations, will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2).

#### Rulemaking Analyses and Notices

##### 1. Executive Order 12866 (Federal Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under E.O. 12866. NHTSA has analyzed this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures.

##### 2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Because this rulemaking does not impose any regulatory requirements, but merely furnishes information by adding the list of vehicles for which import eligibility decisions have been made to Code of Federal Regulations, it has no economic impact.

##### 3. Executive Order 12612 (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 rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws will be affected.

##### 4. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that it will not significantly affect the human environment.

##### 5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, P.L. 96-511, the agency notes that there are no

information collection requirements associated with this rulemaking action.

##### 6. Civil Justice Reform

This rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30111), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (49 U.S.C. 30161) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

##### 7. Notice and Comment

NHTSA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this amendment does not impose any regulatory requirements, but merely identifies those vehicles not originally manufactured to conform to the Federal motor vehicle safety standards that NHTSA has decided to be eligible for importation into the United States.

In addition, so that the list of vehicles for which import eligibility decisions have been made may be included in the next revision to the appropriate volume of the Code of Federal Regulations, which is to be revised as of October 1, 1996, good cause exists to dispense with the requirement in 5 U.S.C. § 53(d) for the effective date of the rule to be delayed for at least 30 days following its publication.

#### List of Subjects in 49 CFR Part 593

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, Part 593 of Title 49 of the Code of Federal Regulations, *Determinations that a vehicle not originally manufactured to conform to the Federal Motor Vehicle Safety Standards is eligible for importation*, is amended as follows:

#### **PART 593—[AMENDED]**

1. The authority citation for Part 593 is revised to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.50.

2. A new Appendix A is added to Part 593, to read as follows:

#### Appendix A to Part 593—List of Vehicles Determined To Be Eligible for Importation

Each vehicle on the following list is preceded by a vehicle eligibility number. The importer of a vehicle admissible under any eligibility decision must enter that number on the HS-7 Declaration Form accompanying entry to indicate that the vehicle is eligible for importation.

"VSA" eligibility numbers are assigned to all vehicles that are decided to be eligible for importation on the initiative of the Administrator under Sec. 593.8.

"VSP" eligibility numbers are assigned to vehicles that are decided to be eligible under Sec. 593.7(f), based on a petition from a manufacturer or registered importer submitted under Sec. 593.5(a)(1), which establishes that a substantially similar U.S.-certified vehicle exists.

"VCP" eligibility numbers are assigned to vehicles that are decided to be eligible under Sec. 593.7(f), based on a petition from a manufacturer or registered importer submitted under Sec. 593.5(a)(2), which establishes that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Vehicles for which eligibility decisions have been made are listed alphabetically by make, with the exception of Mercedes-Benz vehicles, which appear at the end of the list. Eligible models within each make are listed numerically by "VSA," "VSP," or "VCP" number.

All hyphens used in the Model Year column mean "through" (for example, "1972-1989" means "1972 through 1989").

The initials "MC" used in the Manufacturer column mean "motorcycle."

The initials "SWB" used in the Model Type column mean "Short Wheel Base."

The initials "LWB" used in the Model Type column mean "Long Wheel Base."

#### Vehicles Certified by Their Original Manufacturer as Complying With All Applicable Canadian Motor Vehicle Safety Standards

##### VSA# 1

(a) All passenger cars less than 25 years old that were manufactured before September 1, 1989;

(b) All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, which are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208;

(c) All multipurpose passenger vehicles, trucks, and buses less than 25 years old that were manufactured before September 1, 1991;

(d) All multipurpose passenger vehicles, trucks, and buses manufactured on and after September 1, 1991, certified by their original manufacturer to comply with the requirements of FMVSS No. 202 and 208 to which they would have been subject had they been manufactured for sale in the United States; and

(e) All trailers and motorcycles less than 25 years old.

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET

Manufacturer	VSP	VSA	VCP	Model type	Model year
Acura	51			Legend	1988
	77			Legend	1989
Alfa Romeo	44			Spider	1972
	70			Spider	1987
	76			164	1991
	124			GTV	1985
	156			164	1994
Aston Martin	123			Volante	1990-1991
Audi	93			100	1989
	160			200 Quattro	1987
BMW		3		2002	1972-1976
		7		2002A	1972-1976
		10		2002Tii	1972-1974
		11		3.0 & 3.0A Bavaria	1972
		12		3.0CSi & 3.0CSiA	1972-1974
		13		3.0S & 3.0SA	1974
		14		3.0Si & 3.0SiA	1975
		15		530i & 530iA	1975-1978
		16		320, 320i, & 320iA	1976-1985
		17		630CSi, 630CSiA	1977
		18		633CSi & 633CSiA	1977-1984
		19		733i & 733iA	1977-1984
		20		528i & 528iA	1979-1984
		21		528e & 528eA	1982-1988
		22		533i & 533iA	1983-1984
		23		318i & 318iA	1981-1989
		24		325e & 325eA	1984-1987
		25		535i & 535iA	1985-1989
		26		524tdA	1985-1986
		27		635, 635CSi, & 635CSiA	1979-1989
		28		735, 735i, & 735iA	1980-1989
		29		L7	1986-1987
		30		325, 325i, 325iA & 325E	1985-1989
		31		325 is & 325isA	1987-1989
		32		M6	1987-1988
		33		325iX & 325iXA	1988-1989
		34		M5	1988
		35		M3	1988-1989
		66		316	1978-1982
		67		323i	1978-1985
		68		520 & 520i	1978-1983
		69		525 & 525i	1979-1982
		70		728 & 728i	1977-1985
		71		730, 730i, & 730iA	1978-1980
		72		732i	1980-1984
		73		745i	1980-1986
		78		All other models except those in the M1 & Z1 series..	1972-1989
	4			518i	1986
	5			525i	1989
	6			730iA	1988
	9			520iA	1989
	10			850i	1991
	14			728i	1986
	15			625CSi	1981
	24			730i	1991
	25			316	1986
	32			628CSi	1980
	41			750iL	1993
	46			518i	1991
	55			850i	1993
	57			730i	1993
	79			525i	1991-1992
	81			750iL	1991
	91			750iL	1990
	96			325i	1991
	99			840Ci	1993
	110			520i	1992
	119			520i	1994
	131			730i	1993-1994
	133			525i	1993

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type	Model year
	146			735iL	1991
	183			520 Series	1995
BMW MC	30			R75/6	1974
	58			R100S	1977
	177			R1100RS	1994
Bristol Bus			2	VRT Bus-Double Decker	1978-1981
			4	VRT Bus-Double Decker	1977
			10	VRT Bus-Double Decker	1972-1973
Chevrolet	150			400SS	1995
Citroen			1	XM	1990-1992
Dodge	112			Colt	1973
	135			Ram	1994-1995
Ferrari		36		308 (all models)	1974-1985
		37		328 GTS	1985-1989
		37		328 (all other models)	1985 & 1988-1989
Ferrari		38		GTO	1985
		39		Testarossa	1987-1989
		74		Mondial (all models)	1980-1989
		76		208, 208 Turbo (all models)	1974-1988
	86			348TB	1992
	100			365 GTB/4 Daytona	1972-1973
	107			Dino	1973
	161			348TS	1992
	173			512TR	1993
Ford			9	Escort RS	1994-1995
	151			Mustang	1972
Freightliner	178			FTLD112064SD	1991-1996
	179			FLD12064ST	1991-1996
GMC	134			Suburban	1992-1994
Hobson			8	Horse Trailer	1985
Honda	128			Civic DX	1989
Honda MC	34			VFR750	1990
	106			CB1000F	1988
	174			CP450SC	1986
Jaguar		40		XJS	1980-1987
		41		XJ6	1972-1986
	47			XJ6	1987
	78			Sovereign	1993
	129			XJS	1992
	175			XJS	1991
Jaguar Daimler	12			Limousine	1985
Jeep	164			Cherokee	1992
	180			Cherokee	1995
Kawasaki MC	182			ZX1000-B1	1988
Ken-Mex	187			T800	1990-1996
Kenworth	115			T800	1992
Lancia	7			Fulvia	1973
Laverda MC	37			1000	1975
Lincoln	144			Mark VII	1992
Maserati	155			Bi-Turbo	1985
Mazda	42			RX7	1978-1981
	184			MX-5 Miata	1990-1993
MG	98			MGB GT Coupe	1972
	136			MGB Roadster	1972
Mitsubishi	8			Galant VX	1988
	13			Galant SUP	1989
	170			Pajero	1984
Moto Guzzi MC	118			Daytona	1993
Nissan		75		Z & 280Z	1973-1981
		75		Fairlady & Fairlady Z	1975-1979
	138			Maxima	1989
	139			Stanza	1987
	162			240SX	1988
Peugeot		65		405	1989
Porsche		56		911 Coupe	1972-1989
		56		911 Targa	1972-1989
		56		911 Turbo	1976-1989
		56		911 Cabriolet	1984-1989
		56	911	Carrera	1972-1989
		58		914	1972-1976
		59		924 Coupe	1976-1989
		59		924 Turbo Coupe	1979-1989

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type	Model year
		59	.....	924 S .....	1987–1989
		60	.....	928 Coupe .....	1976–1989
		60	.....	928 S Coupe .....	1983–1989
		60	.....	928 S4 .....	1979–1989
		60	.....	928 GT .....	1979–1989
		61	.....	944 Coupe .....	1982–1989
		61	.....	944 Turbo Coupe .....	1985–1989
		61	.....	944 S Coupe .....	1987–1989
		79	.....	All other models except Model 959.	1972–1989
	29	.....	.....	911 C4 .....	1990
	52	.....	.....	911 Carrera .....	1992
	97	.....	.....	944 .....	1990
	103	.....	.....	911 Carrera .....	1994
	116	.....	.....	946 .....	1994
	125	.....	.....	911 Turbo .....	1992
	152	.....	.....	944 S2 2dr Hatchback .....	1990
Porsche .....	165	.....	.....	911 Carrera .....	1993, 1995, 1996
Rolls Royce .....	.....	62	.....	Silver Shadow .....	1972–1979
	16	.....	.....	Bentley .....	1989
	53	.....	.....	Bentley Turbo .....	1986
	122	.....	.....	Camargue .....	1984–1985
	186	.....	.....	Bentley Brooklands .....	1993
Saab .....	59	.....	.....	9000 .....	1988
	158	.....	.....	900 .....	1983
Sprite .....	.....	.....	12	Musketeer Trailer .....	1980
Suzuki MC .....	111	.....	.....	GS850 .....	1985
Toyota .....	.....	63	.....	Camry .....	1987–1988
		64	.....	Celica .....	1987–1988
		65	.....	Corolla .....	1987–1988
	39	.....	.....	Camry .....	1989
	101	.....	.....	Landcruiser .....	1989
	102	.....	.....	Landcruiser .....	1991
	181	.....	.....	Landcruiser .....	1994
Triumph .....	108	.....	.....	Spitfire .....	1973
Volkswagen .....	.....	42	.....	Scirocco .....	1986
	73	.....	.....	Golf Rally .....	1988
	80	.....	.....	Golf .....	1988
	92	.....	.....	Golf .....	1993
	148	.....	.....	Passat 4 door Sedan .....	1992
	149	.....	.....	GTI (Canadian) .....	1991
	159	.....	.....	Golf .....	1987
Volvo .....	43	.....	.....	262C .....	1981
	87	.....	.....	740 Sedan .....	1988
	95	.....	.....	940GL .....	1993
	132	.....	.....	945GL .....	1994
	176	.....	.....	960 Sedan & Wagon .....	1994
Yamaha MC .....	113	.....	.....	FJ1200 .....	1991
Yamaha MC .....	171	.....	.....	RD–350 .....	1983

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
Mercedes Benz .....	.....	43	.....	600 .....	100.012	1972–1981
		43	.....	600 Long 4dr .....	100.014	1972–1981
		43	.....	600 Landulet .....	100.015	1972–1981
		43	.....	600 Long 6dr .....	100.016	1972–1981
		44	.....	280 S.C. ....	107.022	1975–1981
		44	.....	350 S.C. ....	107.023	1972–1979
		44	.....	450 S.C. ....	107.024	1973–1989
		44	.....	380 S.C. ....	107.025	1981–1989
		44	.....	500 S.C. ....	107.026	1978–1981
		44	.....	300 SL .....	107.041	1986–1988
		44	.....	280 SL .....	107.042	1972–1985
		44	.....	350 SL .....	107.043	1972–1978
		44	.....	450 SL .....	107.044	1972–1989
		44	.....	380 SL .....	107.045	1980–1989
		44	.....	500 SL .....	107.046	1980–1989
		44	.....	420 SL .....	107.047	1986
		44	.....	560 SL .....	107.048	1986–1989
		45	.....	280 S .....	108.016	1972
		45	.....	280 SE .....	108.018	1972

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
		45	.....	280 SEL .....	108.019	1972
		45	.....	280 SE (3.5) .....	108.057	1972-1973
		45	.....	280 SEL (3.5) .....	108.058	1972-1973
		45	.....	280 SE (4.5) .....	108.067	1972
		45	.....	280 SEL (4.5) .....	108.068	1972
		46	.....	300 SEL .....	109.016	1972
		46	.....	300 SEL (6.3) .....	109.018	1972
		46	.....	300 SEL (4.5) .....	109.057	1972
		49	.....	230.6 .....	114.015	1972-1976
		49	.....	250 .....	114.010	1972-1976
		49	.....	250 .....	114.011	1972-1976
		49	.....	250 CE .....	114.022	1972-1976
		49	.....	250 C .....	114.023	1972-1976
		49	.....	280 .....	114.060	1972-1976
		49	.....	280 E .....	114.062	1972-1976
		49	.....	280 CE .....	114.072	1972-1976
		49	.....	280 C .....	114.073	1972-1976
		50	.....	200 .....	115.015	1972-1976
		50	.....	230.4 .....	115.017	1974-1976
		50	.....	220 D .....	115.110	1972-1976
		50	.....	240 D (3.0) .....	115.114	1974-1976
		50	.....	240 D .....	115.117	1974-1976
		51	.....	280 S .....	116.020	1973-1980
		51	.....	280 SE .....	116.024	1972-1988
		51	.....	280 SEL .....	116.025	1972-1980
		51	.....	350 SE .....	116.028	1973-1980
		51	.....	350 SEL .....	116.029	1972-1980
		51	.....	450 SE .....	116.032	1972-1980
		51	.....	450 SEL .....	116.033	1972-1988
		51	.....	450 SEL (6.9) .....	116.036	1972-1988
		52	.....	200 .....	123.020	1976-1980
		52	.....	230 .....	123.023	1976-1985
		52	.....	250 .....	123.026	1976-1985
		52	.....	280 .....	123.030	1976-1985
		52	.....	280 E .....	123.033	1976-1985
		52	230 C	123.043 .....	1978-1980	
		52	.....	280 C .....	123.050	1977-1980
		52	.....	280 CE .....	123.053	1977-1985
		52	.....	230 T .....	123.083	1977-1985
		52	.....	280 TE .....	123.093	1977-1985
		52	.....	200 D .....	123.120	1980-1982
		52	.....	240 D .....	123.123	1977-1985
		52	.....	300 D .....	123.130	1976-1985
		52	.....	300 D .....	123.133	1977-1985
		52	.....	300 CD .....	123.150	1978-1985
		52	.....	240 TD .....	123.183	1977-1985
		52	.....	300 TD .....	123.193	1977-1985
		52	.....	200 .....	123.220	1979-1985
		52	.....	230 E .....	123.223	1977-1985
		52	.....	230 CE .....	123.243	1980-1984
		52	.....	230 TE .....	123.283	1977-1985
		53	.....	280 S .....	126.021	1980-1983
		53	.....	280 SE .....	126.022	1980-1985
		53	.....	280 SEL .....	126.023	1980-1985
		53	.....	300 SE .....	126.024	1985-1989
		53	.....	300 SEL .....	126.025	1986-1989
		53	.....	380 SE .....	126.032	1979-1989
		53	.....	380 SEL .....	126.033	1980-1989
		53	.....	420 SE .....	126.034	1985-1989
		53	.....	420 SEL .....	126.035	1986-1989
		53	.....	500 SE .....	126.036	1980-1986
		53	.....	500 SEL .....	126.037	1980-1989
		53	.....	560 SEL .....	126.039	1986-1989
		53	.....	380 SE .....	126.043	1982-1989
		53	.....	500 SEC .....	126.044	1981-1989
		53	.....	560 SEC .....	126.045	1986-1989
		53	.....	300 SD .....	126.120	1981-1989
		54	.....	190 .....	201.022	1984
		54	.....	190 E (2.3) .....	201.024	1983-1989
		54	.....	190 E .....	201.028	1986-1989
		54	.....	190 E (2.6) .....	201.029	1986-1989
		54	.....	190 E 2.3 16 .....	201.034	1984-1989
		54	.....	190 D (2.2) .....	201.122	1984-1989

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
		54		190 D	201.126	1984-1989
		55		200	124.020	1985
		55		230 E	124.023	1985-1987
		55		260 E	124.026	1985-1989
		55		300 E	124.030	1985-1989
		55		300 CE	124.050	1988-1989
		55		230 TE	124.083	1985
		55		300 TE	124.090	1986-1989
		55		300 D	124.130	1985 & 1986
		55		300 D Turbo	124.133	1985-1989
		55		300 TD Turbo	124.193	1986-1989
		77		All other models except Model ID 114 & 115 with sales designations "long," "station wagon," or "ambulance."		1972-1989
	1			230 E	124.023	1988
	2			230 TE	124.083	1989
	3			200 TE	124.081	1989
	7			300SL	107.041	1989
	11			200E	124.021	1989
	17			200D	124.120	1986
	18			260SE	126.020	1986
	19			230E	124.023	1990
	20			230E	124.023	1989
	21			300SEL	126.025	1990
	22			190E	201.024	1990
	23			500SEL	129.066	1989
	26			500SE	140.050	1991
	27			600SEL	140.057	1992
	28			260SE	126.020	1989
	33			500SL	129.066	1991
	35			500SE	126.036	1988
	40			300TE	124.090	1990
	45			190E	201.024	1991
	48			420SEL	126.035	1990
	50			500SE	140.050	1992
	54			300SL	129.061	1992
	56			500E	124.036	1991
	60			500SL	129.006	1992
	63			500SEL	126.037	1991
	64			300CE	124.051	1990
	66			500SEC	126.044	1990
	67			300SE	140.032	1993
	68			300SE	126.024	1990
	69			300SE	140.032	1992
	71			190E	201.028	1992
	74			230E	124.023	1991
	75			200E	124.019	1993
	83			300CE	124.051	1991
	84			230CE	124.043	1991
	85			S280	140.028	1994
	89			560SEL	126.039	1990
	105			260E	124.026	1992
	109			200E	124.012	1991
	114			300E	124.031	1992
	117			300CE	124.050	1992
	120			S320	140.033	1994
	121			600SL	129.076	1992
	126			190E	201.018	1992
	127			230E	124.023	1993
	130			600SL	129.076	1992, 1993
	140			500SL	129.067	1993-1995
	141			560SEC	126.045	1990
	142			320SL		1992, 1993
	147			500SEL		1992-1993
	153			500SEL		1990
	154			500SE		1990
	157			C220		1995
	163			E500		1994
	166			280E		1993
	166			E280		1994-1996
	167			220TE Station Wagon		1993-1996
	168			220E		1993
	168			E220		1994-1996
	169			420E		1993

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
	169	.....	.....	E420 .....	.....	1994-1996
	172	.....	.....	250D .....	.....	1992
	185	.....	.....	600 SEC Coupe .....	.....	1993
	185	.....	.....	S600 Coupe .....	.....	1994-1996
			3	300GE .....	463.228	1993
			5	300GE .....	463.228	1990-1992, 1994
			6	G320 .....	.....	1995
			11	463 .....	.....	1996
			13	463 LWB V-8 .....	.....	1992-1996
			14	463 SWB .....	.....	1990-1996

Issued on: September 26, 1996.

Marilynne Jacobs,

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 96-25131 Filed 9-30-96; 8:45 am]

**BILLING CODE 4910-59-P**

# Proposed Rules

Federal Register

Vol. 61, No. 191

Tuesday, October 1, 1996

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.

Dated: September 26, 1996.  
Doris Meissner,  
*Commissioner, Immigration and Naturalization Service.*  
[FR Doc. 96-25164 Filed 9-27-96; 11:44 am]  
BILLING CODE 4410-10-M

location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.  
**FOR FURTHER INFORMATION CONTACT:** Walter Sippel, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227-2774; fax (206) 227-1181.

#### SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-223-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.

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 312

[INS No. 1702-96]

RIN 1115-AE02

#### Exceptions to the Educational Requirements for Naturalization for Certain Applicants; Comment Period Extended

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On August 28, 1996, at 61 FR 44227-44230, the Immigration and Naturalization Service proposed a regulation noting exceptions to the educational requirements for naturalization for certain applicants. To ensure that the public has ample opportunity to fully review and comment on the proposed rulemaking, this notice extends the public comment period from September 27, 1996 through October 11, 1996.

**DATES:** Written comments must be submitted on or before October 11, 1996.

**ADDRESSES:** Please submit written comments in triplicate to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, N.W., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1702-96 on your correspondence. Comments are available for public inspection at the above-noted address by calling (202) 514-3048 to arrange an appointment.

**FOR FURTHER INFORMATION CONTACT:** Craig S. Howie, Adjudications Officer, Adjudications and Nationality Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514-5014.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-NM-223-AD]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 727 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, that would have superseded a previously issued AD that currently requires inspections to detect cracking of the actuator rib fitting of the inboard door of the main landing gear (MLG); and rework or replacement of any cracked fitting. The proposed action would have required inspections to detect cracking in an expanded area of the actuator rib fitting, and various follow-on actions. That action was prompted a report of a fractured rib fitting that had been reworked in accordance with the existing AD. This new proposed action would expand the area of inspection even further than what was previously proposed, and would supersede another AD that requires actions related to the addressed area of the MLG. The actions specified by the proposed AD are intended to prevent damage to the airplane caused by a failure of the landing gear to extend due to a fractured rib fitting.

**DATES:** Comments must be received by October 24, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-223-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this

95-NM-223-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

#### Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Boeing Model 727 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the Federal Register on April 1, 1996 (61 FR 14271). That NPRM would have superseded AD 90-02-19, amendment 39-6433 (55 FR 601, January 8, 1990), which currently requires inspections to detect cracking of the actuator rib fitting of the inboard door of the main landing gear (MLG); and rework or replacement of any cracked fitting with a reworked or new fitting. That AD was prompted by an incident in which the actuator rib fitting of the MLG door on a Model 727 series airplane fractured and, consequently, the left MLG of the airplane failed to extend for landing. The requirements of that AD are intended to prevent damage to the airplane caused by a failure of the landing gear to extend due to a fractured rib fitting.

#### Description of Previous Proposal

The previously issued NPRM proposed to supersede AD 90-02-19 to:

1. expand the area of the inspections to require either a high frequency eddy current or dye penetrant inspection to detect cracking in an expanded area of the actuator rib fitting of the MLG, and various follow-on actions;
2. in cases where no cracking was found, first require modification of the rib fitting assembly and, after modification, either repetitive high frequency eddy current or dye penetrant inspections; and
3. in cases where cracking was found, require the replacement of the currently installed aluminum rib fitting with a new steel rib fitting. (This replacement would terminate the repetitive inspections of the fitting.)

That proposal was prompted by an additional report of an MLG on a Model 727 series airplane failing to extend for landing, due to a fractured rib fitting. The broken rib fitting caused the MLG door and MLG to retract improperly (out of sequence), which led to the MLG jamming against the MLG door. That airplane had accumulated 34,039 flight hours and 22,777 landings. The fitting on that airplane had been reworked in accordance with the requirements of AD 90-02-19; no follow-on inspections of the reworked fitting were required by that AD. Further, the area of inspection specified by AD 90-02-19 did not

include the area of the fitting in which this cracking was found.

#### Actions Since Issuance of Previous Proposal

Since issuance of the NPRM, the FAA has received another report of an operator who experienced a failure of the MLG door actuator rib fitting. The fitting failed due to a fracture at the transitional radius. The failure occurred at 1,350 flight cycles after the operator had inspected a rib fitting that had been modified (reworked) in accordance with Boeing Service Bulletin 727-32-0364, which is required by AD 90-02-19. Although that AD does not require repetitive inspections of modified rib fittings, this operator had elected to inspect them regularly on the airplanes in its fleet. The data from this latest incident of cracking confirm the FAA's determination that repetitive inspections of modified rib fittings are warranted, and that those inspections must be conducted at more frequent intervals than proposed in the previous NPRM.

Based on this data, the FAA has revised the proposal to require inspections of rib fittings that previously have been modified in accordance with Boeing Service Bulletin 727-32-0364 (but not in accordance with Boeing Service Bulletin 727-32-0383) at intervals of 1,000 flight cycles.

In addition, the FAA has made other changes to this proposal, based on comments received in response to the NPRM, as well as in response to the NPRM issued as Docket 95-NM-222-AD (61 FR 14269, April 1, 1996). These comments and the ensuing changes are discussed below.

#### Request To Combine Proposals

Several commenters request that the FAA combine the proposed AD with another proposal that was issued as Docket 95-NM-222-AD. That action proposed to revise AD 93-01-14, amendment 39-8468 (58 FR 5574, January 22, 1993), to continue to require:

1. repetitive inspections to detect loose attach fitting bolts of door actuator of the MLG;
2. repetitive inspections to determine whether the serrations of the attach fitting of the door actuator of the MLG are fully mated; and
3. various follow-on corrective actions.

It also proposed to provide operators the option of terminating all of the inspections required by AD 93-01-14 either by replacing the currently installed aluminum rib fitting with a new steel rib fitting, or by modifying the

rib fitting assembly in accordance with Boeing Alert Service Bulletin 727-32A0399 and accomplishing follow-on actions. Such replacement or modification would also terminate the inspections currently required by AD 90-02-19.

Since the actions of both of these proposals are so closely related, the commenters suggest that they be combined into one single AD action. The commenters maintain that doing so would create less confusion for operators.

The FAA concurs, and has revised this proposal (Docket 95-NM-223-AD) to include all of the requirements related to inspections of the MLG actuator rib fitting assembly. By separate rulemaking, the FAA will withdraw Docket 95-NM-222-AD, since its proposed actions are now covered by this new supplemental NPRM.

#### Requests To Revise Initial Inspection Intervals

Several commenters request that the FAA revise the proposed initial interval for the inspection to detect cracking of the actuator rib fitting. The proposal would have required that the inspection be conducted at the later of the following:

- prior to the accumulation of 20,000 total flight cycles; or
- prior to the accumulation of 1,000 flight cycles after the effective date of the AD or within 2,500 flight cycles after the immediately preceding inspection performed in accordance with AD 90-02-19, whichever is earlier.

One commenter requests that the inspection be required at intervals of 2,500 flight cycles after the effective date, since this would allow the inspection to be accomplished during this commenter's regularly scheduled "C" check. Another commenter states that accomplishing the visual inspection at 1,000 flight cycles, and the high frequency eddy current or dye penetrant inspection at 2,500 flight cycles, would better suit normal maintenance schedules and still provide an acceptable level of safety. Another commenter states that the initial inspection interval is too restrictive and does not give credit to operators who already have been performing repetitive inspections at 2,500-flight cycle intervals or if the last inspection was performed more than 1,500 flight cycles previously. Another commenter states that most operators have already accomplished at least a visual inspection of the fitting as a result of the issuance of Boeing All Base Telex

M-7272-94-2747, dated May 19, 1994, and should receive credit for doing it.

The FAA agrees that the initial inspection interval may be changed somewhat, although not necessarily for the reasons suggested by the commenters. As explained previously in this preamble, because new cracking has been found on modified rib fittings, the FAA finds that airplanes on which the rib fittings have been previously modified must continue to be inspected. The FAA has considered this cracking data and the various configurations of airplanes (those having some modified fittings, and those having no modified fittings) that will be affected by this proposal, and has revised the proposed schedule for inspections as follows:

1. Airplanes equipped with actuator rib fittings that have been modified in accordance with Boeing Service Bulletin 727-32-0364, but not with Boeing Service Bulletin 727-32-0383, must be inspected within 1,000 flight cycles.

2. Airplanes equipped with rib fittings that have been modified in accordance with both Boeing Service Bulletin 727-32-0364 and Boeing Service Bulletin 727-32-0383, must be inspected at the later of (a) 1,000 flight cycles from the effective date of the AD or (b) 1,500 flight cycles after the immediately preceding inspection performed in accordance with AD 90-02-19, or within 1,500 flight cycles after accomplishment of the "terminating action" specified in AD 93-01-14, whichever is earlier.

3. Airplanes equipped with rib fittings that have been modified in accordance with Boeing Alert Service Bulletin 727-32A0399 must be inspected within 7,500 flight cycles after modification (and thereafter at intervals not to exceed 2,500 flight cycles).

The FAA considers these inspection times to be warranted, based on the data available, and they should fit into normally scheduled maintenance intervals for most affected operators.

#### Request To Extend Compliance Time for Modification

One commenter requests that the proposed rule be revised to provide for a 3-year compliance time for modification of the rib fitting assemblies (in accordance with Boeing Alert Service Bulletin 727-32A0399) if no cracking is detected. This commenter points out that the repetitive inspections have been shown to be safe, and that the FAA's proposal to modify the fittings at 1,000 flight cycles after the effective date of the AD is not justified. The commenter contends that adoption of the proposed compliance time would require that this commenter special

schedule its fleet for this modification, at considerable expense over what was estimated by the FAA in its cost impact information. As an alternative to modification, this commenter suggests that operators be allowed to conduct repetitive visual inspections and high frequency eddy current/dye penetrant inspections until the fittings are replaced with steel fittings.

The FAA partially concurs with the commenters request. Upon reconsideration, the FAA agrees that modification within 1,000 flight cycles may be too restrictive. However, since fatigue fractures such as those experienced on the rib attach fitting are cycle-dependent, not time dependent, a calendar time of "3 years" is not appropriate for correcting a fatigue-related problem.

In reviewing the available data, the FAA finds that repetitive inspections alone will not ensure an acceptable level of safety. The data also show that the following items are critical in ensuring a safe actuator rib fitting:

1. proper bolt torque;
2. proper door rigging; and
3. removal of poor fatigue details.

In light of this, the FAA has determined that the modification interval can be increased, provided that inspections are conducted more frequently, the door is properly rigged, and the bolts are properly torqued. The proposed rule has been revised to require these inspections of bolt torque and door rigging, and to allow more time for modification of those rib fittings on which other modifications have been accomplished previously in accordance with Boeing Service Bulletin 727-32-0364 and Boeing Service Bulletin 727-32-0383.

#### Request To Allow Unmodified Fittings as Replacement Parts

Several commenters request that the proposal be revised to allow operators to install unmodified fittings as replacement parts. The commenters point out that the proposed rule would require that all replacement parts be steel fittings. However, the commenters fear that there may be a parts availability problem in trying to meet this requirement.

The FAA concurs partially. The latest incident of cracking, described previously, indicates that inspections alone are not reliable in preventing fractures in the aluminum actuator rib fittings. However, FAA finds that it is acceptable to use an aluminum fitting as a replacement part, provided that:

1. It has been inspected in accordance with Figure 2 of Boeing Alert Service Bulletin 727-32A0399;

2. It has been reworked in accordance with Figure 3 of Boeing Alert Service Bulletin 727-32A0399 and in accordance with Boeing Service Bulletin 727-32-0364;

3. After rework, it is installed in accordance with Figure 4 of Boeing Alert Service Bulletin 727-32A0399; and

4. After installation, it is repetitively inspected until replaced with a steel fitting.

Paragraph (d) of this supplemental NPRM specifies this.

#### Request To Make Service Information References More Specific

One commenter requests that all of the references in the proposal to Boeing service bulletins be revised to make them more specific. The commenter suggests that these references cite the specific figure in the service bulletins where procedural instructions are found. The commenter states that this will provide more clarity to the requirements and minimize the chances for errors.

While the FAA concurs that additional specificity is necessary, it does not agree that citing only the "figure" in the service bulletin is adequate in all cases. A reference to only the figure could inadvertently omit important compliance instructions that are necessary to accomplish the task. For actions in accordance with Boeing Alert Service Bulletin 727-32A0399, the FAA finds that it is more appropriate to reference "Part I," "Part II," or "Part III" of the Accomplishment Instructions, rather than to reference only the figures related to those Parts; by doing this, operators will be required to consider all steps of the pertinent actions when accomplishing the task, and not just the steps listed in the figures. The FAA has revised the final rule to include references to these "Part" numbers where appropriate.

#### Request To Provide an Option to Certain Steps in Modification Requirement

One commenter requests that the proposed rule provide an option to the specific modification procedures called out in Step 1 of Figure 3 of Boeing Alert Service Bulletin 727-32A0399. That step requires the machining of a 0.42-inch, plus/minus 0.03-inch, transition radius. According to the service bulletin, this modification is to be accomplished with the doors still installed on the airplane. However, the commenter states that several machinists have expressed concern over their ability to machine such a tight tolerance radius, under these

conditions, on a rib fitting that has already been modified by AD 90-02-19. The commenter has examined the costs of removing the door and sending it to a machine shop for rework, but found this process to be cost-prohibitive. Based on this experience, the commenter requests that the proposal allow operators, in lieu of the specific instructions in Step 1 of Figure 3, the option of blending out the existing machine cuts using a .38-inch minimum transition radius to create a smooth transition between the adjacent surfaces.

The FAA concurs that an option to the procedures specified in the service bulletin should be provided. This supplemental NPRM would allow operators to machine a .39 inch minimum transitional radius. A minimum radius of .39 inch will be used since it is the minimum dimension now allowed.

#### Request To Allow Reinstallation of Attaching Hardware

One commenter requests that the proposal be revised to allow operators to inspect and reinstall serviceable attaching hardware (i.e., nuts, bolts, and washers) after modifying the rib fitting. This commenter states that it routinely disassembles the rib fitting during a regularly scheduled "C" check and heavy maintenance visit, and replaces any corroded hardware found during this process.

The FAA does not consider that any change to the proposal is necessary based on this commenter's request. The proposed rule does not mandate the use of new attaching hardware every time the rib fitting is disassembled; it only requires the use of the attaching hardware that is included as part of the modification described in Boeing Alert Service Bulletin 727-32A0399. In addition, that service bulletin specifies that fasteners may be substituted in accordance with Chapter 51 of the 727 Structural Repair Manual.

#### Conclusion

Since the change described above expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

#### Cost Impact

There are approximately 1,631 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,166 airplanes of U.S. registry would be affected by this proposed AD.

The inspections proposed in this AD action would take approximately 10

work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be \$699,600, or \$600 per airplane, per inspection.

The modification proposed in this AD action would take approximately 6 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. The cost of required parts would be negligible. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be \$376,560, or \$360 per airplane.

These cost impact figures 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.

Should an operator elect to accomplish the proposed terminating action (installation of steel fittings), it would take approximately 4 work hours per airplane, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$428 per airplane. Based on these figures, the cost impact of this proposed optional terminating action on U.S. operators is estimated to be \$668 per airplane.

#### Regulatory Impact

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

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### **PART 39—AIRWORTHINESS DIRECTIVES**

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

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

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by removing amendment 39-6433 (55 FR 601, January 8, 1990); and by removing amendment 39-8368 (58 FR 5574, January 22, 1993); and by adding a new airworthiness directive (AD), to read as follows:

Boeing; Docket 95-NM-223-AD. Supersedes AD 90-02-19, amendment 39-6433; and supersedes AD 93-01-14, amendment 39-8368.

*Applicability:* All Model 727 series airplanes, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the main landing gear (MLG) to extend for landing and subsequent damage to the airplane, accomplish the following:

(a) For airplanes equipped with rib fittings that have been modified (reworked) in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989; but *have not been modified* in accordance with Figure 2 of Boeing Service Bulletin 727-32-0383, Revision 1, dated January 30, 1992:

Accomplish the following:

(1) Prior to the accumulation of 1,000 flight cycles after the effective date of this AD, accomplish the actions specified in both paragraphs (a)(1)(i) and (a)(1)(ii):

(i) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the actuator rib fitting of the

MLG, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. And

(ii) Inspect the actuator rib fitting of the MLG to ensure that serrations are fully mated, and to detect loose bolts, in accordance with Figure 1 of Boeing Service Bulletin 727-32-0383, Revision 1, dated January 30, 1992.

(2) If the inspections required by paragraph (a)(1) of this AD reveal no cracking or loose bolts, and reveal that the serrations are fully mated, accomplish the actions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD:

(i) Prior to further flight, re-rig the door in accordance with the maintenance manual procedures referenced in Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995, to ensure proper door rigging. And

(ii) Thereafter, repeat the inspections required by paragraph (a)(1) of this AD at intervals not to exceed 1,000 flight cycles until the modification required by paragraph (a)(2)(iii) of this AD is accomplished. And

(iii) Prior to the accumulation of 3,000 flight cycles after the effective date of this AD, modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. As an option to the action specified in Step 1 of Figure 3 of that alert service bulletin, operators may layout a .39-inch minimum radius.

(3) If the inspections required by paragraph (a)(1) of this AD reveal no cracking, but do reveal loose bolts or serrations that are not fully mated, prior to further flight accomplish either paragraph (a)(3)(i) or (a)(3)(ii) of this AD:

(i) Modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. As an option to the action specified in Step 1 of Figure 3 of that alert service bulletin, operators may layout a .39-inch minimum radius. Or

(ii) Replace the currently-installed aluminum rib fitting with a new steel rib fitting, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. After this replacement, no further action is required by this AD for that rib fitting.

(b) For airplanes equipped with rib fittings that have been modified in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989; and *have been modified* in accordance with Figure 2 of Boeing Service Bulletin 727-32-0383, Revision 1, dated January 30, 1992: Accomplish the following:

(1) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the actuator rib fitting of the MLG, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995, at the later of the times specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD.

(i) Prior to the accumulation of 1,000 flight cycles after the effective date of the AD; or

(ii) Within 1,500 flight cycles after the immediately preceding inspection performed in accordance with AD 90-02-19, or within 1,500 flight cycles after accomplishing the terminating action in accordance with AD 93-01-14, whichever is earlier.

(2) If no cracking is detected during the inspection required by paragraph (b)(1) of this AD, accomplish the actions specified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this AD:

(i) Prior to further flight, re-rig the door in accordance with the maintenance manual procedures referenced in Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995, to ensure proper door rigging. And

(ii) Thereafter, repeat the inspection required by paragraph (b)(1) at intervals not to exceed 2,500 flight cycles until the modification required by paragraph (b)(2)(iii) of this AD is accomplished. And

(iii) Prior to the accumulation of 6,000 flight cycles after the effective date of this AD, modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. As an option to the action specified in Step 1 of Figure 3 of that alert service bulletin, operators may layout a .39-inch minimum radius.

(c) For airplanes equipped with rib fittings that *have not been modified* in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989: Accomplish the following:

(1) Prior to the accumulation of 1,000 flight cycles after the effective date of this AD, accomplish the actions specified in both paragraphs (c)(1)(i) and (c)(1)(ii) of this AD:

(i) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the actuator rib fitting of the MLG, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. And

(ii) Inspect the actuator rib fitting of the MLG to ensure that serrations are fully mated, and to detect loose bolts, in accordance with Figure 1 of Boeing Service Bulletin 727-32-0383, Revision 1, dated January 30, 1992.

(2) If the inspections required by paragraph (c)(1) of this AD reveal no cracking or loose bolts, and reveal that the serrations are fully mated, prior to further flight, accomplish the actions specified in either paragraph (c)(2)(i), (c)(2)(ii), or (c)(2)(iii) of this AD:

(i) Modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995; and in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989. As an option to the action specified in Step 1 of Figure 3 of Boeing Alert Service Bulletin 727-32A0399, operators may layout a .39-inch minimum radius. Or

(ii) Replace the currently-installed aluminum rib fitting with a new steel rib fitting, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13,

1995. After this replacement, no further action is required by this AD for that fitting. Or

(iii) Replace the fitting with a like fitting that has been inspected in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995; and modified in accordance with Part II of the Accomplishment Instructions of that service bulletin and in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989.

(d) If any cracking is detected during the inspections required by paragraphs (a)(1), (b)(1), or (c)(1) of this AD, prior to further flight, accomplish the actions specified in either paragraph (d)(1) or (d)(2) of this AD:

(1) Replace the cracked fitting with a like fitting that has been inspected in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995; and modified in accordance with Part II of the Accomplishment Instructions of that service bulletin and in accordance with Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989. As an option to the action specified in Step 1 of Figure 3 of Boeing Alert Service Bulletin 727-32A0399, operators may layout a .39-inch minimum radius. Or

(2) Replace the cracked fitting with a new steel rib fitting in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995. This replacement constitutes terminating action for the requirements of that AD for that fitting.

(e) For all airplanes on which modification of the actuator rib fitting has been accomplished in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995; and Boeing Service Bulletin 727-32-0364, dated December 15, 1988, or Revision 1, dated October 19, 1989: Within 7,500 flight cycles after accomplishing the modification, accomplish the following:

(1) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the modified actuator rib fitting, in accordance with the alert service bulletin.

(2) Repeat the inspection thereafter at intervals not to exceed 2,500 flight cycles until the fitting is replaced with a new steel rib fitting, in accordance with Part III of the Accomplishment Instructions of the alert service bulletin. This replacement constitutes terminating action for the requirements of this AD for that fitting.

(f) Replacement of aluminum actuator rib fittings with new steel actuator rib fittings in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-32A0399, dated July 13, 1995, constitutes terminating action for the requirements of this AD.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an

appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(h) 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 September 24, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-25040 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-13-U

## 14 CFR Part 39

[Docket No. 96-NM-79-AD]

RIN 2120-AA64

### Airworthiness Directives; Fokker Model F27 Mark 050 and 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 F27 Mark 050 and F28 Mark 0100 series airplanes. This proposal would require installation of a bonding cable for the housing of the lavatory pump and filter assembly and the lavatory bowl. This proposal is prompted by a report indicating that the housing of the lavatory pump and filter assembly is not grounded properly. The actions specified by the proposed AD are intended to prevent such improper grounding, which could result in an electrical fire and/or injury to passengers and crewmembers.

**DATES:** Comments must be received by November 12, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-79-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:** Ruth Harder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-1721; fax (206) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96-NM-79-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. 96-NM-79-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 F27 Mark 050 and F28 Mark 0100 series airplanes. The RLD advises that it received a report indicating that the housing of the lavatory pump and filter assembly is not

grounded properly. The metal toilet bowl is connected to the housing of the 115 volt AC motor that drives the lavatory pump and filter assembly. If this electrical motor fails, the toilet bowl could carry high voltage. In addition, an electrical short could cause the motor to overheat. These conditions, if not corrected, could result in an electrical fire and/or injury to passengers and crewmembers.

##### Explanation of Relevant Service Information

Fokker has issued Service Bulletin SBF50-25-046, Revision 1, dated August 5, 1994 (for Model F27 Mark 050 series airplanes); and Service Bulletin SBF100-25-069, dated July 13, 1994, as revised by Service Bulletin Change Notification (SBCN) SBF100-25-069/01, dated February 15, 1995 (for Model F28 Mark 0100 series airplanes). These service bulletins describe procedures for installation of a bonding cable for the housing of the lavatory pump and filter assembly and the lavatory bowl. Accomplishment of the installation will provide electrical grounding for the pump and filter assembly housing. The RLD classified these service bulletins as mandatory and issued Netherlands airworthiness directive BLA 94-129(A), dated August 31, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

##### FAA's Conclusions

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.

##### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require installation of a bonding cable for the housing of the lavatory pump and filter assembly and the lavatory bowl. The actions would be required to be accomplished in accordance with the service bulletins described previously.

## Cost Impact

The FAA estimates that 48 Model F28 Mark 0100 series 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 \$60 per work hour. Required parts would cost approximately \$209 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators of Model F28 Mark 0100 series airplanes of U.S. registry is estimated to be \$27,312, or \$569 per airplane.

Currently, there are no Model F27 Mark 050 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the proposed actions, at an average labor rate of \$60 per work hour. Required parts would cost approximately \$88 per airplane. Based on these figures, the cost impact of this proposed AD for Model F27 Mark 050 series airplanes would be \$208 per airplane.

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

## Regulatory Impact

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

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

location provided under the caption **ADDRESSES**.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

### **PART 39—AIRWORTHINESS DIRECTIVES**

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

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

#### **§ 39.13 [Amended]**

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

Fokker: Docket 96-NM-79-AD.

*Applicability:* Model F27 Mark 050 series airplanes, as listed in Fokker Service Bulletin SBF50-25-046, Revision 1, dated August 5, 1994; and Model F28 Mark 0100 series airplanes, as listed in Fokker Service Bulletin SBF100-25-069, dated July 13, 1994, as revised by Service Bulletin Change Notification (SBCN) SBF100-25-069/01, dated February 15, 1995; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent improper grounding of the housing of the lavatory pump and filter assembly, which could result in an electrical fire and/or injury to passengers and crewmembers, accomplish the following:

(a) Within 6 months after the effective date of this AD, install a bonding cable for the housing of the lavatory pump and filter assembly and the lavatory bowl in accordance with Fokker Service Bulletin SBF50-25-046, Revision 1, dated August 5, 1994 (for Model F27 Mark 050 series airplanes); and Service Bulletin SBF100-25-069, dated July 13, 1994, as revised by Service Bulletin Change Notification (SBCN) SBF100-25-069/01, dated February 15, 1995 (for Model F28 Mark 0100 series airplanes); as applicable.

(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 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.

(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 September 24, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-25038 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-13-U

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[PS-39-93]

RIN 1545-AR63

#### Definition of Structure; Hearing Cancellation

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed regulations.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations relating to deductions available upon demolition of a building.

**DATES:** The public hearing originally scheduled for October 9, 1996, beginning at 10:00 a.m. is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-6808 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 280B of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register for Thursday, June 20, 1996 (61 FR 31473), announced that a public hearing on the proposed regulations

would be held on Wednesday, October 9, 1996, beginning at 10:00 a.m., room 2615, 1111 Constitution Avenue NW., Washington, D.C.

The public hearing scheduled for Wednesday, October 9, 1996, is cancelled.

Cynthia E. Grigsby,

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 96-25042 Filed 9-30-96; 8:45 am]

BILLING CODE 4830-01-U

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II, Docket No. 152, NY21-1-6732b, FRL-5555-1]

#### Approval and Promulgation of Implementation Plans; Transportation Control Measures State of New York

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve a revision to the New York State Implementation Plan (SIP) dealing with Transportation Control Measures (TCMs) needed to offset increases in

emissions from growth in vehicle miles travelled (VMT) submitted on November 15, 1992. The implementation plan was submitted by the State to satisfy certain federal requirements for an approvable ozone SIP for New York State. In the final rules section of this Federal Register, 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 and anticipates no adverse comments. A detailed rationale for the action is set forth in the direct final notice of approval. 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 prior to becoming effective by its terms 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 proposed rule. Any parties interested in commenting on this rulemaking should do so at this time.

**DATES:** Comments must be received on or before October 31, 1996.

**ADDRESSES:** All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Air and Waste Management Division, Environmental

Protection Agency, Region II Office, 290 Broadway, 20th Floor, New York, New York 10007-1866.

Copies of State submittal are available at the following locations for inspection during normal business hours:

Environmental Protection Agency,  
Region II Office, Library, 290  
Broadway, 16th Floor, New York,  
New York 10007-1866

New York Department of Environmental  
Conservation, 50 Wolf Road, Albany,  
New York 12233-1010

#### FOR FURTHER INFORMATION CONTACT:

Linda F. Kareff, Environmental  
Protection Specialist, Technical  
Evaluation Section, Air Programs  
Branch, Environmental Protection  
Agency, 290 Broadway, 20th Floor, New  
York, New York 10007-1866, (212) 637-  
4249.

#### SUPPLEMENTARY INFORMATION:

##### Background

For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: July 29, 1996.

William Muszynski,

*Acting Regional Administrator.*

[FR Doc. 96-24533 Filed 9-30-96; 8:45 am]

BILLING CODE 6560-50-P

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

### Foreign Agricultural Service

#### Public Debriefing on World Food Summit Intersessional Meetings

**SUMMARY:** Notice is hereby given that a public debriefing on the September 23–27, 1996 Food and Agriculture Organization Committee on World Food Security meeting in Rome will be held October 17, 1996. The purpose of the forum is for members of the U.S. delegation to the meeting to brief the public, and receive comments and suggestions with respect to World Food Summit preparations.

**DATES:** The meeting will be held Thursday, October 17, 1996 from 2:00 to 4:00 in room 107A in the Administration Building at the U.S. Department of Agriculture in Washington, D.C.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Inquiries may be directed to the Office of the National Secretary, Foreign Agricultural Service, Room 3008 South Building, U.S. Department of Agriculture, 14th and Independence Ave. SW, Washington, D.C. 20250, telephone (202) 690-0776 or fax (202) 720-6103. Additional information is available on the FAS Homepage ([http://ffas.usda.gov/ffas/food\\_summit/summit.html](http://ffas.usda.gov/ffas/food_summit/summit.html)) or by calling (202) 690-0776.

Signed in Washington, D.C. September 20, 1996.

Christopher E. Goldthwait,  
*Acting Administrator, Foreign Agricultural Service.*

[FR Doc. 96–25105 Filed 9–30–96; 8:45 am]

BILLING CODE 3410–10–M

#### Special Provision for Frozen Concentrated Orange Juice Under the North American Free Trade Agreement Implementation Act

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice of Determination of Existence of Price Conditions Necessary for Imposition of Temporary Duty on Frozen Concentrated Orange Juice from Mexico.

**SUMMARY:** Pursuant to Section 309(a) of the North American Free Trade Agreement Implementation Act of 1993 (“NAFTA Implementation Act”), this is a notification that for 5 consecutive business days the daily price for frozen concentrated orange juice was lower than the trigger price.

**FOR FURTHER INFORMATION CONTACT:** Joseph Somers, Horticultural and Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000 or telephone at (202) 720–2974.

**SUPPLEMENTARY INFORMATION:** The NAFTA Implementation Act authorizes the imposition of a temporary duty (snapback) for Mexican frozen concentrated orange juice when certain conditions exist. Mexican articles falling under subheading 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTS) are subject to the snapback duty provision.

Under Section 309(a) of the NAFTA Implementation Act, certain price conditions must exist before the United States can apply a snapback duty on imports of Mexican frozen concentrated orange juice. In addition, such imports must exceed specified amounts before the snapback duty can be applied. The price conditions exist when for each period of 5 consecutive business days the daily price for frozen concentrated orange juice is less than the trigger price.

For the purpose of this provision, the term “daily price” means the daily closing price of the New York Cotton Exchange, or any successor as determined by the Secretary of Agriculture (the “Exchange”), for the closest month in which contracts for frozen concentrated orange juice are being traded on the Exchange. The term “business day” means a day in which contracts for frozen concentrated orange juice are being traded on the Exchange.

The term “trigger price” means the average daily closing price of the Exchange for the corresponding month during the previous 5-year period, excluding the year with the highest average price for the corresponding month and the year with the lowest average price for the corresponding month.

Price conditions no longer exist when the Secretary determines that for a period of 5 consecutive business days the daily price for frozen concentrated orange juice has exceeded the trigger price. Whenever the price conditions are determined to exist or to cease to exist or to cease to exist the Secretary is required to immediately notify the Commissioner of Customs of such determination. Whenever the determination is that the price conditions exist and the quantity of Mexican articles of frozen concentrated orange juice entered exceeds (1) 264,978,000 liters (single strength equivalent) in any of calendar years 1994 through 2002, or (2) 340,560,000 liters (single strength equivalent) in any of calendar years 2003 through 2007, the rate of duty on Mexican articles of frozen concentrated orange juice that are entered after the date on which the applicable quantity limitation is reached and before the date of publication in the Federal Register of the determination that the price conditions have ceased to exist shall be the lower of—(1) the column 1—General rate of duty in effect for such articles on July 1, 1991; or (2) the column 1—General rate of duty in effect on that day. For the purpose of this provision, the term “entered” means entered or withdrawn from warehouse for consumption in the customs territory of the United States.

In accordance with Section 309(a) of the NAFTA Implementation Act, it has been determined that for the period September 11–17, 1996, the daily price for frozen concentrated orange juice was less than the trigger price.

Issued at Washington, D.C. the 23d day of September, 1996.

Timothy J. Galvin,

*Acting Administrator, Foreign Agricultural Service.*

[FR Doc. 96–25104 Filed 9–30–96; 8:45 am]

BILLING CODE 3410–10–M

## Grain Inspection, Packers and Stockyards Administration

### Designation for the Hastings (NE) Area and the State of New York

**AGENCY:** Grain Inspection, Packers and Stockyards Administration (GIPSA).

**ACTION:** Notice.

**SUMMARY:** GIPSA announces the designation of Hastings Grain Inspection, Inc. (Hastings), and the New York State Department of Agriculture and Markets (New York) to provide official services under the United States Grain Standards Act, as amended (Act).

**EFFECTIVE DATES:** November 1, 1996.

**ADDRESSES:** USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Ave. S.W., Washington, DC 20250-3604.

**FOR FURTHER INFORMATION CONTACT:** Janet M. Hart, telephone 202-720-8525.

#### SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the May 1, 1996, Federal Register (61 FR 19254), GIPSA asked persons interested in providing official services in the geographic areas assigned to Hastings and New York to submit an application for designation. Applications were due by May 30, 1996. Hastings and New York, the only applicants, each applied for designation to provide official services in the entire areas currently assigned to them.

Since Hastings and New York were the only applicants, GIPSA did not ask for comments on the applicants.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Hastings and New York are able to provide official services in the geographic areas for which they applied. Effective November 1, 1996, and ending October 31, 1999, Hastings and New York are designated to provide official services in the geographic areas specified in the May 1, 1996, Federal Register.

Interested persons may obtain official services by contacting Hastings at 402-462-4254 and New York at 716-427-0200.

**AUTHORITY:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: September 20, 1996

Neil E. Porter

*Director, Compliance Division*

[FR Doc. 96-25005 Filed 9-30-96; 8:45 am]

BILLING CODE 3410-EN-F

## DEPARTMENT OF COMMERCE

### Submission For OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**Agency:** Bureau of the Census.  
**Title:** 1997 Economic Census Covering Auxiliary Establishments.  
**Form Number(s):** AU-9201, AU-9202.  
**Agency Approval Number:** None.  
**Type of Request:** New collection.  
**Burden:** 34,000.  
**Number of Respondents:** 48,000.  
**Avg Hours Per Response:** 42½ minutes.

**Needs and Uses:** The economic census is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business and the general public. The 1997 Economic Census will cover virtually every sector of the U.S. economy, including approximately 48,000 auxiliary establishments. An auxiliary establishment is defined as an establishment primarily engaged in performing management, supervision, general administrative functions, research and development, warehousing, trucking, and other supporting services for other establishments of the same company, rather than for the general public or other business firms. From the information collected from auxiliary establishments, the Census Bureau will produce basic statistics for principal activity; sales, operating receipts, and revenues to other companies; employment; and payroll. The data also will yield a variety of statistics on related topics, including employment by function and expenses by type.

**Affected Public:** Business or other for-profit institutions, Individuals or households, Not-for-profit institutions, State, local or tribal government.

**Frequency:** One-time.  
**Respondent's Obligation:** Mandatory.  
**Legal Authority:** Title 13 USC, Sections 131 and 224.

**OMB Desk Officer:** Jerry Coffey, (202) 395-7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482-3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 25, 1996.

Linda Engelmeier,

*Acting Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 96-25043 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-07-F

## International Trade Administration

### Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

#### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

#### Opportunity to Request a Review

Not later than October 31, 1996, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

Antidumping proceedings	Period
ITALY: Pressure Sensitive Tape A-475-059 .....	10/1/95-9/30/96
JAPAN: Steel Wire Rope A-588-045 .....	10/1/95-9/30/96
JAPAN: Tapered Roller Bearings, Over 4 Inches A-588-604 .....	10/1/95-9/30/96
MALAYSIA: Extruded Rubber Thread A-557-805 .....	10/1/95-9/30/96
THE PEOPLE'S REPUBLIC OF CHINA: Barium Chloride A-570-007 .....	10/1/95-9/30/96
THE PEOPLE'S REPUBLIC OF CHINA: Lock Washers A-570-822 .....	10/1/95-9/30/96
THE PEOPLE'S REPUBLIC OF CHINA: Shop Towels A-570-003 .....	10/1/95-9/30/96
YUGOSLAVIA: Industrial Nitrocellulose A-479-801 .....	10/1/95-9/30/96
Countervailing Duty Proceedings	
ARGENTINA: Leather C-357-803 .....	1/1/95-12/31/95
BRAZIL: Certain Agricultural Tillage Tools C-351-406 .....	1/1/95-12/31/95
INDIA: Certain Iron-Metal Castings C-533-063 .....	1/1/95-12/31/95
IRAN: Roasted In-Shell Pistachios C-507-601 .....	1/1/95-12/31/95
SWEDEN: Certain Carbon Steel Products C-401-401 .....	1/1/95-12/31/95
Suspension Agreements	
KAZAKHSTAN: Uranium A-834-802 .....	10/1/95-9/30/96
KYRGYZSTAN: Uranium A-835-802 .....	10/1/95-9/30/96
RUSSIA: Uranium A-821-802 .....	10/1/95-9/30/96
UZBEKISTAN: Uranium A-844-802 .....	10/1/95-9/30/96

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders and suspension agreements. Pursuant to 19 CFR 355.22(a) of the regulations, an interested party must specify the individual producers or exporters covered by the order or suspension agreements for which they are requesting a review, (Interim Regulations, 69 FR 25130, 25137 (May 11, 1995)). Therefore, for antidumping and countervailing duty reviews, and suspension agreements, the interested party must specify for which individual producers or exporters covered by an antidumping finding, antidumping or countervailing duty order or suspension agreement it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise

by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Sheila Forbes, in room 3064 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests

received by October 31, 1996. If the Department does not receive, by October 31, 1996, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entities at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: September 24, 1996.

Jeffrey P. Bialos,

*Principal Deputy Assistant Secretary for Import Administration.*

[FR Doc. 96-25117 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-M

**Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Intent to Revoke Antidumping Duty Orders and Findings and to Terminate Suspended Investigations.

**SUMMARY:** The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of October 1996.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Michael Panfeld or the analyst listed under Antidumping Proceeding at: Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:**

## Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

## Antidumping Proceeding

## Japan

Steel Wire Rope

A-588-045

38 FR 28571

October 15, 1973

Contact: Davina Hashmi at (202) 482-3813

The People's Republic of China

Barium Chloride

A-570-007

49 FR 40635

October 17, 1984

Contact: Roy Unger at (202) 482-6312

The People's Republic of China

Shop Towels

A-570-003

48 FR 45277

October 4, 1983

Contact: Hermes Pinilla at (202) 482-3477

Yugoslavia

Industrial Nitrocellulose

A-479-801

55 FR 41870

October 16, 1990

Contact: Rebecca Trainor at (202) 482-0666

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

## Opportunity to Object

Domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of October 1996. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k) (3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: September 24, 1996.

Barbara R. Stafford,

*Deputy Assistant Secretary for AD/CVD Enforcement.*

[FR Doc. 96-25111 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-122-601]

**Brass Sheet and Strip From Canada; Antidumping Administrative Review; Extension of Time Limit**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limit.

**SUMMARY:** The Department of Commerce (the Department) is extending the time limit of the preliminary results of this antidumping duty administrative review of brass sheet and strip from Canada. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period January 1, 1996 through December 31, 1995.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Maureen McPhillips or John Kugelman, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3019 or 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:** Because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for completion of the preliminary results until December 2, 1996, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994. The deadline for the results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A)(iv) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: September 23, 1996.

Joseph A. Spetrini,

*Deputy Assistant Secretary, Enforcement Group III.*

[FR Doc. 96-25116 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-M

[A-533-809]

**Certain Forged Stainless Steel Flanges From India; Preliminary Results of New Shipper Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of preliminary results of new shipper antidumping duty administrative review.

**SUMMARY:** In response to a request by one manufacturer/exporter, Viraj Forgings, the Department of Commerce (the Department) is conducting a new shipper administrative review of the antidumping duty order on certain forged stainless steel flanges from India (flanges). The period of review (POR) is March 1, 1995 through August 31, 1995. We have preliminarily determined that Viraj sold subject merchandise at not less than normal value (NV) during the POR.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas Killiam or John Kugelmann, 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) 482-2704, or 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

**Background**

By letters dated August 31 and September 25, 1995, Viraj requested a new shipper review pursuant to section 751(a)(2)(B) of the Act and section 353.22(h) of the Department's interim regulations, which govern determinations of antidumping duties for new shippers. These provisions state that, among other requirements, a producer or exporter requesting a new shipper review must include with its request the date on which the merchandise was first entered or withdrawn from warehouse for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States (interim regulations, section 353.22(h)(2)(i)). Because the shipment had not yet

occurred, Viraj was unable to provide the shipment date at the time of its request for review, but did certify that the shipment would take place prior to any possible verification. Based on the information which Viraj provided in its request we determined that the requirements cited above were adequately fulfilled. Viraj later provided the shipment date, October 30, 1995, in its response.

On October 30, 1995, the Department initiated this new shipper review of Viraj (60 FR 55241). The Department is now conducting this review in accordance with section 751 of the Act and section 353.22 of its interim regulations.

**Scope of the Review**

The products covered by this order are certain forged stainless steel flanges both finished and not finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A-351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this order remains dispositive.

The review covers one Indian manufacturer/exporter, Viraj, and the period March 1, 1995 through August 31, 1995.

**Export Price (EP)**

We calculated the EP based on the price from Viraj to an unaffiliated party since the sale was made prior to importation into the United States, in accordance with section 772(a) of the Act.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses, which were comprised of customs brokerage and handling expenses, home

market inland freight, international freight, and insurance. No other adjustments were claimed or allowed.

**Normal Value (NV)**

**A. Viability**

Viraj had no domestic sales of flanges during the POR. Therefore, in accordance with section 773(a)(1)(B) of the Act, we used South Korea as an appropriate third country market for comparison, because it was the only third country market in which Viraj sold subject merchandise during the POR, and because it met the requirements set forth in 773(a)(1)(C).

**B. Model Match**

We first searched for the third-country model identical in physical characteristics with each U.S. model. When there were no contemporaneous sales of identical merchandise, we searched for the third-country model which is most like or most similar in characteristics with each U.S. model. To perform the model match, we first searched for the most similar third-country model with regard to alloy. If there were several third-country models with identical alloys, we then searched among the models with identical alloys for the most similar third-country model with regard to size. We continued this process with regard to type and standard. If, as a result of this analysis, several third-country models were deemed equally similar, we chose the third-country model which, when compared to the U.S. model, had the lowest difference in variable cost of manufacturing (difmer), provided the difmer did not exceed 20 percent of the total cost of manufacturing of the U.S. model.

**C. Level of Trade**

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, at 829-831, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. To implement this principle in this review, we requested and examined information on the selling activities associated with each channel of distribution in each of Viraj's markets; since there were no differences in such selling activities in either market, and since all sales in both markets were at a single LOT, we compared sales at this sole LOT.

**D. Constructed Value (CV)**

For those U.S. models where no foreign like product was found with a difmer of less than 20 percent, we used

CV as the basis of NV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on Viraj's cost of materials and fabrication employed in producing the subject merchandise, selling, general and administrative expenses (SG&A) incurred in connection with the production and sale of the foreign like product, and U.S. packing costs. We used the costs of materials, fabrication, and G&A as reported in the CV portion of Viraj's questionnaire response.

We used the U.S. packing costs as reported in the U.S. sales portion of Viraj's questionnaire response. We based selling expenses and profit on the information reported in the third-country sales portion of Viraj's questionnaire response.

#### *E. Price-to-Price Comparisons*

For price-to-price comparisons, we based NV on the prices at which the foreign like products were first sold for consumption in the third-country market to an unaffiliated party, in the usual commercial quantities and in the ordinary course of trade and at the same level of trade as the EP, in accordance with section 773(a)(1)(B)(ii) of the Act. Viraj made all third-country and EP sales of subject merchandise at the same level of trade.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual transactions to the monthly weighted-average price of sales of the foreign like product. We made adjustments, where applicable, for expenses incident to placing the foreign like product in condition packed ready for shipment to the place of delivery to the purchaser, in accordance with section 773(a)(6)(B)(ii) of the Act. We calculated NV based on FOB-factory or delivered prices to unaffiliated customers, and made deductions from the starting price for movement expenses. We increased third-country price by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. Prices were reported net of value-added taxes (VAT) and, therefore, no adjustment for VAT was necessary. We made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses. No other adjustments were claimed or allowed.

#### *Preliminary Results of the Review*

As a result of our comparison of CEP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin
Viraj .....	03/01/95-8/31/95	0.00

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 34 days after the date of publication, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 20 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 27 days after the date of publication. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of the new shipper administrative review, including the results of its analysis of issues raised in any case or rebuttal briefs, within 90 days of issuance of these preliminary results.

Upon completion of this new shipper review, the Department will issue appraisal instructions directly to the Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, upon completion of this review, the posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's interim regulations, will no longer be permitted and, should the final results yield a margin of dumping, a cash deposit will be required for each entry of the merchandise. The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of flanges from India manufactured by Viraj, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this new shipper administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, 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,

previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 162.14 percent, the all others rate established in the LTFV investigation (59 FR 5994, February 9, 1994).

These 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 could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: September 23, 1996.

Robert S. LaRussa,  
*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96-25112 Filed 9-30-96; 8:45 am]  
BILLING CODE 3510-DS-P

#### **[A-533-809]**

#### **Certain Forged Stainless Steel Flanges From India; Final Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Results of Antidumping Duty Administrative Review.

**SUMMARY:** On March 29, 1996, the Department of Commerce (the Department) published the preliminary results of its 1994-95 administrative review of the antidumping duty order on certain forged stainless steel flanges from India. The review covers one manufacturer/exporter, Akai Impex, Ltd. (Akai), for the period February 9, 1994 through January 31, 1995. We gave interested parties an opportunity to comment on our preliminary results. We received comments from the sole respondent, Akai, and rebuttal

comments from the petitioners, Flowline, Gerlin, Inc., Ideal Forging Corp., and Maass Flange.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Maureen McPhillips or John Kugelman, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3019 or 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 29, 1996, the Department published in the Federal Register (61 FR 14073) the preliminary results of its 1994-95 administrative review of the antidumping duty order on certain forged stainless steel flanges from Indian (59 FR 5994, February 9, 1994). On November 7, 1995, the Department extended the date for the final results (60 FR 56141). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

**Scope of the Review**

The products covered by this review are certain forged stainless steel flanges both finished and not-finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld neck, used for butt-weld line connections; threaded, used to make threaded line connections; slip-on and lap joint, used to make stub-end/butt-weld line connections; socket weld, used to fit pipe into machined recessions; and blind, used to seal off lines. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the merchandise described above are included in the scope. Specifically excluded from the scope of this review are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM-

A-351. The flanges subject to this review are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

The review covers one Indian manufacturer/exporter, Akai, and the period February 9, 1994 through January 31, 1995.

**Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. We received a case brief from the respondent, Akai, and a rebuttal brief from the petitioners.

*Comment 1:* Akai maintains that the Department overstated Akai's actual profit in its calculation of constructed value (CV) by failing to remove the following third-country expenses from the gross unit price: clearing and handling charges, legal stamp charge, inland freight, inland insurance, international freight, marine insurance, and packing.

*Department's Position:* We agree with Akai. In the Department's preliminary results of this administrative review, we deducted the total cost of manufacturing, banking charges, and credit expenses from the third-country gross unit price to derive actual profit for the calculation of CV.

To accurately determine the actual profit realized by Akai in connection with the production and sale of stainless steel flanges in the ordinary course of trade, for consumption in the foreign country, it is necessary to deduct the amount, if any, included in the price, attributable to any additional costs, charges, and expenses incident to bringing the foreign like product from the original place of shipment to the place of delivery to the purchaser (see, section 773 (a)(6)(B)(ii) of the Act)).

*Comment 2:* Akai states that certain U.S. observation numbers appear to be accounted for twice in the margin calculation section of the computer program.

The petitioners counter that Akai's claim is nothing more than conjecture and, since Akai failed to point out any specific error committed by the Department, no changes should be made to the referenced transactions.

*Department's Position:* The duplication of U.S. sales observation numbers resulted from an error in programming. For these final results, we have corrected the computer program in order to eliminate the duplication of

some U.S. sales in the calculation of Akai's dumping margin.

*Comment 3:* Akai requests that the Department reconfirm its calculation of the normal values (NV), as totally different flanges have the same NV in a number of instances (e.g., the 1" BLIND 316L, the 3/4" SORF SOLID, and the 1" SORF SOLID).

The petitioners claim that Akai's references are both vague and incomplete because Akai fails to provide any indication of where the error occurs in the programming or the cause of the error. The petitioners propose that there is no reason why two different products could not have the same NV, particularly where NV is based in part on third-country prices. Since Akai does not provide any specific details or substantive reasoning demonstrating exactly why the NVs cannot be the same, the petitioners believe the Department should dismiss Akai's request.

*Department's Position:* We agree with the petitioners. Akai failed to indicate the section of the computer program where the calculation of the normal values of two different flanges results in identical normal values. Moreover, Akai did not give any reason why it would be impossible for the NVs of different flanges to be identical. Calculation of the NVs of the third-country Canadian sales requires the deduction of nine different expense categories. In addition, each NV is a weighted-average price. It is certainly conceivable, therefore, that two different flanges could have some variables with different values, yet have identical NVs. In any event, we are unable to reach any conclusions about Akai's comments on our calculation of NVs without more specific information.

*Comment 4:* Akai states that the Department, in this first administrative review, has not followed the product-matching methodology used in the original investigation where the Department considered only the physical characteristics of the product in order of importance (i.e., alloy, type, and size) to match the U.S. product to the third-country product. Akai points out that the matching methodology used in the original investigation was articulated in the standard Department decision memorandum and in the Department's questionnaire. In this first administrative review, however, Akai contends that the Department has now added cost considerations in "some unclear and undefined way" to determine the appropriate model match. In support of its contention that the Department's product-matching methodology should be based purely on

the physical characteristics of the merchandise and not on cost considerations, Akai cites the Court of International Trade's (CIT) decisions in *Federal-Mogul Corporation and the Torrington Company v. United States*, Slip Op. 96-37 (CIT, February 13, 1996) at 13 and 16, and *NSK v. United States*, Slip Op. 96-53 (CIT, March 13, 1996). Moreover, Akai maintains that the Department offers no rationale for the inconsistency in the product-matching methodology between the original investigation and this annual review. Akai cites *Bowe Passat v. United States*, Slip Op. 96-73 (CIT, May 8, 1996) to illustrate its position that "inconsistent treatment, without any rationale, is contrary to law." In conclusion, Akai states that the Department provides no explanation or support whatsoever for the matching methodology chosen, which is, according to Akai, contrary to law.

The petitioners counter that Akai's comments concerning the model-match methodology chosen by the Department are both inaccurate and irrelevant. First, the petitioners state that the Department is not required to follow the product-matching methodology used in the original investigation in any subsequent administrative reviews. Indeed, they maintain that in any investigation or subsequent review, there is a learning curve which the Department travels, and it should not be restricted from modifying and improving its matching methodology as it learns more about the various products. Moreover, the petitioners state that Akai's contention that the Department's "new" methodology incorrectly includes cost considerations is based on Akai's improper reading of the computer program. The petitioners point out that the program sorts third-country and U.S. models based on alloy grade, size trademark, designation, and ASTM standard designation and, when the two data bases are later merged, the same criteria are used without any consideration of costs. The petitioners believe that perhaps Akai is confused by the Department's calculation of the difference-in-merchandise adjustments (difmers) which occurs earlier in the program. According to the petitioners, the Department calculated the difmers to ensure that the variable differences in costs between the U.S. and the third-country models met the Department's 20 percent rule and had nothing to do with the Department's matching of U.S. and third-country products.

*Department's Position:* Akai had no home market or third-country sales during the period of investigation (POI). The Department, therefore, in

accordance with section 773(a)(4) of the Act, used CV to calculate foreign market value (FMV) (see Final Determination of Sales at Less Than Fair Value; Certain Forged Stainless Steel Flanges from India, 58 FR 68853 (December 29, 1993)). The CV of the subject merchandise is the sum of the cost of manufacturing, the actual amounts incurred by the exporter during the POI or period of review (POR) for selling, general, and administrative expenses, the actual profits and the cost of all containers and all other expenses incidental to placing the subject merchandise in condition packed ready for shipment to the United States (see section 773(e) of the Act). Since we used the CV of the subject merchandise to determine FMV during the POI, rather than a price-to-price comparison with home market or third-country models, model-matching methodology was irrelevant.

For the preliminary results of this administrative review Akai did have third-country sales to Canada which we used for comparison purposes, if we found an appropriate match. For those sales without a third-country match, we used the CV of the subject merchandise.

With respect to Akai's objection to the Department's "addition" of cost considerations in its model-match methodology in the preliminary results of this administrative review, in accordance with section 771(16)(A) of the Act, the Department first identifies and compares that merchandise which is "identical" in physical characteristics, followed by sales of merchandise which is most "similar" in physical characteristics. To make these determinations, the Department devises a hierarchy of commercially meaningful characteristics, suitable to each class or kind of merchandise. The courts have recognized that the Department has broad discretion to devise the model-match methodology it deems the most appropriate to determine what constitutes similar merchandise. See *Torrington Co. v. United States*, 881 F. Supp. 622, 635 (CIT 1995), *Koyo Seiko Co. v. United States*, 66 F.3d 1204, 1209 (CAFC 1995), *NTN Bearing Corp. v. United States*, 747 F.Supp. 726, 736 (1990). For the preliminary results of this administrative review, the Department selected alloy grade, size, type, and the ASTM standard designation as the hierarchy of physical characteristics to use in determining the identical or most similar third-country model to compare to each U.S. model.

In addition, in determining NV, the Department must base its valuation on the price of "such or similar merchandise" sold in the home market (third country) (see 19 U.S.C.

§ 1677b(a)(1)(A)). "Such or similar merchandise" is defined in relevant part as "[m]erchandise produced in the same country and by the same person as the merchandise which is the subject of the investigation, like that merchandise in component material or materials and in the purposes for which used, and approximately equal in commercial value to that merchandise" (19 U.S.C. § 1677(16)(B)). When several third-country models are equally similar in physical characteristics, we choose the third-country model which, when compared to the U.S. model, has the lowest difference in variable costs of manufacturing, provided the difmer does not exceed 20 percent of the total cost of manufacturing of the U.S. model. If these conditions prevail, the Department calculates an adjustment for the difference in cost in order to select the home market (third-country) model with the smallest cost difference between it and the U.S. model. The Department's adoption of the "20 percent difmer" test, pursuant to 19 CFR § 353.57(b)(1992), ensures the selection of the home market (third-country) model with the greatest commercial similarity to the U.S. model (see Final Results of Antidumping Duty Administrative Review of Tapered Roller Bearings from Japan, 57 FR 4952 (February 11, 1992)). Therefore, when the four physical criteria of alloy, type, size, and ASTM standard designation were equally similar, we matched the U.S. model to the third-country model having the least difference in variable costs between it and the U.S. model, provided the cost difference was no greater than 20 percent.

#### Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Akai Impex, Ltd. ....	02/09/94-01/31/95	2.56

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The Department will issue appraisal instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of certain forged stainless steel flanges from India

within the scope of the order entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the 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 less-than-fair-value (LTFV) 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) for all other producers and/or exporters of this merchandise, the cash deposit rate will be 162.44 percent, the "all others" rate established in the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 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 subsequent assessment of double antidumping duties.

#### Notification of Interested Parties

This notice also serves as a 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 an APO is a sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

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: September 23, 1996.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 96-25115 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-M

#### International Trade Administration

[A-475-703]

#### Granular Polytetrafluoroethylene Resin from Italy; 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, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy. This review covers one manufacturer/exporter of the subject merchandise to the United States for the period August 1, 1994, through July 31, 1995.

We have preliminarily determined that dumping margins exist for the respondent. Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Michael Rausher or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-4733.

#### SUPPLEMENTARY INFORMATION:

##### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

##### Background

On August 30, 1988, the Department published in the Federal Register (53 FR 33163) the antidumping duty order on granular PTFE resin from Italy. On August 1, 1995, the Department published a notice of "Opportunity to

Request Administrative Review" of the antidumping duty order for the period of August 1, 1994 through July 31, 1995 (60 FR 39150). We received a timely request for review from the petitioner, E. I. DuPont de Nemours & Company. On October 12, 1995, the Department initiated a review of Ausimont S.p.A. (60 FR 53165).

##### Scope of the Review

The product covered by this review is granular PTFE resins, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. See *Granular Polytetrafluoroethylene Resin from Italy; Final Determination of Circumvention of Antidumping Duty Order*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the *Harmonized Tariff Schedule* (HTS). We are providing this HTS number for convenience and Customs purposes only. The written description of the scope remains dispositive.

The review covers one Italian manufacturer/exporter of granular PTFE resin, Ausimont S.p.A., and the period August 1, 1994 through July 31, 1995.

##### Use of Facts Available

In the Department's initial questionnaire, we requested that Ausimont provide value-added data for all models which are further manufactured in the United States. Ausimont failed to provide this information. In a supplemental questionnaire dated May 26, 1996, we again requested that Ausimont report the cost of further manufacturing performed in the United States. In responding, Ausimont still failed to provide this information for certain models.

Section 776(a) of the Act provides that if necessary information is not available on the record, or an interested party or any other person fails to provide such information by the deadlines for submission of the information or in the form and manner requested, the Department shall use the facts otherwise available. In addition, section 776(b) of the Act provides that if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.

Ausimont's failure to provide further manufacturing data for certain models

renders it necessary that we rely upon the facts otherwise available. Ausimont offered no explanation for this failure on its part, despite the Department's repeated requests for this information. On this basis, we preliminarily determine that Ausimont failed to cooperate by not acting to the best of its ability to comply with the Department's information requests. Therefore, we determine it is appropriate to use an inference that is adverse to Ausimont's interests, pursuant to section 776(b) of the Act. Section 776(b) authorizes the Department to use as facts otherwise available information derived from the petition, the final determination, a previous administrative review, or any other information placed on the record. We have determined that the number of models for which Ausimont failed to provide further manufacturing data are relatively few in number, and the absence of this information does not impact upon the remainder of Ausimont's data base. For these reasons, we are not resorting to total facts available under section 776(a). We have instead selected the highest reported cost of further manufacturing reported by Ausimont as facts available for those models for which Ausimont failed to report the cost of further manufacturing.

#### United States Price

The Department based United States price (USP) on constructed exporter's sale price (CEP) as defined in section 772(b) of the Act because all sales to unrelated parties were made after importation of the subject merchandise into the United States. We based CEP on the packed, delivered prices to unrelated purchasers in the United States (the starting price). We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, including international freight, marine insurance, brokerage and handling, U.S. inland freight, other transportation expenses, and U.S. customs duties.

In accordance with section 772(d)(1) of the Act and the Statement of Administrative Action (SAA) accompanying the URAA (at 823-824), we also adjusted the starting price by deducting selling expenses associated with economic activities occurring in the United States, including direct selling expenses assumed on behalf of the buyer and U.S. indirect selling expenses. Finally, we made an adjustment for an amount of profit allocated to these expenses, in accordance with section 772(d)(3) of the Act and as described in section 772(f).

For sales of granular PTFE resin finished in the United States from PTFE

wet raw polymer imported from Italy, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act did not apply because the value added in the United States by the affiliated person did not exceed substantially the value of the subject merchandise. Therefore, for subject merchandise further manufactured in the United States, we used the starting price of the subject merchandise and deducted the costs of further manufacturing to determine the CEP for such merchandise in accordance with section 772(d)(2) of the Act. We deducted the costs of further manufacturing in the United States and that portion of the profit on sales of further-manufactured merchandise attributable to the additional manufacturing. No other adjustments were claimed or allowed.

#### Normal Value

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating normal value (NV), we compared respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product for Ausimont was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Ausimont. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

We calculated NV on a monthly weighted-average basis. Where possible, we compared U.S. sales to sales of identical merchandise in Italy. When there were no identical sales of the foreign like product available for matching purposes, we based NV on contemporaneous sales of the most similar foreign like product, in accordance with section 771(16) of the Act. Because filled and unfilled resins generally are not similar in terms of their physical characteristics, we compared, whenever possible, home market sales of filled resins to U.S. sales of filled resins and home market sales of unfilled resins with U.S. sales of unfilled resins. We matched filled resins sold in the two markets according to the

amounts and types of fillers, and the percentages of fillers, in the products sold based upon the information provided in Ausimont's questionnaire response.

In accordance with section 773(a)(4) of the Act, we used constructed value (CV) as the basis for NV when there were no comparable sales of the foreign like product in the home market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, selling, general and administrative (SG&A) expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Ausimont in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Italy. For selling expenses, we used the weighted-average home market selling expenses. We included U.S. packing pursuant to section 773(e)(3) of the Act. Where appropriate, we made adjustments to CV, in accordance with section 773(a)(8) of the Act for differences in the circumstances of sale (COS). Specifically, we made COS adjustments by deducting home market direct selling expenses.

Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6) (A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the COS in accordance with section 773(a)(6)(C)(iii) of the Act. These COS adjustments included deductions for home market rebates and credit.

#### Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the SAA accompanying the URAA at pages 829-831, the Department will, to the extent practicable, calculate normal value based on sales at the same level of trade as the U.S. sales. When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sales, the Department may compare sales in the U.S. and foreign markets at different levels of trade. *See Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326 (June 14, 1996).

In accordance with section 773(a)(7)(A), if sales at different levels of

trade are compared, the Department will adjust the normal value to account for the difference in level of trade if the different sales functions between the levels of trade affect price comparability as evidenced by a pattern of consistent price differences between sales of the different levels of trade in which NV is determined.

Additionally, section 773(a)(7)(B) of the Act establishes that a CEP offset may be made when two conditions are present: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level-of-trade adjustment.

In order to determine that there is a difference in level of trade, the Department must find that two sales have been made at different phases of marketing, or the equivalent. Different phases of marketing necessarily involve differences in selling functions, but differences in selling functions (even substantial ones) are not alone sufficient to establish a difference in the level of trade. Similarly, seller and customer descriptions (such as "distributor" and "wholesaler") are useful in identifying different levels of trade, but are insufficient to establish that there is a difference in the level of trade.

We requested information about the selling activities associated with each phase of marketing, or the equivalent, in each of Ausimont's markets. Ausimont claimed that the level of trade of its CEP sales was the same as that of its NV sales. Ausimont claimed one level of trade and one channel of distribution with regard to its sales to its U.S. affiliate, Ausimont U.S.A., Inc. For its home market, Ausimont also claimed only one channel of distribution, from Ausimont to fabricators.

To determine whether Ausimont's CEP and NV sales were at the same level of trade, we reviewed the selling activities associated with both types of sales. Because Ausimont's sales in the United States were all based on CEP, we only considered the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *Certain Stainless Wire Rods From France: Final Results of Antidumping Duty Administrative Review*, 61 FR 47874, 47879-80 (Sept. 11, 1996); *Preliminary Results of Antidumping Duty Administrative Reviews of Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.*, 61 FR 35713 (July 8, 1996). The selling activities included inventory

maintenance, after sales services/warranties, post-sale warehousing, technical advice, strategic and economic planning, market research, computer assistance, personnel training, engineering services, research and development, advertising, procurement, and freight and delivery services. Whenever sales were made by or through an affiliated company or agent, we considered all selling activities of both affiliated parties, except for those selling activities related to the expenses deducted under section 772(d) of the Act.

We determined that the selling functions performed by Ausimont for the home market are the same as those performed by Ausimont for CEP sales and that Ausimont's home market level of trade constituted the same stage of distribution as that of the level of trade of the CEP. Therefore, in accordance with section 773(a)(7)(B) of the Act, because we determined that Ausimont's home market sales upon which we established NV were at the same level of trade as that of the CEP, we made no CEP offset to NV.

#### Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Ausimont S.p.A. ....	08/01/94-07/31/95	6.23

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. Parties who submit arguments in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days of issuance of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentage stated above. The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping dumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of PTFE resin from Italy 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 rate for Ausimont will be the rate established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or the LTFV investigation; 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 46.46 percent, the "all others" rate established in the LTFV investigation (50 FR 26019, June 24, 1985).

This notice also serves as a preliminary reminder to importers of their responsibility 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 C.F.R. § 353.22 (1996).

Dated: September 25, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-25114 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-570-803]

**Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results of Antidumping Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of the antidumping duty administrative review of heavy forged hand tools, finished or unfinished, with or without handles, from the People's Republic of China.

**SUMMARY:** On April 5, 1996, the Department of Commerce (the Department) published in the Federal Register the preliminary results of its administrative review of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs) from the People's Republic of China (PRC) (61 FR 15218). This review covers the period February 1, 1994 through January 31, 1995. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Trainor or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4733.

**Applicable Statute and Regulations:** Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 2, 1995, the Department published in the Federal Register (60 FR 6524) a notice of opportunity to request administrative reviews of these antidumping duty orders. On February 27, 1995, in accordance with 19 CFR 353.22(a), two resellers of the subject merchandise to the United States, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC), requested that we conduct administrative reviews of their exports of subject merchandise to the United States. On February 28, 1995, the petitioner, Woodings-Verona Tool Works, Inc., requested that we conduct administrative reviews of SMC, FMEC, Henan Machinery Import & Export Company (Henan), and Tianjin Machinery Import & Export Company (Tianjin). We published the notice of initiation of these antidumping duty administrative reviews on March 15, 1995 (60 FR 13955). We received no questionnaire responses from either Henan or Tianjin. Therefore, we have based our analysis of these two companies on facts otherwise available (FA). On April 5, 1996, the Department published in the Federal Register the preliminary results of the administrative reviews of the antidumping duty orders on HFHTs from the PRC (61 FR 15218). The Department is conducting these administrative reviews in accordance with section 751 of the Act.

**Scope of Review**

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting,

grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. This review covers four exporters of HFHTs from the PRC. The review period is February 1, 1994 through January 31, 1995.

**Factor Valuations: Changes From the Preliminary Results**

In the preliminary results, we valued factors of production based on the year in which production occurred. We have not used that methodology for the final results because it is inconsistent with our standard practice. Our standard factors methodology, like our standard constructed value methodology, is intended to reflect value during the period of investigation (POI) or the POR. Thus, these methodologies rely on costs during the POI or the POR. Therefore, for the final results, we have valued the factors of production using surrogate values for the review period.

**Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs and rebuttal briefs from petitioner and FMEC, SMC, and Tianjin.

*Comment 1:* Petitioner and respondents state that the Department made errors in the inflation calculations for its factors of production analysis.

*Department's Position:* We agree that we made a clerical error in calculating the wholesale price index (WPI) inflator for the preliminary results, and have made the necessary corrections for the final results.

*Comment 2:* Respondents claim that the Department should not use the WPI to derive 1993 and 1994 values for steel, iron straps and wood. Respondents argue that the record shows no indication that steel prices are tied to any inflation index, and that the Department's other 1994 factor values show that Indian import prices have actually fallen in comparison with 1993 or even 1992 Indian import prices.

Further, respondents state, there is no "secondary information" on the record to support the use of the WPI. The respondents claim that, if the Department relies on the 1993 Indian import statistics for iron straps and wood, those values should be adjusted by the average change in values from

1993 to 1994 for the other factor values, rather than by the WPI.

Petitioner argues that the WPI is the most appropriate inflation measure because it reflects prices paid for inputs at the wholesale level, where producers purchase them. Further, petitioner claims, it is widely recognized that steel prices move with overall economic activity; there is no evidence that the price of steel, iron straps or wood move in step with the other factor inputs. Thus, petitioner argues, the Department should not make the requested adjustment to its preliminary results.

*Department's Position:* We disagree with respondents that steel factor values for periods prior to the review period should not be adjusted for inflation using the WPI. There is no record evidence to support respondents' argument that the WPI inflator is arbitrary when applied to steel. As we state in our factors analysis memo dated March 27, 1996, we judged the 1994 Indian import data for steel to be unreliable, because it was based on a very small quantity of steel imports; we also determined that the 1993 Indian import data for steel was aberrational. Therefore, absent contemporaneous data and a more product-specific inflation index, we have adjusted steel factor values from periods prior to the period of review (POR) using the WPI, as we have done in prior reviews of this order, and in numerous other non-market economy (NME) cases. See, e.g., *Bicycles From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 60 FR 56567 (November 9, 1995) (*Bicycles*), and *Certain Helical Spring Lock Washers From the People's Republic of China: Final Results of Antidumping Administrative Review*, 61 FR 41994 (August 13, 1996) (*Lock Washers*).

With respect to wood and iron straps, we have obtained surrogate values corresponding with the POR for the final results. Therefore, respondents' argument with respect to these inputs is moot.

*Comment 3:* Petitioner argues that the Department should use the price quotations for special high quality steel bars that petitioner obtained from three Indian steel producers and submitted for the record, instead of the inflated 1992 Indian import statistics data which the Department used in the preliminary results. Petitioner claims that the data the Department relied upon are too broad, including steel that does not meet the exacting requirements of HFHT production. As a result, the average import values the Department used are too low, and do not accurately reflect the value of the steel used in making

hand tools. Petitioner points out that the Department has used alternatives such as specific price quotations in situations where import statistics were found to be distortive or aberrational. Petitioner cites, for example, the *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the PRC*, 60 FR 22544, 22548 (May 8, 1995) (*Furfuryl Alcohol*) and the *Final Determination of Sales at Less Than Fair Value: Coumarin from the PRC*, 59 FR 66895 (December 28, 1994) (*Coumarin*). Petitioner further argues that, in the less-than-fair-value (LTFV) investigation, the Department recognized that broad basket categories comprising many different types and sizes of steel, such as proposed by respondents, do not accurately reflect the prices of the specific types of steel used to manufacture HFHTs. *Final Determination of Sales at Less than Fair Value: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the PRC*, 56 FR 241 (Jan. 3, 1991) (*Final LTFV*).

Respondents contend that the Department should use the information contained in *Statistics For Iron & Steel Industry in India*, published in 1994 by the Steel Authority of India Limited (SAIL). Respondents argue that this source provides data that are contemporaneous with the review period, are specific to the thicknesses of steel bars used to make the subject merchandise, and have been used by the Department in other antidumping proceedings. See *Drawer Slides from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 60 FR 54472 (October 24, 1995) (*Drawer Slides*) and *Bicycles*. Further, respondents contend, the SAIL data reflect prices that are comparable to the prices the Chinese factories actually paid for steel.

Respondents argue that the price quotations supplied by petitioner are not contemporaneous with the POR, and do not represent the type of steel used in the Chinese manufacture of HFHTs. Respondents claim that the specifications offered for the steel quotations are for a higher quality steel than the Chinese HFHT factories actually use. Respondents further contend that the price quotations are aberrational in terms of ordinary steels, and are similar to the 1993 Indian import data that the Department judged to be aberrational. See Memorandum to the File for the 1993-1994 review, dated March 27, 1996.

Respondents argue that petitioner's price quotations are not publicly available published data. Respondents assert that the Department should use

such unpublished, non-publicly available information submitted by an interested party only as a last resort.

Petitioner disputes respondents' contention that the SAIL data is representative of the type of steel used to make hand tools, stating that it covers steel bars used in non-critical structural work instead of the high quality bars used in HFHTs. Further, petitioner asserts, respondents' data appears to cover steel with a wide range of carbon content, which the Department found to be unacceptable in the LTFV investigation.

*Department's Position:* We disagree with petitioner that we should use its submitted price quotations, and with respondents that we should use the SAIL data instead of the Indian import statistics we used in the preliminary results. Our objective is to value the surrogate steel at prices which most closely reflect the type of steel used by the PRC producer. (Here, we have matched respondents' hot rolled C45 steel bars with category number 7214.5 in the Indian import statistics, forged bars and rods containing between 25 and 60 percent carbon.) We have found that the chemical composition of the steel used is a more important determinant of its end use than is size. See, e.g. *Lock Washers* at 41997.

While the SAIL data submitted by respondents in this case is more size-specific than the Indian import statistics we used in the preliminary results, it is less specific as to grade and chemical composition. The SAIL data presents average values for steel of unknown grade and chemical composition. Also, in the final determination of these orders, we rejected respondent's proposal of applying an average rate comprising many different types and sizes of steel, because we determined that using average values results in a less accurate calculation. *Final LTFV* at 245.

Our use of SAIL data in *Drawer Slides* and *Bicycles* was based on our finding that, although less contemporaneous than the other data on the record, the SAIL data provided prices for steel that most closely matched the specifications of the steel used in those particular cases. See *Drawer Slides* at 54475, and *Bicycles* at 56573. However, in this case, we find that the Indian import data more closely matches the steel used to produce hand tools.

We rejected petitioner's submitted steel price quotations for similar reasons. The price quotations are based on a higher quality steel than what is actually used by the respondents in hand tool production. Therefore, consistent with our practice, we find it

more appropriate to use the Indian import data. Although we used price quotations in *Furfuryl Alcohol* and *Coumarin*, in those cases we found the price quotations to be superior to the other available data.

Therefore, for the final results, we continue to use Indian import statistics to value steel, because it is the most specific to the grade and chemical composition of the type of steel used by respondents in hand tool production.

*Comment 4:* Petitioner states that the Department should use factor inputs to value wooden pallets, as the Department did in the previous review. Although the necessary information to do this is not on the record of this review, petitioner suggests that the Department value the pallets using factor inputs derived from data submitted on the public record in the preceding reviews, adjusted for inflation. If the Department judges this approach to be inappropriate for this review, petitioner requests that the Department collect the necessary information on pallet inputs in all subsequent administrative reviews of this order.

Respondents argue that, unlike in the prior review, the record in this review is clear that the factories buy wooden pallets. Respondents assert that there is no established Departmental practice or legal authority for applying a factors methodology to all packing materials. Respondents assert that the Department must consider the evidence on the record that the factories do not make pallets and reject petitioner's argument.

*Department's Position:* We agree with respondents. Unlike in the prior review, the record of this review indicates that the Chinese factories do not construct wooden packing pallets themselves, but purchase them already constructed. Thus, using surrogate values for complete pallets results in a more accurate calculation than valuing the wood and nails separately. Moreover, the statute and the Department's regulations do not require the Department to construct a value for packing materials. For these reasons, we have continued to value the cost of a complete pallet for the final results.

*Comment 5:* Respondents object to the Department's use of the Economist Intelligence Unit's *Investing, Licensing & Trading Conditions Abroad (IL&T)* data as the surrogate labor rate source, stating that this source provides estimates based not on actual wage rates, but on rates stipulated in various Indian laws. Respondents point out that the Department rejected this data source in *Bicycles*.

Instead, respondents argue that the Department should use the data

contained in the publication, *Foreign Labor Trends—India (FLTI)*, prepared by the American Embassy in New Delhi, which provides 1992 Indian wage rates broken down into skilled, semi-skilled and unskilled categories. As an alternative, respondents suggest that the Department use the *Yearbook of Labor Statistics (YLS)*, which the Department recently used in *Bicycles*. Respondents state that, should the Department use this source, SIC code 381 includes the manufacture of hand tools. Since the YLS does not differentiate among skill levels, respondents suggest a methodology for using the IL&T data as a "scale" to derive skill levels from the YLS data.

Respondents further comment that their suggested wage rates are comparable to other surrogate rates used by the Department. Respondents specifically point to the Indonesian wage rates the Department used in *Disposable Pocket Lighters from the People's Republic of China: Final Determination of Sales at Less Than Fair Value (Lighters)*, 60 FR 22359 (May 5, 1995) and *Furfuryl Alcohol*. Petitioner supports the Department's continued use of the IL&T for valuing labor and challenges respondents' argument in favor of the YLS data. Petitioner argues that respondents have made no showing why SIC code 381 is the appropriate code for the hand tool industry, and points out that, since YLS wage rates vary greatly among SIC codes, choosing the correct code is essential. Petitioner cautions that the Department should not arbitrarily use a data source it has rejected as a ratio to apply to a different information source, as respondents suggest.

Petitioner states that the fact that the alternative wage rates suggested by respondents may be comparable to Indonesian wage rates used by the Department in two other recent NME cases is irrelevant, as the Department has selected India as the surrogate country for this review.

*Department's Position:* We agree with respondents in part. As we stated in *Bicycles*, the IL&T, which we used for the preliminary results, provides estimates based not on actual wage rates, but on rates stipulated in various Indian laws. See e.g., Memorandum to Barbara R. Stafford, Factors Valuation Memo, Nov. 1, 1995, at 20 (public memo on file in B-099 of the Commerce Department). Therefore, we have not used IL&T data for the final results. We recalculated labor rates, using data from the YLS. Unlike the FLTI data that respondents prefer, the YLS provides wage rates on an industry-specific basis. We used the daily wage rate specified

for SIC code 381, "manufacture of fabricated metal products, except machinery and equipment," because the description of the various industries this category covers was the best match for the hand tool industry. The YLS does not provide wage rates for different skill levels; we therefore applied the same rate to all three skill levels reported by respondents. Having found the IL&T data to be an inappropriate source for wage rates, it would be inappropriate to use the IL&T data to differentiate among skill levels, as respondent suggests. Because the YLS provides wage rates from 1990, we inflated the data for the review period, using the consumer price index, published in the International Monetary Fund's *International Financial Statistics*.

We disagree with respondents that a comparison of their suggested wage rates to Indonesian wage rates used by the Department in *Lighters and Furfuryl Alcohol* is relevant, since those cases entail different industries and a different surrogate country than does this review.

*Comment 6:* Respondents state that, consistent with past practice, the Department should use the actual prices Chinese companies paid in convertible currencies to market-economy suppliers. Respondents cite *Oscillating Ceiling Fans from the PRC*, 56 FR 55271 (October 25, 1991) (*Fans*), as an example of this practice. Respondents claim that the HFHTs case is distinct from *Coumarin*, in which the Department qualified this approach where inputs were "purchased from market-economy countries by trading companies for use by their suppliers." Respondents state that here, some steel inputs were imported by the same Chinese company which sold the subject merchandise to the United States, virtually nullifying the possibility of price manipulation. Thus, respondents conclude, using these prices is the most accurate way to value the inputs.

Petitioner points out that in the third review of HFHTs, the Department considered and rejected Chinese import prices for steel, in favor of surrogate country prices. Petitioner asserts that the Department may use actual purchase prices in limited circumstances, if the NME manufacturer purchases the inputs from a market economy supplier and pays in convertible currency. These circumstances are not met in this review, as the inputs were purchased from a market economy country by a PRC trading company, which then transferred the inputs to the PRC manufacturer.

*Department's Position:* We agree with the petitioner. It is the Department's

normal practice in NME cases to value the factors of production using surrogate country input prices. The Department normally allows for the valuation of inputs based on the actual purchase price of the input only when the NME manufacturer purchases the inputs from a market economy supplier and pays in a convertible currency. See, e.g., *Final Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China*, 59 FR 58818 (November 15, 1994) (*Saccharin*), and *Fans*.

As we explained in *Coumarin*, this rule does not extend to inputs purchased by a trading company who then resells the input to the manufacturer. See *Coumarin* at 66900. The record of this review demonstrates that respondents, not their supplier factories, imported steel from a market economy source. Respondents then sold the steel to the factories, who paid them in renminbi. Thus, the criteria established in *Fans* and *Saccharin* for use of actual import prices to value steel are not satisfied in this case.

Moreover, the respondents' claim with regard to nullification of price manipulation is irrelevant. The rationale behind use of actual import prices of the NME producer is that the producer's import prices more accurately reflect its costs of the particular input. *Fans* at 55275. Respondents misconstrue this exception because they fail to recognize that the focus of inquiry is the NME producer's costs, not the costs of the NME trading company. The market-economy price paid by the trading company does not represent the cost to the manufacturer, and the trading company's price to the manufacturer is not a market-economy price. Therefore, for these final results, we have used surrogate values to value all steel inputs used in the production of HFHTs.

*Comment 7:* The respondents assert that the Department's use of a price reported in a December 1989 cable from the U.S. Embassy in India, adjusted by the WPI, to value inland rail freight is less contemporaneous than other rail freight data on the record, and is unsupported by secondary data. Respondents argue that the information in *Doing Business in India*, published by the Ministry of External Affairs of the Government of India, is more current, is official government data, and provides specific rates on a per-kilometer basis.

Petitioner objects to respondents' suggested alternative rail freight rate. Petitioner points out that the data respondents submitted consists of a single, average rate. This rate would distort freight cost calculations by overstating the per-kilometer costs of

long trips and understating the per-kilometer costs of short trips. Petitioner argues that because the rate is only one digit, it is inherently imprecise. Further, its source is unknown. When selecting surrogate data, petitioner asserts, the primary focus is on the accuracy and specificity of the data; the fact that respondents' data is slightly more current is not dispositive. Petitioner states that the Embassy cable data provides rates for varying distances, unlike the respondents' data, which provides one rate for all distances.

*Department's Position:* We agree with petitioner. The 1989 Embassy cable data we used to value inland rail freight is less contemporaneous than data provided by respondents by one year, but it is more precise than the average freight rate contained in respondents' submission, because it provides freight rates for various distances. Therefore, we continued to use this data for the final results.

*Comment 8:* Respondents object to the Department's use of a selling, general and administrative (SG&A) expenses figure of 17.99 percent, derived from the April 1995 Reserve Bank of India (RBI) Bulletin, because (1) it is based on information that does not apply to the POR; (2) unlike data used in *Bicycles* and *Lock Washers*, it reflects too broad an industry spectrum; (3) the figure is aberrational, since during previous reviews, the figure was considerably smaller; and (4) under similar circumstances, such as in *Bicycles*, the Department rejected similarly aberrational data. Instead, respondents propose using the figure of 10 percent that the Department used in its preliminary results for 1993 production.

Petitioner supports the Department's use of data from the RBI Bulletin for calculating SG&A expenses. Petitioner argues that respondents' reliance on *Bicycles* in this regard is misplaced because, in that case, the Department had industry-specific information on SG&A expenses in the surrogate country that were lower than those provided in the petition. Thus, the Department found the RBI figure to be uncorroborated, and of no probative value. Petitioner asserts that the Department has no such evidence in this case. Petitioner points out that the Department *did* use RBI data in *Lock Washers*.

*Department's Position:* We agree with petitioner. In *Bicycles*, we based SG&A on industry-specific information. In this review, we did not have SG&A data specific to the hand tool industry. The SG&A rate of 17.99 percent, which we used for both 1993 and 1994 production in the present review, was derived from

1992-1993 data, the most recent available data. (Our preliminary analysis memorandum, dated March 27, 1996, erroneously states that we used the 9.5 percent rate for 1993 production. We did not use this rate because it is derived from 1991-1992 data.)

Further, we do not consider this rate to be aberrational. The difference between the 17.99 percent rate used in this review, and the 9.5 percent rate used in the prior review, is the result of a change in the Department's methodology for calculating SG&A, rather than an indication of an aberration. The 17.99 percent figure includes amounts for interest and insurance that the 9.5 percent figure does not. See *Lock Washers* at 41999, in which we amended our preliminary results to include amounts for interest and insurance in SG&A. Therefore, we have not recalculated SG&A for the final results.

*Comment 9:* Tianjin argues that the Department exceeded its authority by applying to it a PRC-wide rate. Tianjin cites *UCF America Inc. v. United States*, Slip Op. 96-42 (CIT Feb. 27, 1996) (*UCF America*) and *Sigma Corp. v. United States*, 841 F. Supp. 1255, 1267 (CIT 1993) (*Sigma Corp.*), in which the Court expressed concern over the Department's NME policy, in support of its position.

Tianjin argues that, in *UCF America*, the Court's primary concerns were that the PRC-wide rate increases the complexity of administrative reviews and requires NME suppliers to participate, even if their presence in the proceedings is unnecessary. Tianjin concludes that this policy contravenes 19 U.S.C. section 1675, which was amended to "limit the number of reviews in cases in which there is little or no interest, thus limiting the burden on petitioners and respondents, as well as the administering authority." *Id.* (quoting H.R. Conf. Rep. No. 1156, 98th Cong., 2d Sess. 181 (1984)). Thus, by applying the PRC-wide rate to Tianjin, the Department exceeded the authority of the statute and ignored the express intent of Congress and of the Court of International Trade (CIT).

Petitioner points out that the issue of Tianjin's separateness was irrelevant in the Department's determination of Tianjin's dumping margin. The Department merely followed its policy of assessing uncooperative respondents the highest rate from any prior segment of the proceedings for each imported like product. Petitioner asserts, moreover, that the Department would be justified in assigning to Tianjin a PRC-wide rate under *UCF America*. Petitioner points out that Tianjin failed

to establish its independence from the PRC government in the LTFV investigation. In this review, Tianjin forfeited its opportunity to establish separateness by not responding to the Department's questionnaire.

Petitioner argues that the cases Tianjin cited support the fact that Tianjin is liable for the PRC-wide rate. In *Sigma Corp.*, petitioner states, the CIT rejected the use of a PRC-wide rate because the Department unexpectedly switched from company-specific to a PRC-wide rate for all respondents without giving them a chance to prove their independence. Petitioner asserts that the *UCF America* decision specifically endorsed the earlier decision in *Tianjin Machinery Import & Export Corp.*, 806 F. Supp. at 1013-15, that Tianjin should receive a PRC-wide dumping margin.

*Department's Position:* We agree with petitioner. Regardless of the Department's views on the concerns expressed by the CIT in *UCF America* regarding the "all others" rates, those concerns are not implicated in this case. The "all others" category is reserved for companies that have never been investigated or reviewed. Petitioner requested a review of Tianjin and Henan, and they refused to respond to the Department's request for information. Therefore, we conducted the review of these companies on the basis of adverse facts available, pursuant to section 776(b) of the Act. Under our NME policy, Tianjin, Henan and all other exporters that have not established that they are entitled to a separate rate are considered to be part of a single, government-controlled enterprise (the NME entity). Because Tianjin and Henan failed to cooperate, and because they are considered to be part of the NME entity, the entire NME entity has received a rate based on adverse facts available. See *Preliminary Results* at 15220.

*Comment 10:* Respondents argue that the 1993 values for pallets, PVC bags and SG&A should be changed to reflect the 1993 values the Department used for the final results in the previous (1993-1994) review. Respondents also claim that the Department should adjust 1994 values to eliminate bias. They argue that, while the POR covers imports during February 1994 through January 1995 and production beginning in January 1994, the Indian import data the Department used includes data for April 1994 through January 1995. Thus, respondents claim, the Department should adjust all values, except for those for HFHTs produced in 1993, to coincide with the 1994 calendar year.

Petitioner argues that respondent has offered no citation to any evidence in the record to support its contention that 1993 values for pallets and PVC bags should be changed. Petitioner asserts that, in the prior review, the Department considered and rejected respondents' argument that Indian import statistics for 1994 should be adjusted to reflect the POR, stating that the Indian import data was both complete and contemporaneous.

*Department's Position:* As we describe above, we have changed our factor valuation methodology for the final results to correspond with the POR. Therefore, respondents' arguments with respect to 1993 factor values is moot.

With respect to 1994 surrogate information, data is available for the January through March 1994 period, and we have used that data for our final results. Therefore, respondents argument with respect to deflating the data is moot.

#### Final Results of Review

As a result of our review, we have determined that the following margins exist:

Manufacturer/exporter	Margin (percent)
Fujian Machinery & Equipment Import & Export Corp:	
Axes/Adzes .....	8.74
Bars/Wedges .....	13.20
Hammers/Sledges .....	7.44
Picks/Mattocks .....	83.47
Shandong Machinery Import & Export Corp:	
Bars/Wedges .....	42.97
Hammers/Sledges .....	14.70
Picks/Mattocks .....	70.31
PRC-Wide Rates:	
Axes/Adzes .....	21.92
Bars/Wedges .....	66.32
Hammers/Sledges .....	44.41
Picks/Mattocks .....	108.20

The Department shall determine, and the Customs service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and normal value may vary from the percentages stated above. The Department will issue appraisal instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named

above which have separate rates (FMEEC and SMC) will be the rates for those firms as stated above for the classes or kinds of merchandise listed above; (2) for axes/adzes from SMC, which are not covered by this review, the cash deposit rate will be the rate established in the most recent review of that class or kind of merchandise in which SMC received a separate rate—that is, the February 1, 1992 through January 31, 1993 review; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in these final results of this administrative review; and (4) the cash deposit rates for non-PRC exporters of the subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. We determine the PRC-wide rates to be: 44.41 percent for hammers/sledges, 66.32 percent for bars/wedges, 108.20 percent for picks/mattocks, and 21.92 percent for axes/adzes. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations 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 a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice is in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: September 23, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-25119 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-P

[A-427-806, A-427-807, A-427-808, A-427-809]

**Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From France; Notice of Final Court Decision and Amended Final Determinations**

**AGENCY:** International Trade Administration, Import Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** On May 28, 1996, in the case of *Usinor Sacilor v. United States*, Consol. Court No. 93-09-00592-AD ("Usinor Sacilor"), the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department's) second redeterminations on remand arising out of the final determinations of sales at less than fair value in the antidumping duty investigations of certain hot-rolled carbon steel flat products, certain cold-rolled flat products, certain corrosion-resistant flat products, and certain cut-to-length steel plate from France. As there is now a final and conclusive court decision in this action, we are amending our final determinations in this matter and will instruct the U.S. Customs Service to change the cash deposit rate and to liquidate certain past entries of the subject merchandise.

**FOR FURTHER INFORMATION CONTACT:** Edward Easton at (202) 482-1777, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 9, 1993, the Department published its final determinations of sales at less than fair value in the antidumping duty investigations of certain hot-rolled carbon steel flat products, certain cold-rolled carbon steel flat products, certain corrosion-resistant carbon steel flat products, and certain cut-to-length carbon steel plate from France. On August 19, 1993, the Department published amended final determinations.

Subsequently, Usinor Sacilor filed lawsuits with the Court challenging the final determinations. On December 19, 1994, the Court remanded the cases to the Department on certain of the challenged issues. In its opinion, the Court found that the Department had improperly rejected Usinor Sacilor's

revised and corrected product concordance and resorted to the "best information available" (BIA). The Court directed the Department to accept the concordance. The Court also found that the Department had improperly used BIA to remedy Usinor Sacilor's having improperly coded a particular grade of hot-rolled steel. The Court directed the Department either to use the relevant sales as coded or to allow Usinor Sacilor to reclassify them. In addition, the Court rejected the Department's selection of the highest non-aberrant margin as BIA for the downstream sales of Usinor Sacilor's majority-owned steel service centers. The Court instructed the Department to use, instead, the "weighted-average calculated margin." Finally, with regard to the downstream sales of minority-owned steel service centers, the Court instructed the Department to determine whether Usinor Sacilor had operational control over these service centers. If the Department were to find that Usinor Sacilor did control them, we were to select the highest non-aberrant margin as BIA in a manner consistent with the Court's ruling in *National Steel Corp. v. United States*, Slip. Op. 94-194 (December 13, 1994). On the other hand, if the Department were to determine that Usinor Sacilor did not control the steel service centers in which it had a minority ownership, we were to apply the "weighted-average calculated margin" as BIA.

On remand, after finding that Usinor Sacilor lacked operational control over the minority-owned service centers, the Department used the weighted-average calculated margin as BIA for the downstream sales of both the majority- and minority-owned steel service centers. This weighted-average calculated BIA margin consisted of individual price-to-price margins, price-to-constructed value margins, and unchallenged BIA margins. The Department also accepted Usinor Sacilor's revised and corrected product concordance and allowed the company to correct the coding of the miscoded grade of steel. On February 17, 1995, the Department filed its required remand results with the Court.

On November 9, 1995, the Court remanded the Department's redeterminations on remand. In this remand opinion, the Court explained that it had intended that the Department use a weighted-average calculated margin consisting only of price-to-price and price-to-constructed value margins, not including the unchallenged margins based on BIA.

The Department submitted the recalculated weighted-average margins to the Court on January 11, 1996.

On May 28, 1996, the Court upheld the Department's second set of redeterminations. See *Usinor Sacilor v. United States*, Consol. Ct No. 93-09-00592-AD, Slip Op. 96-84 (CIT May 28, 1996).

On June 21, 1996, the Department published a notice of court decision pursuant to 19 U.S.C. 1516e(e). Notice of Court Decision and Suspension of Liquidation, 61 FR 31921. In that notice, we stated that we would suspend liquidation until there was a "conclusive" decision in the action. Since that notice, the period to appeal has expired and no appeal was filed. Therefore, as there is now a final and conclusive court decision in this action, we are amending our final determinations.

**Amendment to Final Determinations**

Pursuant to 19 U.S.C. 1516a(e), we are now amending the final determinations in certain hot-rolled carbon steel flat products, certain cold-rolled steel flat products, certain corrosion-resistant carbon steel flat products, and certain cut-to-length steel plate from France.

The recalculated weighted-average dumping margins for Usinor Sacilor and for the "All Others" rate are as follows:

Certain Hot-Rolled Carbon Steel Products.....	25.80%
Certain Cold-Rolled Carbon Steel Products.....	44.52%
Certain Corrosion-Resistant Carbon Steel Products .....	29.41%
Certain Cut-to-Length Carbon Steel Plate .....	52.76%

In August 1993, the U.S. International Trade Commission (the Commission) determined that an industry in the United States was not materially injured or threatened with material injury, and that the establishment of an industry in the United States was not materially retarded, by reason of imports of certain hot-rolled carbon steel flat products, certain cold-rolled carbon steel flat products, or certain cut-to-length carbon steel plate from France. These negative determinations had the effect of terminating those investigations and no antidumping duty orders were issued concerning those products.

The Commission also determines that an industry in the United States was materially injured or threatened with material injury by reason of imports of certain corrosion-resistant carbon steel products from France. As a consequence of the Commission's affirmative determination, these products were subject to an antidumping order. The Department will instruct the U.S.

Customs Service to change the appropriate cash deposit requirements in accordance with the recalculated rate for corrosion-resistant steel products and to proceed with liquidation of the subject merchandise entered on or after April 6, 1993, and before August 17, 1993. All other entries currently are enjoined from liquidation by a preliminary injunction issued by the Court in *Inland Steel Industries v. United States*, Consol. Court No. 93-09-00567-CVD.

Dated: September 23, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-25109 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-085]

**Sugar and Syrups from Canada; Final Results of Changed Circumstances Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review.

**SUMMARY:** On September 17, 1996, the Department of Commerce (the Department) published the notice of initiation and preliminary results of its changed circumstances administrative review concerning its examination of whether Rogers Sugar Ltd. (Rogers) is the successor-in-interest to the British Columbia Sugar Refining Company, Limited (BC Sugar) for purposes of determining antidumping liability. We have now completed that review and determine that Rogers is the successor company to BC Sugar for antidumping duty law purposes and, as such, receives the antidumping duty cash deposit rate previously assigned to BC Sugar of zero percent ad valorem.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** J. David Dirstine or Richard Rimlinger, Office of AD/CVD Enforcement, 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**

In a letter dated August 30, 1996, Rogers advised the Department that on June 1, 1995, the former BC Sugar

effected a legal name change to Rogers Sugar Ltd. Rogers stated that the former Executive Vice President of BC Sugar is now the President and Chief Operating Officer of Rogers and, further, that the company's management structure is otherwise unchanged. Rogers also stated that the company's three production facilities are unaffected by this change, as are supplier relationships and the company's customer base. Rogers submitted a copy of the document dated June 5, 1995, which evidences this legal name change and which was filed with the Canadian Government to record the name change under the Canada Business Corporations Act.

On September 17, 1996, the Department of Commerce (the Department) published in the Federal Register (61 FR 48885) the notice of initiation and preliminary results of its antidumping duty changed circumstances review of the antidumping duty order on sugar and syrups from Canada. We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act, as amended (the Act).

**Scope of the Review**

Imports covered by the review are shipments of Canadian sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under item numbers 1701.11.0025, 1701.11.0045, and 1702.90.3000 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

**Successorship**

In a letter dated August 30, 1996, Rogers advised the Department that on June 1, 1995, the former BC Sugar effected a legal name change to Rogers Sugar Ltd. Since October 25, 1983, BC Sugar has been assigned a zero percent antidumping duty cash deposit rate (*See Sugar and Syrups From Canada; Final Results of Administrative Review of Antidumping Duty Order*, 48 FR 49327 (October 25, 1983)). Thus, Rogers requested that the Department make a determination that Rogers Sugar Ltd. receive the same antidumping duty treatment as the former BC Sugar.

Upon examining the factors of: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base, the Department has determined that the resulting operation of Rogers is the same as that of its predecessor, BC Sugar, and thus the

Department has determined that Rogers is the successor-in-interest to BC Sugar for purposes of determining antidumping duty liability. For a complete discussion of the basis for this decision, *see Sugar and Syrups From Canada; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review*, 61 FR 48885 (September 17, 1996).

**Comments**

Although we gave interested parties an opportunity to comment on the preliminary results, none were submitted.

**Final Results of Review**

We determine that Rogers is successor-in-interest to BC Sugar and, accordingly, Rogers will receive the same antidumping duty treatment as the former BC Sugar, i.e., a zero percent antidumping duty cash deposit rate. We will instruct the U.S. Customs Service to terminate suspension of liquidation on entries from Rogers and to liquidate without regard to antidumping duties, merchandise exported by Rogers on or after June 1, 1995, the date on which the corporate name change was legally effected.

This changed circumstances review and notice are in accordance with section 751(b)(1) of the Act (19 U.S.C. 1675(b) and 19 CFR 353.22(f)(4)).

Dated: September 25, 1996.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-25113 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-P

**Applications for Duty-Free Entry of Scientific Instruments**

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95-061R. Applicant: University of Southern California, 1540 Alcazar, Bldg. CHP 155, Los Angeles, CA 90033. Instrument: 3-Dimensional Motion Analyser, Model Vicon System 370. Manufacturer: Oxford Metrics, Ltd., United Kingdom. Intended Use: Original notice of this resubmitted application was published in the Federal Register of August 10, 1995.

Docket Number: 96-095. Applicant: The University of North Carolina at Chapel Hill, Chemistry Department, CB #3290, Chapel Hill, NC 27599-3290. Instrument: Stopped-Flow Spectrophotometer, Model SF-61DX2. Manufacturer: Hi-Tech Ltd., United Kingdom. Intended Use: The instrument will be used in kinetic studies performed on oxidation-reduction chemical reactions between ruthenium and osmium based metal-organic complexes and several classes of substrates including: the catalytic oxidation of water, oxidations of organic compounds and electron transfer reactions between metal-organic complexes in solution. Application accepted by Commissioner of Customs: September 5, 1996.

Docket Number: 96-096. Applicant: University of Vermont, College of Medicine, Burlington, VT 05405. Instrument: IR Mass Spectrometer, Model Delta<sup>plus</sup>. Manufacturer: Finnigan MAT, Germany. Intended Use: The instrument will be used for studies of amino acid and protein metabolism in humans to elucidate how the body regulates amino acids and protein in the body, how it handles dietary intake and how other nutrients (e.g. carbohydrate and fat) interact with them. Application accepted by Commissioner of Customs: September 10, 1996.

Docket Number: 96-097. Applicant: Northwestern University Medical School, Department of Cell Biology, 303 E. Chicago Avenue—Ward 7-143, Chicago, IL 60611. Instrument: Electron Microscope, Model JEM-1220. Manufacturer: JEOL Ltd., Japan.

Intended Use: The instrument will be used for studies of the molecular architecture of tissues, cells and isolated molecules obtained as part of the experimental data derived from biomedical research projects. The relationship between cell structure and function will be investigated. The experiments will involve determining alterations in cells during different physiological activities and in pathological states. In addition, the instrument will be used for educational purposes for graduate students, postdoctoral fellows, medical students and dental students and faculty. Application accepted by Commissioner of Customs: September 11, 1996. Frank W. Creel,

*Director, Statutory Import Programs Staff.*  
[FR Doc. 96-25118 Filed 9-30-96; 8:45 am]

**BILLING CODE 3510-DS-P**

**Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Publication of Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty.

**SUMMARY:** The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty. We are publishing the current listing of those subsidies that we have determined exist.

**EFFECTIVE DATES:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Brian Albright or Maria MacKay, Office of CVD/AD Enforcement, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230, telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:** Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: September 26, 1996.  
Barbara R. Stafford,  
*Acting Assistant Secretary for Import Administration.*

Appendix—Subsidy Programs on Cheese Subject to an In-Quota Rate of Duty

[In cents/pound]

Country	Program(s)	Gross <sup>1</sup> subsidy	Net <sup>2</sup> subsidy
Austria .....	European Union (EU) Restitution Payment .....	21.3	21.3
Belgium .....	EU Restitution Payments .....	20.2	20.2
Canada .....	Export Assistance on Certain Types of Cheese .....	25.6	25.6
Denmark .....	EU Restitution Payments .....	21.3	21.3
Finland .....	EU Restitution Payments .....	23.2	23.2
France .....	EU Restitution Payments .....	20.9	20.9
Germany .....	EU Restitution Payments .....	22.3	22.3
Greece .....	EU Restitution Payments .....	0.00	0.00
Ireland .....	EU Restitution Payments .....	21.0	21.0
Italy .....	EU Restitution Payments .....	37.5	37.5

[In cents/pound]

Country	Program(s)	Gross <sup>1</sup> subsidy	Net <sup>2</sup> subsidy
Luxembourg .....	EU Restitution Payments .....	20.2	20.2
Netherlands .....	EU Restitution Payments .....	18.8	18.8
Norway .....	Indirect (Milk) Subsidy .....	18.7	18.7
	Consumer Subsidy .....	41.5	41.5
Portugal .....	EU Restitution Payments .....	60.22	60.22
Spain .....	EU Restitution Payments .....	19.0	19.0
Switzerland .....	Deficiency Payments .....	22.8	22.8
U.K. ....	Deficiency Payments .....	175.4	175.4
	EU Restitution Payments .....	19.9	19.9

<sup>1</sup> Defined in 19 U.S.C. 1677(5).

<sup>2</sup> Defined in 19 U.S.C. 1677(6).

[FR Doc. 96-25108 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-M

**Intent To Revoke Countervailing Duty Order**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of intent to revoke countervailing duty order.

**SUMMARY:** The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty order listed below. Domestic interested parties who object to revocation of this order must submit their comments in writing not later than the last day of October 1996.

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Brian Albright or Cameron Cardozo, Office of CVD/AD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 C.F.R. 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty order listed below, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to

revoke this order pursuant to this notice, and no interested party (as defined in section 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty order is no longer of interest to interested parties and proceed with the revocation. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke pursuant to this notice, the Department will not revoke the order.

**COUNTERVAILING DUTY ORDER**

Iran:	
Roasted Pistachios .....	10/07/86,
(C-507-601) .....	51 FR 35679

**Opportunity To Object**

Not later than the last day of October 1996, domestic interested parties may object to the Department's intent to revoke this countervailing duty order. Any submission objecting to the revocation must contain the name and case number of the order and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: September 23, 1996.

Jeffrey P. Bialos,

*Principal Deputy Assistant Secretary for Import Administration.*

[FR Doc. 96-25110 Filed 9-30-96; 8:45 am]

BILLING CODE 3510-DS-P

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**Sunshine Act Meeting**

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board of Directors of the Corporation for National and Community Service (the Corporation):

*Date and Time:* October 4, 1996, 10:00 a.m. to 3:00 p.m.

*Place:* The Corporation for National and Community Service, 1201 New York Avenue NW, 8th Floor Conference Room, Washington, DC 20525.

*Status:* The meeting will be open to the public up to the seating capacity of the room, except that Board deliberations on grant applications will be closed, pursuant to exemptions (4) and (9)(B) of the Government in the Sunshine Act, and deliberations on the election of a new Board chair will be closed pursuant to exemption (6) of that Act. The basis for this partial closing has been certified by the Corporation's Acting General Counsel. A copy of the certification will be posted for public inspection at the Corporation's headquarters listed above, and will otherwise be available upon request.

*Matters to be Considered:* The Board of Directors of the Corporation will meet to review reports from Committees of the Board of Directors on Corporation activities, review a report from the Chief Executive Officer, and review the status of various Corporation initiatives. A portion of the meeting will be closed to the public for deliberations on grant decisions and the election of a new Board chair. An opportunity for public comment will be provided.

*For Further Information:* For further information contact Rhonda Taylor, Associate Director of Special Projects and Initiatives, the Corporation for National and Community Service, 8th Floor, Room 8619, 1201 New York Avenue, N.W., Washington, DC 20525. Phone (202) 606-5000 ext. 282. Fax (202) 565-2794. TTD Number (202) 606-5256. This notice may be requested in an alternative format for the visually impaired.

Dated: September 26, 1996.

Barry W. Stevens,

*Acting General Counsel, Corporation for National and Community Service.*

[FR Doc. 96-25157 Filed 9-26-96; 4:53 pm]

BILLING CODE 6050-28-P

## DEPARTMENT OF ENERGY

### Notice of Wetlands Involvement for Atmospheric Radiation Measurement/Cloud and Radiation Testbed at Sandia National Laboratories

**AGENCY:** Kirtland Area Office, DOE.

**ACTION:** Notice of wetlands involvement.

**SUMMARY:** DOE is proposing to establish an instrumented climate research site in the general vicinity of Barrow, Alaska, on the North Slope and adjacent Arctic Ocean. This site is being established to collect data on a long-term basis about the passage of sunlight and radiant heat through the earth's atmosphere. These data are needed to improve the predictive capability of computer models about changes in the concentration of atmospheric gases as a result of man's activities. Instrumentation and associated workspace would consist of a network of small facilities widely dispersed over an area extending up to 170 miles from Barrow, much of which is tundra. Approximately six acres would be required, of which only a small amount would be actually disturbed. To avoid adversely affecting the permafrost, all facilities and equipment would be supported on pilings installed in conformance with approved arctic/permafrost construction methods and transported only when the tundra is completely frozen.

**DATES:** Comments must be submitted on or before October 16, 1996.

**ADDRESSES:** Comments should be addressed to: Susan Lacy, NEPA Compliance Officer, U.S. Department of Energy, Kirtland Area Office, P. O. Box 5400, Albuquerque, NM 87185-5400, (505) 845-5542.

**FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT:** Dan Dilley, Document Manager, U.S. Department of Energy, Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185-5400, (505) 845-6246.

**FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT:** Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH-42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-4600 or (800) 472-2756.

#### SUPPLEMENTARY INFORMATION:

##### 1. Project Description

DOE proposes to establish an instrumented climatic research site on the North Slope of Alaska and adjacent Arctic Ocean, in the vicinity of the community of Barrow. Known as a Cloud and Radiation Testbed measurement site, it would be the third site established worldwide to gather data about the passage of sunlight and radiant heat through the earth's atmosphere. These data are needed to improve the predictive capability of computer models regarding climatic changes resulting from man's activities and any resulting climatic changes. Instrumentation and associated support facilities would consist of a network of small facilities widely dispersed over an area extending up to 170 miles from Barrow. The major concentration of facilities would be established at an existing facility near Barrow and would occupy approximately five acres. Seven to ten additional smaller facilities occupying a few square yards each would be distributed at varying distances from the Barrow facility. The total area required for all facilities would be about six acres. All facilities would be supported on pilings and installed in conformance with approved arctic/permafrost construction methods. Facilities would be transported only when the tundra is completely frozen.

##### 2. Wetlands

A significant portion of the proposed action would be located on tundra, consisting of continuous permafrost. The permafrost extends from a few inches below the land surface to depths ranging from 600 to 1200 feet and has been in a similar condition for several thousand years. The soil column is frozen from November until May. An active layer thaws every summer and varies from 0.5 to five feet deep. After the thaw, about 30 percent of the land surface is water. Implementation of measures designed to prevent or minimize disturbance to the permafrost would preclude adverse impacts.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR 1022), DOE will

prepare a wetlands assessment for this proposed action. The wetlands assessment will be included as an integral part of the EA that will be prepared for this proposal in complying with NEPA.

Issued in Albuquerque, NM on September 23, 1996.

Susan Lacy,

*NEPA Compliance Officer, Kirtland Area Office, Department of Energy.*

[FR Doc. 96-25064 Filed 9-30-96; 8:45 am]

BILLING CODE 6450-01-P

## Federal Energy Regulatory Commission

[Docket No. RP96-309-001]

### Florida Gas Transmission Company; Notice of Request for Change in Proposed Effective Date and Conforming Changes to Tariff Sheets

September 25, 1996.

Take notice that on September 20, 1996, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 the following tariff sheets to become effective November 1, 1996.

1st Rev. Sub. 17th Rev. Sheet No. 8A  
1st Rev. Sub. 9th Rev. Sheet No. 8A.02  
1st Rev. Sub. 15th Rev. Sheet No. 8B  
1st Rev. Sub. 8th Rev. Sheet No. 8B.01

FGT states that on July 3, 1996 FGT filed tariff sheets in the above referenced docket (July 3 Filing) to implement rate and tariff changes to become effective upon the abandonment and transfer of certain facilities for which FGT had requested abandonment authorization in Docket No. CP92-12 ("South Texas Facilities"). In the July 3 Filing, FGT stated that, because of commercial and administrative considerations, the abandonment and transfer of the South Texas Facilities would occur on the first day of the first month following the date on which the Commission order in Docket No. CP96-12 became final and non-appealable. In anticipation of a final Commission order being issued during July, 1996, FGT requested a September 1, 1996 effective date for the tariff changes proposed in the July 3 Filing.

Because a Commission order in Docket No. CP96-12 was not issued in July, and the transfer of facilities could not take place on September 1, FGT filed on August 12, 1996 a Request to Delay Action ("August 12 Filing") on FGT's July 3 Filing until such time as a final order approving abandonment of the South Texas Facilities was issued. In the August 12 Filing, FGT stated that

once an order was issued in Docket No. CP96-12, FGT would make a filing in the instant docket requesting a new effective date for the tariff sheets submitted with the July 3 Filing and make any conforming changes required to such tariff sheets.

FGT also states that on September 13, 1996 the Commission issued an Order Authorizing Abandonment in Docket Nos. CP96-11 and CP96-12 and, assuming such Order becomes final and non-appealable during October, 1996, FGT expects the transfer of the South Texas Facilities to become effective on November 1, 1996. Consequently, FGT is filing herein to request a November 1, 1996 effective date for the tariff sheets submitted with the July 3 Filing and to substitute tariff sheets containing conforming changes to four of the tariff sheets filed on July 3, 1996. Conforming changes are required to Sheet Nos. 8A, 8A.02, 8B, and 8B.01 as a result of filings made by FGT in Docket Nos. RP96-316, TM97-1-34 and TM97-2-34 which contain changes not reflected on the tariff sheets filed in the instant docket on July 3, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,  
*Acting Secretary.*

[FR Doc. 96-25047 Filed 9-30-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP96-386-000]**

**Honeoye Storage Corporation; Notice of Proposed Changes in FERC Gas Tariff**

September 25, 1996.

Take notice that on September 20, 1996 Honeoye Storage Corporation (Honeoye) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, revised tariff sheets to be effective November 1, 1996.

Honeoye states that the purpose of the filing is to convert Honeoye tariff and rates from a volumetric (MCF) to a thermal energy basis (MMBTU). The

Commission's Order No. 582 issued September 28, 1995 at Docket No. RM95-3-000 requires pipelines that are on a volumetric basis to convert to a thermal energy basis. Honeoye states that with this tariff amendment, it is converting its existing volumetric rates to a thermal energy basis. Honeoye states that it has used the system average BTU for the twenty-four months ended March 31, 1996 as the basis for converting to a thermal energy basis. Honeoye states that there will be no change in rates and revenues under the proposed revisions since both volumes and rates are being converted.

Honeoye requests waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective November 1, 1996.

Honeoye states that copies of the filing are being mailed to Honeoye's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,  
*Acting Secretary.*

[FR Doc. 96-25049 Filed 9-30-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP96-339-001]**

**Pacific Gas Transmission Company; Notice of Compliance Filing**

September 25, 1996.

Take notice that on September 23, 1996, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A: Substitute Title Sheet, Substitute Second Revised Sheet No. 2, Substitute First Revised Sheet Nos. 6B, 6D, 6E and 7, Substitute Seventh Revised Sheet No. 51, and Substitute First Revised Sheet No. 139; and as part of its FERC Gas Tariff, Second Revised Volume No. 1: Substitute Title Sheet.

PGT requested the above-referenced tariff sheets become effective September 13, 1996.

PGT asserts that the purpose of this filing is to comply with the Commission's September 11, 1996 order in this proceeding to bring PGT's tariff into compliance with Order Nos. 582 and 582-A, issued September 28, 1995 and February 29, 1996, respectively, in Docket Nos. RM95-3-000, *et al.* In that order, FERC accepted the above-referenced tariff sheets effective September 13, 1996 but directed they be refused to incorporate some non-substantive technical corrections. PGT states the proposed changes will not affect PGT's costs, rates or revenues, and that a copy of this filing has been served on PGT's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,  
*Acting Secretary.*

[FR Doc. 96-25048 Filed 9-30-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP96-387-000]**

**Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff**

September 25, 1996.

Take notice that on September 20, 1996, William Natural Gas Company (WNG) tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective November 1, 1996:

First Revised Sheet Nos. 103, 106, 112, 114, 121, and 126

Second Revised Sheet No. 131

First Revised Sheet Nos. 136 and 141

Second Revised Sheet Nos. 202 and 203

First Revised Sheet No. 226A

Fourth Revised Sheet Nos. 227 and 228

Third Revised Sheet No. 229

First Revised Sheet Nos. 229A, 229B and 229C

First Revised Sheet No. 235

Second Revised Sheet No. 236

First Revised Sheet No. 237

Original Sheet No. 237A  
Second Revised Sheet No. 461

WNG states that this filing is being made to amend WNG's provisions for periods of daily balancing and operational flow orders included in its FERC Gas Tariff. WNG's experience during the extremely cold periods in January and February, 1996, highlighted the need to modify its tariff to protect the integrity of its pipeline system.

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 protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-25050 Filed 9-30-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP96-517-000]

**Algonquin LNG, Inc.; Notice of Site Inspection and Technical Conference Algonquin LNG Modifications Project**

September 25, 1996.

On October 2 and 3, 1996, the Office of Pipeline Regulation environmental staff will conduct an inspection of the proposed and alternative project sites. Those planning to attend must provide their own transportation.

On October 10 and 11, 1996, the staff will meet with representatives of Algonquin LNG, Inc. at the Providence Marriott to conduct a cryogenic design and engineering review of the LNG facilities proposed in the above docket. The discussion will initially be limited to the staff and members of the applicant's staff who have expertise in the given topics. Other attendees will be given the opportunity to ask questions on the above issues after the initial discussions have concluded.

For the times and locations or further information on the site visit or the Technical Conference, call Chris Zerby, Project Manager, at (202) 208-0111.

Kevin P. Madden,

*Director, Office of Pipeline Regulation.*

[FR Doc. 96-25046 Filed 9-30-96; 8:45 am]

BILLING CODE 6717-01-M

**Southern Natural Gas Company; Notice of Environmental Site Visit for the Proposed North Alabama Pipeline Project**

September 25, 1996.

On October 2, 1996, the Office of Pipeline Regulation staff will conduct an environmental site visit with affected landowners of the North Alabama Pipeline Project of the locations related to the facilities proposed in Cullman and Morgan Counties, Alabama. All interested parties may attend. Those planning to attend must provide their own transportation.

Information about the proposed project is available from Ms. Alisa Lykens, Environmental Project Manager, at (202) 208-0766.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-25044 Filed 9-30-96; 8:45 am]

BILLING CODE 6717-01-M

**Notice of Issuance of Decisions and Orders; Week of January 1 Through January 5, 1996**

**Office of Hearings and Appeals**

During the week of January 1 through January 5, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: September 19, 1996.

George B. Breznay,

*Director, Office of Hearings and Appeals.*

Decision List No. 953

Appeal

*Raytheon Company, 1/4/96, VFA-0103*

Raytheon Company filed an Appeal from a denial by the Office of Economic Impact and Diversity of the Department of Energy (DOE/ED) of a request for information which it had submitted under the Freedom of Information Act (FOIA). Raytheon sought records related to a DOE Office of Inspector General investigation of allegations of sexual harassment or other inappropriate conduct by a DOE employee. DOE/ED withheld in its entirety a report pursuant to FOIA Exemption 7(C). In considering the Appeal, the DOE found that (i) DOE/ED need not make a particularized finding regarding the privacy interests of each individual that would be infringed by a release of information, (ii) the names and identifying information of investigating officials named in the report may be withheld; (iii) witnesses and sources have a strong privacy interest in remaining anonymous and the public interest favors protecting their identities; but (iv) some portions of the report can be released. Accordingly, the matter was remanded in part to DOE/ED for a new determination either releasing information other than that protected by FOIA Exemption 7(C) or explaining the reasons for withholding that information. The Appeal was denied in all other respects.

Personnel Security Hearing

*Nevada Operations Office, 1/4/96, VSO-0049*

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. The Hearing Officer found that the individual had omitted and falsified significant information concerning a DUI arrest from a written statement made in response to an official inquiry regarding his eligibility for DOE access authorization, and that the individual had suffered from alcohol dependency. The Hearing Officer rejected the individual's arguments that he had not falsified information in his written statement and further found no evidence of significant rehabilitation or reformation regarding the individual's falsification and omission. With regard to the individual's alcohol dependency, the Hearing Officer found that the individual had been rehabilitated. Given

the above findings, the Hearing Officer found that the individual's access authorization should not be restored.

#### Dismissals

The following submissions were dismissed:

Name	Case No.
Center Equipment Company .....	RF272-96155
El Toro Express .....	RF272-77988
James J. Williams Trucking Co .....	RF272-97883
Johnny Bowen Gulf Station #1 .....	RF300-21710
New York State Electric & Gas .....	RF300-21566
Redi-Froz Dist. Co .....	RF272-97821

[FR Doc. 96-25062 Filed 9-30-96; 8:45 am]

BILLING CODE 6450-01-P

#### Office of Hearings and Appeals Week of April 22 Through April 26, 1996

##### Notice of Issuance of Decisions and Orders

During the week of April 22 through April 26, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: September 19, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 969

Personnel Security Hearings

Oakland Operations Office, 4/25/96,  
VSO-0078

An OHA Hearing Officer issued an opinion concerning the continued eligibility of an individual for access authorization under 10 CFR Part 710. The Oakland Operations Office (OOA) had suspended the individual's access authorization based on its finding that the individual had turned in a forged

firearms credential in order to avoid disciplinary action for a lost credential. The Hearing Officer found the individual had not demonstrated that someone else had forged the credential. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

*Rocky Flats Field Office, 4/24/96, VSO-0076*

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 CFR Part 710. The Hearing Officer found that the individual had been diagnosed by a board-certified psychiatrist as suffering from alcohol abuse, and had not been rehabilitated. Given the above findings, the Hearing Officer found that the individual's access authorization should not be restored.

*Pittsburgh Naval Reactor Office, 4/22/96, VSO-0082*

A Hearing Officer recommended that access authorization not be restored to an employee whose access was suspended due to mental illness. The Hearing Officer found that the mental illness caused a defect in the employee's judgment and reliability that was not mitigated by the fact that the employee took medication for the illness.

Request for Exception

*Pierce Oil Company, 4/26/96, LEE-0163*

Pierce Oil Company filed an Application for Exception from the requirement that it file Form EIA-782B, the "Reseller/Retailer's Monthly Petroleum Product Sales Report." The DOE found that the firm was not affected by the reporting requirement in a manner different from other similar firms, and consequently was not experiencing a special hardship, inequity, or unfair distribution of burdens. Accordingly, the firm's Application for Exception was denied.

#### Refund Applications

*Congress Financial Corp., 4/22/96, RK272-03234*

Congress Financial Corporation submitted an Application for Supplemental Refund on behalf of Service Control Corporation (SCC), which filed for bankruptcy in 1993. Congress submitted the Application as a creditor of SCC which had been assigned certain assets of SCC per order of the bankruptcy court. Because the right to receive refund monies due to SCC was not specifically transferred by the bankruptcy court to Congress, the DOE determined that it was unable to issue the refund check directly to Congress. However, in consultation with the bankruptcy trustee and the representative at Congress, the DOE determined that the refund check could be issued directly to the trustee to act in accordance with the directives of the bankruptcy court.

*Continental Steel, 4/23/96, RF272-77619*

The DOE denied a refund to Continental Steel Corporation in the crude oil refund proceeding. The DOE found that the estimation technique used by Continental's representative, LK, Inc., was unreasonable. LK's estimate was based on comparing Continental's total revenues during 1981 with the total revenues of other steel companies that have received refunds in this proceeding. Since Continental failed to effectively support its gallonage estimate, the DOE denied its Application for Refund.

*Amerbelle Corporation, 4/26/96, RR272-00237*

The DOE granted a Motion for Reconsideration filed by Amerbelle Corporation in the DOE's Subpart V crude oil overcharge refund proceeding. In its Motion, Amerbelle contended that it had never received an April 1989 supplemental refund check, and the firm requested that the DOE reissue the check. The DOE found that the check

had been cancelled when it was not negotiated within the applicable time limit, and at that time, the U.S. Treasury did not recredit the crude oil overcharge refund accounts with the amount of cancelled checks. The DOE determined that it should order issuance of a second check, citing the lack of any evidence

that the firm had received the check or that the firm was negligent in any way, and the de minimis impact on other crude oil overcharge refund recipients.

**Refund Applications**

The Office of Hearings and Appeals issued the following Decisions and

Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

HATMAKER COAL CO. ET AL .....	RF272-86581	04/23/96
INTERNATIONAL AVIATION .....	RF272-98123	04/25/96
MOHASCO CARPET CORP .....	RR272-208	04/22/96
MOHAWK COMMERCIAL CARPET .....	RR272-209	
MOHASCO CARPET CORP. ....	RR272-210	
NORSE MANAGEMENT CO. ET AL .....	RF272-74950	04/24/96
NORSE MANAGEMENT CO .....	RD272-74950	
ROCKYDALE STONE SERVICE CORPORATION .....	RF272-77528	04/24/96
THE VALSPAR CORPORATION .....	RF272-94295	04/25/96
TONKA PRODUCTS DIVISION OF TONKA CORP .....	RR272-236	04/22/96
WALLS & COKER, INC. ET AL .....	RF272-77328	04/26/96

**Dismissals**

The following submissions were dismissed:

Name	Case No.
A.K. KAUSHAL .....	VFA-0150
AIR VEGAS, INC .....	RF272-98005
AIRMARK CORPORATION .....	RF272-98724
BRIGGS AND TILLMAN, INC .....	VEE-0015
BYNUM BROTHERS, INC .....	RF272-89107
CITY OF DE PERE, WISCONSIN .....	RF272-88970
CITY OF JEFFERSON .....	RF272-78440
LAKEWOOD OIL COMPANY, INC .....	VEE-0012
MILLER CO. BOARD OF EDUCATION .....	RF272-92678
MOUNT PLEASANT VILLAGE .....	RF272-67886
ROBERTS OIL COMPANY .....	RR300-221
RUSSELL FORGEY CONSTRUCTION COMPANY .....	RF272-68556
UNION CARBIDE CORP .....	RF345-36
WHOLESALE FUELS, INC .....	VEE-0014
WILLIAM H. PAYNE .....	VFA-0151
WOODBIDGE DEVELOPMENT CENTER .....	RF272-67052

[FR Doc. 96-25063 Filed 9-30-96; 8:45 am]

BILLING CODE 6450-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**Notice of Public Information Collections Submitted to OMB for Review and Approval**

September 25, 1996.

**SUMMARY:** The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number.

Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before October 31, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain\_t@a1.eop.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Dorothy Conway at 202-418-0217 or via internet at dconway@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval Number:* New Collection.

*Title:* Telephone Number Portability, First Report and Order and Further NPRM CC Docket 95-116.

*Form No:* N/A.

*Type of Review:* New Collection.

*Respondents:* Business or other for-profit; State, Local or Tribal Governments.

*Number of Respondents:* 107.

*Estimated Time Per Response:* 7 hours (avg.).

*Total Annual Burden:* 735 hours.

*Estimated Costs Per Respondent:* 0.

*Needs and Uses:* In the First Report and Order, the Commission promulgates rules and regulations implementing the statutory requirement that local exchange carriers (LECs) provide number portability. The Commission mandates its provision in the 100 target metropolitan areas by Dec. 31, 1998, in accordance with a phased in implementation schedule and, after that date, within 6 months of a specific request by another carrier. Number portability is to be provided using a regional system of databases although states are granted the option to develop their own databases. Further notice seeks comment on long-term cost recovery issues.

*OMB Approval Number:* 3060-0461.

*Title:* Section 90.173 Policies governing the assignment of frequencies.

*Form No:* N/A.

*Type of Review:* Extension of an existing collection.

*Respondents:* Individuals or households; Business or other for-profit; State, Local or Tribal Governments.

*Number of Respondents:* 200.

*Estimated Time Per Response:* 4.5 hours.

*Total Annual Burden:* 900 hours.

*Estimated Costs Per Respondent:* 0.

*Needs and Uses:* This rule allows that individuals who provide the Commission with information that a current licensee is violating certain rules to be granted a license preference for any channels recovered as a result of that information. The information will be used to determine if licensee is in violation.

Federal Communications Commission

Shirley Suggs,

Chief, Publications Branch.

[FR Doc. 96-25078 Filed 9-30-96; 8:45 am]

BILLING CODE 6712-01-P

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## FEDERAL MARITIME COMMISSION

[Docket No. 96-16]

### Order of Investigation

In the matter of Royal Venture Cruise Line, Inc. and Anastassios Kiriakidis; Possible Violations of Passenger Vessel Certification Requirements.

Section 3 of Public Law 89-777, 46 U.S.C. app. 817e, provides that no

person in the United States may arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for fifty or more passengers which is to embark passengers at a United States port prior to receiving a Certificate of Financial Responsibility of Non-Performance ("Certificate") for the vessel.<sup>1</sup>

Royal Venture Cruise Line, Inc. ("Royal Venture") is a Georgia corporation which maintains an office in Clearwater, FL. Anastassios Kiriakidis ("Kiriakidis") is the chairman of Royal Venture. Royal Venture filed an application with the Commission to obtain a Certificate for the Sun Venture for 2-day cruises to nowhere and 5-day cruises to Mexico from Tampa, FL. A Certificate, as yet, has not been issued because required evidence of financial responsibility has not been provided to the Commission.

Despite not having a Certificate, Royal Venture appears to have arranged, offered and advertised cruises on the Sun Venture, and may have collected deposits and fares for passages on the Sun Venture, a vessel scheduled to embark passengers at a United States port with more than fifty passenger berth or stateroom accommodations. Therefore, it appears that Royal Venture and Kiriakidis may have violated section 3(a) of Public Law 89-777 and the Commission's regulations at 46 CFR 540.3.

Now therefore it is ordered, That pursuant to section 3 of Public Law 89-777 a proceeding is instituted to determine whether Royal Venture and Kiriakidis violated section 3(a) of Public Law 89-777 or the Commission's regulations at 46 CFR 540.3;

It is further ordered, That if Royal Venture or Kiriakidis are found to have violated Public Law 89-777 or 46 CFR 540.3, this proceeding shall also determine whether civil penalties should be assessed, and is for, in what amount, and whether an appropriate cease and desist order should be issued;

It is further ordered, That this matter be assigned for public hearing before an Administrative Law Judge ("ALJ") of the Commission's Office of ALJ at a date and place to be determined by the ALJ in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The Hearing shall include oral testimony and cross-examination at the discretion of the ALJ only after consideration has been given by the parties and the ALJ to the use of

<sup>1</sup> A Certificate is issued pursuant to the Commission's regulations at 46 CFR 540 after an applicant has established financial responsibility for the indemnification of passengers for nonperformance of the transportation.

alternative forms of dispute resolution, and upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Royal Venture Cruise Line, Inc. and Anastassios Kiriakidis are designated respondents in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the Federal Register, and copies be served upon all parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That all future notices, orders, and (or) decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record;

It is further ordered, That pursuant to Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the Administrative Law Judge shall be issued by September 25, 1997 and the final decision of the Commission shall be issued by January 25, 1998.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96-25035 Filed 9-30-96; 8:45 am]

BILLING CODE 6730-01-M

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## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and §

225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 15, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Robert M. Cater, Moberly, Missouri*, to acquire an additional 1.22 percent, for a total of 24.17 percent of the voting shares of Cairo/Moberly Bancshares, Inc., Moberly, Missouri, and thereby indirectly acquire Bank of Cairo & Moberly, Moberly, Missouri. In connection with this application Cairo/Moberly Bancshares, will redeem 17.36 percent of its voting shares, and Mr. Carter's ownership will increase to 29.25 percent of the voting shares.

Board of Governors of the Federal Reserve System, September 25, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-25073 Filed 9-30-96; 8:45 am]

BILLING CODE 6210-01-F

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of

a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 25, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Independence Bancshares, Inc.*, Independence, Iowa; to acquire 80.49 percent of the voting shares of Southeast Security Bank, Mediapolis, Iowa (in organization).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mark Twain Bancshares, Inc.*, St. Louis, Missouri; to acquire at least 90 percent of the voting shares of First City Bancshares, Incorporated of Springfield, Missouri, Springfield, Missouri, and thereby indirectly acquire First City National Bank, Springfield, Missouri.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Frandsen Financial Corporation*, Forest Lake, Minnesota; to acquire 100 percent of the voting shares of State Bank of Lonsdale, Lonsdale, Minnesota.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *South Coast Bancorp, Inc.*, Irvine, California; to become a bank holding company by acquiring 100 percent of the voting shares of South Coast Thrift

and Loan Association, Irvine, California, upon its conversion to a state chartered bank to be known as South Coast Commercial Bank, Irvine, California.

Board of Governors of the Federal Reserve System, September 25, 1996.

Jennifer J. Johnson

*Deputy Secretary of the Board*

[FR Doc. 96-25072 Filed 9-30-96; 8:45 am]

BILLING CODE 6210-01-F

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The company listed in this notice has given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 15, 1996.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Arkansas National Bancshares, Inc.*, Bentonville, Arkansas; to engage *de novo*, with Sable Technology, Inc., in data processing activities. Sable will manage the technical aspects of development. Notificant will make substantial contributions to the design and functionality of software for home banking. In addition, Notificant will purchase the hardware and data lines necessary to make the software operational. Notificant also proposes to remarket this software through a proposed unchartered, unnamed company, pursuant to § 225.25(b)(7) of the Board's Regulation Y. Notificant and Sable will each own 50 percent of the voting shares of this proposed company.

Board of Governors of the Federal Reserve System, September 25, 1996.

Jennifer J. Johnson

*Deputy Secretary of the Board*

[FR Doc. 96-25071 Filed 9-30-96; 8:45 am]

BILLING CODE 6210-01-F

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11:00 a.m., Monday, October 7, 1996.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 27, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-25274 Filed 9-27-96; 3:44 pm]

BILLING CODE 6210-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Application for Waiver of the two-year Foreign Residence Requirement of the Exchange Visitor Program-0990-0001—Extension—The application is used by institutions (colleges, hospitals, etc.) to request a favorable recommendation to the USIA for waiver of the two-year Foreign Residence Requirement of the Exchange Visitor Program on behalf of foreign visitors working in areas of interest to HHS. Respondents: Individuals, State or local governments, Businesses or other for-profit, non-profit institutions; Total Number of Respondents: 200; Frequency of Response: one time; Average Burden per Response: 6 hours; Estimated Annual Burden: 1200 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690-6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington DC 20201. Written comments should be received within 30 days of this notice.

Dated: September 23, 1996.

Dennis P. Williams,

*Deputy Assistant Secretary, Budget.*

[FR Doc. 96-25083 Filed 9-30-96; 8:45 am]

BILLING CODE 4150-04-M

## Food and Drug Administration

[Docket No. 96N-0192]

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish a notice in the Federal Register concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on a new harmonized application form, Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use, Form FDA 356h. This form will apply to a wide range of products for human use that are regulated by both the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER), including drugs, biologics, and antibiotics. The form will replace a number of different application forms that are now used for these products.

**DATES:** Submit written comments on the collection of information by December 2, 1996.

#### ADDRESSES:

**CDER Information:** Submit written requests for single copies of the new harmonized application form, Form FDA 356h, to the Drug Information Branch (HFD-210), Division of Communications Management, Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-1012. Send one self-addressed adhesive label to assist that office in processing your requests. The form may also be obtained by calling the CDER FAX-ON-DEMAND System at 1-800-342-2722 or 1-301-827-0577.

**CBER Information:** Submit written requests for single copies of the new harmonized application form, Form FDA 356h, to the Division of Congressional and Public Affairs (HFM-44), Center for Biologics and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in

processing your requests. The form may also be obtained by FAX by calling the CBER Voice Information System at 1-800-835-4709.

Submit written comments on the new harmonized application form, Form FDA 356h, and its proposed use in the collection of information, to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. Two copies of any comments are to be submitted except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the new harmonized application form, Form FDA 356h, and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Charity B. Smith, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B-19, Rockville, MD 20857, 301-827-1686.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c). To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be

collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use; Use of Form FDA 356h**

FDA is the Federal agency charged with responsibility for determining that drugs, including antibiotic drugs, and biologics are safe and effective. Manufacturers of a drug, biologic, or an antibiotic drug for human use must file applications for FDA approval of the product prior to introducing it into interstate commerce. Statutory authority for the collection of this information is provided by sections 505(a), (b), and (j) and 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(a), (b), and (j) and 357) and section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262). All manufacturers of new drugs and antibiotics for human use regulated under the act must submit an application for review and approval to CDER or CBER prior to marketing a drug or antibiotic in interstate commerce (21 CFR 314.50). All manufacturers of generic drugs, including generic antibiotic drugs for human use, regulated under the act must submit an abbreviated new drug application (ANDA) or an abbreviated antibiotic drug application (AADA) for review and approval to CDER prior to marketing a generic drug in interstate commerce (21 CFR 314.94). Most manufacturers of biological products regulated under the PHS Act must submit an establishment license application and a product license application for review and approval to CBER prior to marketing a biological product in interstate commerce (21 CFR 601.2). Blood and blood components fall within the category of biological products. All establishments collecting and/or preparing blood and blood components for sale or distribution in interstate commerce are subject to the licensing application provisions of

section 351 of the PHS Act. Manufacturers of a drug, biologic, or an antibiotic drug for human use are required to file supplemental applications for all important changes to applications previously approved prior to implementing such changes (21 CFR 314.70, 314.71, 314.97, and 601.12).

Form FDA 356h has been revised for CDER-regulated products to include identification of different types of supplemental applications. It has also been modified to include a section for establishment information pertaining to CBER-regulated products and the CBER licensing process.

The information provided by manufacturers with the revised application form is necessary for FDA to carry out its mission of protecting the public health and helping to ensure that drugs, biologics, and antibiotics for human use have been shown to be safe and effective. Form FDA 356h was developed initially as a checklist to assist manufacturers in filing a drug application and has been previously used only by manufacturers of products regulated under the act. The revised form has been harmonized for use by manufacturers of products regulated under the act or under the PHS Act and will be used by industry regulated by both CDER and CBER. The harmonized application form serves primarily as a checklist for firms to gather and submit to the agency studies and data that have been completed. The checklist helps to ensure that the application is complete and contains all the necessary information, so that delays due to lack of information may be eliminated. The form will also provide key information to the agency for efficient handling and distribution to the appropriate staff for review. The revised form will replace a number of different application forms that are now used for these products and is intended to help harmonize the application process.

FDA estimates the burden of this collection of information as follows:

There are no capital costs or operating and maintenance costs associated with this collection.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

Type of Response <sup>1</sup>	No. of Respondents <sup>2</sup>	Annual Frequency per Response <sup>3</sup>	Total Annual Responses <sup>4</sup>	Hours per Response	Total Hours
NDA <sup>5</sup>	162	22.9	3,715	40	148,600
ANDA <sup>6</sup> and AADA <sup>7</sup>	350	18.6	6,517	40	260,680
ELA <sup>8</sup> and PLA <sup>9</sup>	391	4.9	1,905	40	76,200
Total Burden Hours					485,480

<sup>1</sup> Includes original applications and their amendments and supplemental applications

<sup>2</sup> Number of sponsors submitting applications during fiscal year (FY) 95

<sup>3</sup> Average number of applications submitted per sponsor

<sup>4</sup>Total applications submitted during FY 95

<sup>5</sup>New Drug Application (includes applications for new antibiotic drugs)

<sup>6</sup>Abbreviated New Drug Application

<sup>7</sup>Abbreviated Antibiotic Drug Application

<sup>8</sup>Establishment License Application

<sup>9</sup>Product License Application

In FY 95, CDER received a total of 10,232 submissions and CBER received 1,905 submissions that would require use of this application form. FDA estimates that 40 hours would be required for an industry regulatory affairs specialist to fill out the harmonized form, collate the documentation, and submit the application to CDER or CBER.

Dated: September 25, 1996.

William B. Schultz,

*Deputy Commissioner for Policy.*

[FR Doc. 96-25076 Filed 9-30-96; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 96D-0236]

**International Conference on Harmonisation; Draft Guideline on Data Elements for Transmission of Individual Case Safety Reports**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing a draft guideline entitled "Data Elements for Transmission of Individual Case Safety Reports." The draft guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guideline is intended to standardize the data elements for the electronic transmission of individual case safety reports for both preapproval and postapproval reporting periods.

**DATES:** Written comments by December 30, 1996.

**ADDRESSES:** Submit written comments on the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. Copies of the draft guideline are available from the Drug Information Branch (HFD-210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1012, or written requests for single copies of the ICH documents can be submitted to the Manufacturers Assistance and Communication Staff (HFM-42), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401

Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail or FAX by calling the Center for Biologics Evaluation and Research Voice Information System at 1-800-835-4709.

Persons with access to the INTERNET may obtain the document in several ways.

Users of "Web Browser" software, such as Mosaic, Netscape, or Microsoft Internet Explorer may obtain this document via the World Wide Web by using the following Uniform Resource Locators (URL's):

<http://www.fda.gov/cber/cberftp.html>  
<ftp://ftp.fda.gov/CBER/>

The document may also be obtained via File Transfer Protocol (FTP). Requesters should connect to the FDA FTP Server, FTP.FDA.GOV (192.73.61.21). The Center for Biologics Evaluation and Research (CBER) documents are maintained in a subdirectory called "CBER" on the server. Logins with the user name of anonymous are permitted, and the user's e-mail address should be sent as the password.

The "READ.ME" file in that subdirectory describes the available documents which may be available as an ASCII text file (\*.TXT), or a WordPerfect 5.1 or 6.x document (\*.w51,wp6), or both.

The document can be obtained by "bounce-back e-mail". A message should be sent to:

ICH\_DATA@al.cber.fda.gov

Finally, an electronic version of this draft guideline is available via the U.S. Government Printing Office's "GPO Access." Internet users can access the database through the World Wide Web; the Superintendent of Documents home page address is [http://www.access.gpo.gov/su\\_docs/](http://www.access.gpo.gov/su_docs/)

**FOR FURTHER INFORMATION CONTACT:**

Regarding the guideline: Richard M. Kapit, Center for Biologics Evaluation and Research (HFM-225), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301-827-3974.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-0864.

**SUPPLEMENTARY INFORMATION:** In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

At a meeting held on April 30, 1996, the ICH Steering Committee agreed that a draft guideline entitled "Data Elements for Transmission of Individual Case Safety Reports" should be made available for public comment. The draft guideline is the product of the Efficacy Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Efficacy Expert Working Group. Ultimately, FDA intends to adopt the ICH Steering Committee's guideline.

The draft guideline is intended to standardize the data elements for the electronic transmission of individual case safety reports by identifying and defining the data elements for the transmission of all types of individual case safety reports, regardless of source and destination. This includes case safety reports for both preapproval and postapproval reporting periods, and covers both adverse drug reaction and adverse event reports. The electronic format is not intended to be used for cases in the integrated safety summary of a marketing license application dossier. The draft guideline applies only to those adverse events that are subject to expedited reporting.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this guideline does not create or confer any rights for or on any person and does not operate to bind FDA, it does represent the agency's current thinking on data elements for the electronic transmission of individual case safety reports.

Interested persons may, on or before December 30, 1996, submit written comments on the draft guideline to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the draft guideline follows:

#### Draft Guideline on Data Elements for Transmission of Individual Case Safety Reports

##### 1. Introduction

###### 1.1 Scope of this guideline

The objectives of the working group are, as defined in the concept paper, to standardize the data elements for transmission of individual case safety reports by identifying, and where necessary or advisable, by defining the data elements for the transmission of all types of individual case safety reports, regardless of source and destination. This includes case safety reports for both preapproval and postapproval reporting periods and covers both adverse drug reaction and adverse event reports. It is not intended that this format should be used for cases in the integrated safety summary of a marketing license application dossier or that this guideline apply to every adverse event encountered in clinical trials, but only to

those subjected to expedited reporting. The scope of this topic does not encompass the definition of database structures, nor the design of a paper report form, quality control/quality assurance aspects, or technical security issues.

###### 1.2 Background

Because of national and international laws, rules, and regulations, individual case safety reports of adverse drug reactions and adverse events need to be transmitted:

- From identified reporting sources to regulatory authorities and pharmaceutical companies;
- Between regulatory authorities;
- Between pharmaceutical companies and regulatory authorities;
- Within authorities or pharmaceutical companies;
- From authorities to the World Health Organization (WHO) Collaborating Center for International Drug Monitoring.

The transmission of such individual case safety reports presently relies on paper-based formats (e.g., yellow cards, Council for International Organizations of Medical Sciences (CIOMS) forms, MEDWATCH) or electronic media (e.g., within pharmaceutical companies, or with WHO), usually by online access, tape, or file transfer.

Considering the large number of potential participants in a world-wide exchange of information, there is a need for an electronic format capable of accommodating direct database-to-database transmission using message transfers.

Successful electronic transmission of information relies on the definition of common data elements provided in this document and standard transmission procedures to be specified by the ICH M2 Expert Working Group.

###### 1.3 Notes on format of this document

Sections 2.2.A and 2.2.B and their respective subsections (which for convenience do not carry through the 2.2 designation) contain notes that are directed toward clarifying the nature of the data that should be provided. In addition, there are notes to assist in defining the format that should be used to transmit the data.

##### 2. Guidelines

This document has taken into account the concept paper; documents provided to date by ICH sponsors, the ENS-CARE Single Case Format, EuroSCaPE format, and the CIOMS IA proposal; and comments received following the circulation of these papers.

###### 2.1 Definition of data elements

The format for individual case safety reports includes provisions for transmitting all the relevant data elements useful to assess an individual adverse drug reaction or adverse event report. The data elements are sufficiently comprehensive to cover complex reports from most sources, different data sets, and transmission situations or requirements; therefore, not all the data elements will be available for every transmission. In many, if not most, instances a substantial number of the data elements will not be known and therefore will not be included in the transmission. Different ways of including the

same data have been provided to cope with differing information contents: e.g., age information can be sent as date of birth and date of reaction/event, age at the time of reaction/event, or patient age group according to the available information (see Section B.1.2 and the respective user guidance). In this example, age would be provided by only one set of data elements rather than including multiple elements of redundant data.

For electronic transmission between databases, the use of structured data is recommended. In certain instances, there are provisions for the transmission of some free text items, including a full text case summary narrative. The transmission of other unstructured data, such as full clinical records or images, is outside the scope of this guideline.

The minimum information for the transmission of a report should include at least one identifiable patient (Section B.1), one identifiable reporter (Section A.2), one event/suspected reaction (Section B.2), and one suspect drug (Section B.4). Because it is often difficult to obtain all the information, any one of several data elements is considered sufficient to define an identifiable patient (e.g., age, sex, initials) or an identifiable reporter (e.g., initials, address, qualification). It is also recognized that the patient and the reporter may be the same individual and still fulfill the minimum reporting criteria.

Structured data are strongly recommended in electronic transmission and provisions for including information in this way have been made. However, structuring of the data also implies the use of controlled vocabularies, which are not yet available for some data elements. It is anticipated that electronic transmission of individual case safety reports will be implemented without controlled vocabularies until they become available.

###### 2.2 Content of the data

The data elements are divided into sections pertaining to:

###### A: Administrative information and identification

- A.1 - Identification of the case safety report
- A.2 - Primary source of information
- A.3 - Information on sender and intended recipient of case safety report (receiver)

###### B: Information on case:

- B.1 - Patient characteristics
- B.2 - Reaction(s)/event(s)
- B.3 - Results of tests and procedures relevant to the investigation of the patient
- B.4 - Drug(s) information
- B.5 - Narrative case summary and further information

###### A. Administrative and Identification Information

###### User Guidance:

This section contains all the relevant data to identify the report, the reporter, and the different persons or institutions involved in the processing of the report, as well as indicators of specific report management.

A.1 Identification of the case safety report  
 A.1.1 Identification of the country where the reaction/event was reported  
 A.1.2 Identification of the country where the reaction/event occurred  
 A.1.3 Identification of the country where the drug was obtained

User Guidance:

Generally, item A.1.1 would be the only one completed. Provisions are made to include other countries for unusual cases concerning foreign travel and sources of manufactured material (A.1.2 and A.1.3).

Note concerning transmission:

The codes to be used to complete the country data will be defined in the transmission standard.

A.1.4 Type of report

- Spontaneous report (see glossary)
- Report from study
- Other
- Not available to sender (unknown)

User Guidance:

A separate category for the designation of a literature source is covered in item A.2.2 and is not duplicated in this section, which is intended to capture the type of report. If it is unclear from the literature report whether or not the case(s) cited are spontaneous observations or arise from a study, then item A.1.4 "Type of report" should be "other" and only item A.2.2 completed.

Differentiation between types of studies, e.g., randomized controlled clinical trials or others is given in Section A.2.3.3. The "not available to sender" option allows for the transmission of information by a secondary reporter where the initial sender did not specify the type of report; it differs from "other" which indicates the sender knows the type of report but cannot fit it into the categories provided.

A.1.5 Seriousness

A.1.5.1. Serious

- Yes/no

A.1.5.2. Seriousness criteria (more than one can be chosen)

- Death
- Life-threatening
- Caused/prolonged hospitalization
- Disabling/incapacitating (as per reporter's opinion)
- Congenital anomaly/birth defect
- Other medically important condition

User Guidance:

The terms "life-threatening" and "other medically important condition" are defined in the ICH E2A guideline. These criteria apply to the case as a whole and should not be confused with the outcome(s) of individual reactions(s)/event(s) that are provided in Section B.2.i.8.

A.1.6 Date report was first received from primary source

Note concerning Transmission:

This date and the following one (A.1.7) should be full precision dates, i.e., day, month, and year.

A.1.7 Date of receipt of the most recent information for this report

A.1.8 Additional available documents held by sender

A.1.8.1 Are additional documents available?

- Yes/no

A.1.8.2 List of documents held by sender (e.g., clinical records, hospital records, autopsy reports)

User Guidance:

It is recognized that these documents may not be obtainable in many instances.

Note concerning transmission:

This is free text limited to about 100 characters.

A.1.9 Does this case fulfill the local criteria for an expedited report?

- Yes/no

User Guidance:

This item is used to provide the sender's local reporting requirements, and the definition of expedited is dependent on the local regulatory requirements. When the countries of origin and destination of the transmission differ, the receiver should be aware that the information may not be applicable to the recipient.

A.1.10 Report identification number(s)

A.1.10.1 National Regulatory Authority case report number

A.1.10.2 Company case report number

A.1.10.3 Other sender's case report number

User Guidance:

A.1.10.1 is an identifier given by a National Regulatory Authority when it is transmitting the case, and item A.1.10.2 would be provided by a pharmaceutical company when it is sending the report. Both identifiers can be transmitted if known. Companies should endeavor to have a single international report number to facilitate the identification of a report that may have been sent to many places and subject to multiple retractions. A.1.10.3 would be used by senders who are not representing either a pharmaceutical company or a National Regulatory Authority.

Note concerning transmission:

Alpha/numeric data.

A.1.11 Suspected duplicate

- Yes

User Guidance:

This item is used when the sender suspects the recipient may have already received the case from another sender or through other channels. Only an affirmative answer is needed, otherwise the field is left empty. If known, the suspected duplicate case report number(s) and the identification of the other sender(s) can be provided.

A.1.11.1 Source of the duplicate (e.g., name of the company, name of regulatory agency)

A.1.11.2 Case report number of the duplicate

Note concerning transmission:

Alpha/numeric data for the number and source.

A.1.12 Identification number of the report which is linked to this report

User Guidance:

This section is used in the case of a mother-child pair where both had reactions/events, or of siblings with common exposure, or several reports involving the same patient, or several similar reports from same reporter (cluster). This link does not refer to duplicates, but to links of clinical relevance (the reactions/events are shared among patients or in the same patient and appear pertinent to each other).

Note concerning transmission:

Alpha/numeric data limited to about 50 characters.

A.1.13 Case nullification

- Yes

User Guidance:

This field is used to indicate that a previously transmitted report should be considered completely void (nullified); for example, when the whole case was found to be erroneous. It is essential to use the same case report number previously submitted.

A.1.13.1 Reason for nullification

Note concerning transmission:

This is a free text field limited to about 200 characters.

A.2 Primary source of information

The primary source of the information is a person who initially reports the facts. This should be distinguished from secondary sources (senders) who are only retransmitting the information, e.g., industry to regulatory authority.

Any or all of the three subsections can be used. In the case of a published trial or published individual case, the reporter would be the investigator or author, and details on publication and trial type should also be provided.

A.2.1 Primary source(s) of this report is (are) (repeat as necessary)

A.2.1.1 Reporter identifier (name or initials)

User Guidance:

The identification of the reporter may be prohibited by certain national confidentiality recommendations, laws, or directives. The information is only provided when it is in conformance with the confidentiality requirements and this guidance applies to all the subsections of A.2.1. Notwithstanding the above, at least one subsection should be completed to fulfill the general need of having an "identifiable" reporter. If only the name of the reporter is known and it is prohibited to provide it because of confidentiality requirements, initials can be used.

A.2.1.2 Reporter address

Note concerning transmission:

The format for addresses will be defined in the transmission standard.

A.2.1.3 Country

Note concerning transmission:

The codes to be used to complete the country data will be defined in the transmission standard.

A.2.1.4 Qualification

- Physician
- Pharmacist
- Other health professional
- Lawyer
- Consumer or other nonhealth professional

User Guidance:

Within Europe, consumer and lawyer's reports are transmitted only when there is medical confirmation.

A.2.1.5 Was report medically confirmed if not initially from health professional?

- Yes/no

User Guidance:

This section is completed if the initial report was not provided by a health professional and it is needed because of differences in postmarketing surveillance regulations concerning lay reports.

A.2.2 Literature reference

User Guidance:

References are provided in the Vancouver Convention (known as "Vancouver style") as developed by the International Committee of Medical Journal Editors. The standard format as well as those for special situations can be found in the following reference: International Committee of Medical Journal Editors. Uniform requirements for manuscripts submitted to biomedical journals. *New England Journal of Medicine*, 1991, 324:424-428.

Note on transmission:

Alpha/numeric data approximately 250 characters.

A.2.3 Study identification

A.2.3.1 Study name

A.2.3.2 Sponsor study number

User Guidance:

This section would be completed only if the sender is the study sponsor or has been informed of the study number by the sponsor.

A.2.3.3 Study type in which the event/reaction was observed

- Randomized controlled clinical trials
- Other controlled clinical trials
- Compassionate use/named patient basis
- Other studies

User Guidance:

Other studies include pharmacoepidemiology, pharmacoconomics, intensive monitoring, PMS, etc.

A.3 Information on sender and receiver of case safety report

A.3.1 Sender

A.3.1.1 Type

- Pharmaceutical Company
- Regulatory Authority
- Health professional
- Regional Pharmacovigilance Center
- WHO Collaborating Center for International Drug Monitoring
- Other (e.g., distributor, study sponsor)

A.3.1.2 Sender identifier

User Guidance:

Identifies the sender, e.g., drug company name or regulatory authority name.

A.3.1.3 Name of person responsible for sending the report

User Guidance:

Name of person in the company or agency who is responsible for the authorization of report dissemination. This would usually be the same person who signs the covering memo for paper submissions. The inclusion of the name of this person in the

transmission may be subject to national or international regulations.

A.3.1.4 Address, fax, telephone, and E-mail address

A.3.2 Receiver

User Guidance:

See all the sections concerning the sender (A.3.1).

A.3.2.1 Type

- Pharmaceutical Company
- Regulatory Authority
- Regional Pharmacovigilance Center
- WHO Collaborating Center for International Drug Monitoring
- Other (e.g., a company affiliate or a partner)

A.3.2.2 Receiver identifier

A.3.2.3 Address, fax, telephone, and E-mail address

B. Information on Case

B.1 Patient characteristics

User Guidance:

In cases where a fetus or suckling infant sustains an adverse reaction/event, information on both the parent and the child/fetus should be provided. Reports of these cases are referred to as parent-child/fetus report. Several general principles are used for filing these reports. If there has been no reaction/event affecting the child/fetus, the parent-child/fetus report does not apply. For those cases describing fetal demise or early spontaneous abortion, only a parent report is applicable. If both the parent and the child/fetus sustain adverse events, two reports are provided but they are linked by using Sections A.1.12 in each of the reports. When only the child/fetus has an adverse reaction/event (other than early spontaneous abortion/fetal demise) the information provided in this section applies to the child/fetus, and characteristics concerning the parent who was the source of exposure to the drug is provided in Section B.1.10.

Also see the user guidance on confidentiality in Section A.2.1.1, which should be applied to preserve patient confidentiality. The patient's full name and medical record number might be provided in special circumstances, and where permissible.

B.1.1 Patient initials

B.1.1.1 Patient medical record number(s) and source(s) (if allowable)

User Guidance:

Record numbers may include the general practitioner and/or specialist record(s) number(s), hospital record(s) numbers, or patient identification number in a study.

Note concerning transmission:

Alpha/numeric data. The data element should be long enough to contain more than one kind of medical record and number.

B.1.2 Age information

User Guidance:

To be used according to the most precise information available.

B.1.2.1 Date of birth

User Guidance:

If the full date of birth is not known, use Section B.1.2.2

Note concerning transmission:

Include a precise date, i.e., day, month, and year.

B.1.2.2 Age at time of onset of reaction/event

User Guidance:

If several reactions/events are in the report, use the age at the time of the first reaction/event.

Note concerning transmission:

The codes to be used will be defined in the transmission standard but should include various age units (days, months, years).

B.1.2.3 Patient age group (as per reporter)

- Neonate
- Infant
- Child
- Adolescent
- Adult
- Elderly

User Guidance:

The terms are not defined in this document and are intended to be used as they were reported by the primary source. This section should be completed only when the age is not provided more specifically in Section B.1.2.2.

B.1.3 Weight (kg)

User Guidance:

Should be the weight at the time of the event/reaction.

B.1.4 Height (cm)

B.1.5 Sex

Note concerning transmission:

The codes to be used for items B.1.3–B.1.5 will be defined in the transmission standard chosen.

B.1.6 Last menstrual period date

Note concerning transmission:

Imprecise dates are acceptable, i.e., month and year, or year only is acceptable.

B.1.7 Relevant medical history and concurrent conditions (not including reaction/event)

B.1.7.1 Structured information (repeat as necessary)

Disease/surgical procedure/etc.	Start date	Continuing Y/N/U	End date	Comments

User Guidance:

Medical judgment should be exercised in completing this section. Information pertinent to understanding the case is desired such as diseases, conditions such as pregnancy, surgical procedures, and psychological trauma. Each of the fields in

the table can be repeated as necessary. If precise dates are not known and a text description aids in understanding the timing of the case, or if concise additional information is helpful in showing the relevance of the past medical history, this

information can be included in the comment column.

Note concerning transmission:

Imprecise dates are acceptable for both start and end dates. The continuing block should accept values for yes, no, and unknown, and the main descriptive block

should have alpha data in concordance with the controlled vocabulary being developed. The comment should be limited to about 100 characters.

B.1.7.2 Text for relevant medical history and concurrent conditions (not including reaction/event)

User Guidance:  
To be used if structured information is not available in the sender's database. Otherwise,

it is preferable to send structured data in segment B.1.7.1.

Note concerning transmission:

This is a free text area of about 500 characters.

B.1.8 Relevant past drug history (repeat as necessary)

Name of drug as reported	Start date	End date	Indication	Reaction/event (if any and known)

User Guidance:

This segment concerns previously taken drugs, but not those taken concomitantly or drugs which may have potentially been involved in the current reaction(s)/event(s). Information concerning concomitant and other suspect drugs is included in Section B.4. The information provided here may also include previous experience with similar drugs. Medical judgment should be exercised in completing this section. When completing the field concerning the name of the drug, it is important to use the words provided by the primary source. Trade name, generic name or class of drug can be used, and the term "none" should be used when appropriate.

Note concerning transmission:

The data element for name of drug should accept alpha/numeric data and include provisions for accepting the word none. The data elements for reactions and indications will be text initially and then by a controlled vocabulary when fully developed. Both dates can be imprecise.

B.1.9. In case of death

B.1.9.1 Date of death

Note concerning transmission:

Imprecise date format.

B.1.9.2 Reported cause of death (repeat as necessary)

Note concerning transmission:

This should be a repeatable element. Controlled vocabulary should be used when fully implemented.

B.1.9.3 Was autopsy done?

Yes/No/Unknown

B.1.9.4 Autopsy-determined cause(s) of death (repeat as necessary)

Note concerning transmission:

These are repeatable text fields of approximately 100 characters. Controlled vocabulary should be used when fully implemented.

B.1.10 For a parent-child/fetus report, information concerning the parent

User Guidance:

This section is used only in the case of a parent-child/fetus report where the parent had no reaction/event. See user guidance for Section B.1. Guidance regarding confidentiality is provided above and should be considered before providing the parent identification. For the subsections B.1.10.5 through B.1.10.9, review the guidances provided for B.1.3 through B.1.5 and B.1.7 through B.1.8.

B.1.10.1 Parent identification

B.1.10.2 Parent age information

User Guidance:

Use the date of birth if the precise birthday is known, otherwise use age.

B.1.10.2.1 Date of birth

Note concerning transmission:

Date of birth should accept only a precise date.

B.1.10.2.2 Age

B.1.10.3 Gestation period at time of exposure

Note concerning transmission:

Gestation period at time of exposure is expressed by providing both a number and designation of units of days, weeks, months, or trimester.

B.1.10.4 Last menstrual period date

Note concerning transmission:

Date of last menstrual period should accept only a complete date.

B.1.10.5 Weight (kg) of parent

B.1.10.6 Height (cm) of parent

B.1.10.7 Sex of parent

B.1.10.8 Relevant medical history and concurrent conditions of parent

B.1.10.8.1 Structured information

Disease/surgical procedure/etc.	Start date	Continuing Y/N/U	End Date	Comments

B.1.10.8.2 Text for relevant medical history and concurrent conditions (not including reaction/event) of parent

B.1.10.9 Relevant past drug history

Name of drug as reported	Start date	End date	Indication	Reactions (if any and known)

B.2 Reaction(s)/Event(s)

User Guidance:

The designation of "i." in this section indicates that each item is repeatable and that it carries an appropriate correspondence to the same "i." in all subsections.

B.2.i.1 Reaction/event description

User Guidance:

Provided in a language agreed upon by sender and receiver. For international transmissions, English is the general accepted language. The original reporter's

words and/or phrases or their translation are used to describe the reaction.

Note concerning transmission:

Alpha data-free text 250 characters.

B.2.i.2 Reaction/event term(s)

User Guidance:

The terms can be signs, symptoms, or diagnoses. Until terms from an internationally agreed terminology are available the term provided will be from an uncontrolled vocabulary at the choice of the sender, and where possible should be those of the original reporter. This also applies to the other items of structured data such as indication, and diseases in past medical history, that are expected to be controlled with an international terminology.

Note concerning transmission:

Alpha data - uncontrolled vocabulary at present.

B.2.i.3 Date of start of reaction/event

B.2.i.4 Date of end of reaction/event

B.2.i.5 Duration of reaction/event

User Guidance:

This section can usually be computed from start/end of reaction. However, sometimes, both dates and duration are useful, e.g., for reactions/events of short duration such as anaphylaxis or arrhythmia.

Note concerning transmission:

The format for the dates will allow imprecise dates and the duration will be defined by the transmission standard.

B.2.i.6 Time intervals between suspect drug administration and start of reaction/event

User Guidance:

The major uses of intervals are to cover circumstances where both the dates are known but the interval is very short (e.g., minutes, such as in anaphylaxis), and when only imprecise dates are known but more information concerning the interval is

known. Dates, if available, should always be transmitted in the appropriate fields rather than intervals.

This section is to be used if there is only one suspect drug and one or more reactions/events. If there is more than one suspect drug, then the information should be captured under "drug" (Section B.4) and not here.

Note concerning transmission:

The codes to be used will be defined in the transmission standard.

B.2.i.6.1 Time interval between beginning of suspect drug administration and start of reaction/event

B.2.i.6.2 Time interval between last dose and start of reaction/event

B.2.i.7 Gestation period when reaction/event was observed

User Guidance:

For the parent report, when both parent and child/fetus reports are submitted as linked reports, the gestation period refers to when reaction/event occurred in the parent. For the child report, when both parent and child reports are submitted as linked reports, the gestation period refers to when reaction/event in the child/fetus was observed. The gestation period at the time of exposure is captured in Section B.1.10.3

Note concerning transmission:

Gestation period when reaction/event was observed is expressed by providing both a number and designation of days, weeks, months, or trimester.

B.2.i.8 Outcome of reaction/event at the time of last observation

- Recovered/resolved
- Recovering/resolving
- Not recovered/not resolved
- Recovered/resolved with sequelae
- Fatal
- Unknown

User Guidance:

In case of irreversible congenital anomalies the choice, not recovered/not resolved, should be used.

"Fatal" should be used when death is possibly related to the reaction/event. Considering the difficulty of deciding between "reaction/event caused death" and "reaction/event contributed significantly to death," both were grouped in a single category. Where the death is unrelated to the reaction/event being reported, "death" should not be selected here, but should be reported under Section B.1.9.

B.3 Results of tests and procedures relevant to the investigation of the patient

User Guidance:

This section captures the tests and procedures performed to diagnose or confirm the reaction/event, including those tests done to investigate (exclude) a nondrug cause, e.g., serologic tests for infectious hepatitis in suspected drug-induced hepatitis. Both positive and negative results should be reported.

B.3.1 Structured information (repeat as necessary)

Date	Test	Result	Unit	Normal ranges	More information available (Y/N)

Note concerning transmission:

Imprecise dates are acceptable. The description of the tests, results, units, and normal ranges will be in free text unless covered by a controlled vocabulary. The column entitled "more information available" accepts the yes/no dichotomy.

B.3.2 Description of results of test and procedures relevant to the investigation of the patient

Note concerning transmission:

Free text of about 1,000 characters.

B.4 Drug Information

User Guidance:

This section covers both suspect drugs and concomitant medications. In addition, the section can be used to identify drugs thought to have an interaction. For each drug, the status indicator clarifies the role of the medication and its status is that indicated by the primary reporter, i.e., the original source of the information. One segment is used for each drug (k) mentioned in the report and which was taken within a relevant time period before the reaction, whether suspect or not. The designation "k" in this and the following subsections indicates that each item is repeatable and that each subsection carries an appropriate correspondence to the "k" in other subsections.

Drugs used to treat the reaction/event should not be included here.

B.4.k.1 Characterization of drug role

Suspect/Concomitant/Interacting

User Guidance:

Characterization of the drug as provided by primary reporter. By convention all spontaneous reports have at least one suspect drug.

B.4.k.2 Drug identification

User Guidance:

Drug substance name and/or proprietary medicinal product name is provided as it was reported.

B.4.k.2.1 Drug substance name

User Guidance:

Provide the INN or drug substance name or drug identification code if no name exists. This information, as well as that requested in Section B.4.k.2.2, may not be known for concomitant or interacting drugs when the sender is a pharmaceutical company. In the case of blinded trials, the word "blinded" should precede the name of the drug. Placebos can be included as a drug.

B.4.k.2.2 Proprietary medicinal product name

User Guidance:

The name should be that used by the reporter. It is recognized that a single product may have different proprietary names in

different countries, even when produced by a single manufacturer.

Note concerning transmission:

Alpha/numeric data for each of drug identification, substance name, and proprietary name.

B.4.k.3 Batch/lot number

User Guidance:

This information is particularly important for vaccines and biologicals. The section allows for multiple batch/lot numbers, each separated by a delimiter defined by the transmission standard chosen. Provide the most specific information available.

Note concerning transmission:

Alpha/numeric data, delimiter defined by the transmission standard.

B.4.k.4 Premarketing authorization or marketing identification holder and number

User Guidance:

If relevant and known, provide the name of the holder and the authorization number in the country where the drug was obtained when the case report is sent to that country. Pharmaceutical companies provide this information for their own suspect drug(s).

B.4.k.4.1 Number

Note concerning transmission:

Alpha/numeric data.

**B.4.k.4.2 Country**

Note concerning transmission:

Format determined by standard chosen.

**B.4.k.4.3 Name of authorization holder**

Note concerning transmission:

Alpha/numeric data.

**B.4.k.5 Structured dosage information**

e.g., 2 milligrams (mg) three times a day for 5 days

B.4.k.5.1 dose (number): 2

B.4.k.5.2 dose (unit): mg

B.4.k.5.3 number of separate dosages: 3

B.4.k.5.4 number of units in the interval: 1

B.4.k.5.5 definition of the interval: day

B.4.k.5.6 cumulative total dose number: 30

B.4.k.5.7 cumulative total dose unit: mg

User Guidance:

Please note the side-by-side illustration of how the structured dosage is provided. For the more complex example of 5 mg (in one dose) every other day for 30 days, subsections B.4.k.5.1 through B.4.k.5.7 would be 5, mg, 1, 2, day, 75, mg, respectively. In the case of a parent-child report (either a single child report, or a linked report with both parent and child affected) the dosage section applies to the parental dose. For dosage regimen that involve more than one dosage form and/or changes in dosage, the information is provided in Section B.4.k.6 as text. Categories for "dose unit" and for "definition of the interval" are described in Attachment 1.

**B.4.k.6 Dosage text**

User Guidance:

To be used in cases where provision of structured dosage information is not possible.

Note concerning transmission:

This is a free text field limited to about 100 characters.

**B.4.k.7 Pharmaceutical form (Dosage form)**

User Guidance:

E.g., tablets, capsules, vials, syrup.

Note concerning transmission:

This is a free text field until a controlled vocabulary is available.

**B.4.k.8 Route of administration**

User Guidance:

In the case of a parent-child report (a single report with only the child affected through indirect (parenteral) exposure, or a linked report where both parent and child are affected), this indicates the route of administration of a drug given to the child/fetus.

Note concerning transmission:

See controlled vocabulary in the route of administration list in Attachment 2.

**B.4.k.9 Parent route of administration (in case of a parent child/fetus report)**

User Guidance:

This section is used only in parent-child reports and indicates the route of administration to the parent.

**B.4.k.10 Indication for use in the case**

Note concerning transmission:

This field is about 100 characters.

Controlled vocabulary to be used when fully implemented.

**B.4.k.11 Date of start of drug**

Note concerning transmission:

Imprecise date formats are used in this section as well as in B.4.k.13.

**B.4.k.12 Time intervals between drug**

treatment and start of earliest reaction/event

B.4.k.12.1 Time interval between beginning of drug administration and start of earliest reaction/event

B.4.k.12.2 Time interval between last dose of drug and start of earliest reaction/event

Note concerning transmission:

The format to be used for intervals will be defined in the transmission standard.

B.4.k.13 Date of end of drug

B.4.k.14 Duration of treatment

User Guidance:

This field is used if exact dates of drug administration are not available at the time of the report, but there is information concerning the duration of treatment. The information requested is the overall duration of drug treatment.

Note concerning transmission:

The format to be used for intervals will be defined in the transmission standard.

**B.4.k.15 Action(s) taken with drug**

- Drug withdrawn
- Dose reduced
- Dose increased
- Dose not changed
- Unknown
- Not applicable

User Guidance:

This data, taken together with the outcome of the reaction (B.2.i.8), provides the information concerning dechallenge. "Not applicable" is used in circumstances such as when the patient died or the treatment had been completed prior to reaction/event.

B.4.k.16 Effect of rechallenge (or re-exposure), for suspect drugs only

B.4.k.16.1 Did reaction recur on readministration?

- yes/no/unknown

User Guidance:

"Unknown" indicates that a rechallenge was done but it is not known if the event recurred. This segment is not to be completed if it is unknown whether a rechallenge was done.

B.4.k.16.2 If yes to item B.4.k.16.1, which reaction(s)/event(s) recurred?

Note concerning transmission:

Controlled vocabulary to be used when fully implemented.

B.4.k.17 Relatedness of drug to reaction(s)/event(s) (repeat as necessary)

User Guidance:

This section provides the means to transmit the degree of suspected relatedness of each drug to the reaction(s)/event(s). For the purpose of reporting, there is a conventional implied suspected causality for spontaneous reports. It is recognized that information concerning the relatedness, especially for spontaneous reports, is often subjective and may not be available.

Note concerning transmission:

For subsection B.4.k.17.1, the controlled vocabulary, when fully implemented, should be used. For subsections B.4.k.17.2 through B.4.k.17.4, alpha/numeric data with uncontrolled vocabulary should be used.

B.4.k.17.1 Reaction assessed

User Guidance:

Generally the reaction assessed will be the most important or most serious reaction.

**B.4.k.17.2 Source of assessment**

User Guidance:

E.g., initial reporter, investigator, agency, company.

**B.4.k.17.3 Method of assessment**

User Guidance:

E.g., global introspection, algorithm, Bayesian calculation.

**B.4.k.17.4 Result****B.4.k.18 Additional information on drug**

User Guidance:

Use to specify any additional information pertinent to the case that is not covered by above sections (e.g., passed expiration date, batch and lot tested and found to be within specifications).

**B.5 Narrative case summary and further information**

B.5.1 Case narrative including clinical course, therapeutic measures, outcome, and additional relevant information.

User guidance:

Focused, factual, and clear description of the case.

Note concerning transmission:

10,000 characters.

**B.5.2 Reporter's comments**

User guidance:

Use for including the reporter's comments on the diagnosis, causality assessment, or other issues considered relevant.

B.5.3 Sender's diagnosis/syndrome and/or reclassification of reaction/event

User Guidance:

This section provides the sender with an opportunity to combine signs and symptoms that were reported into a succinct diagnosis; e.g., a reporter indicates that a patient with known heart failure developed edema, proteinuria, hypoalbuminemia, and hypercholesterolemia but is uncertain whether the diagnosis is nephrotic syndrome or heart failure. The sender, however, knows that there have been other cases of nephrotic syndrome reported with the medications. The term "nephrotic syndrome" could be used in this section, and the explanation would be included in Section B.5.4.

Note concerning transmission:

Uncontrolled vocabulary until the controlled vocabulary is fully implemented.

**B.5.4 Sender's comments**

User guidance:

This section provides information concerning the sender's assessment of the case and may be used to describe disagreement with, and/or alternatives to, the diagnoses given by the initial reporter.

Note concerning transmission:

1,000 characters.

**3. Glossary**

*Parent-child/fetus report:* Report in which the administration of medicines to a parent results in a suspected reaction/event in a child/fetus.

*Receiver:* The intended recipient of the transmission.

**Reporter:** Reporter is primary source of the information, i.e., a person who initially reports the facts. This should be distinguished from the sender of the message, though the reporter could also be a sender.

**Sender:** The person or entity creating the message for transmission. Although the reporter and sender may be the same person, the function of the sender should not be confused with that of the reporter.

**Spontaneous adverse drug reaction report:** An unsolicited communication to a company, regulatory authority, or other organization that describes an adverse medical reaction in a patient given one or more medical products and which does not derive from a study or any organized data collection scheme.

#### Attachment 1

##### Unit List

##### Mass

kg	kilogram(s)
g	gram(s)
mg	milligram(s)
µg	microgram(s)
ng	nanogram(s)
pg	picogram(s)
mg/kg	milligram(s)/kilogram
µg/kg	microgram(s)/kilogram
mg/m <sup>2</sup>	milligram(s)/sq. meter
µg/m <sup>2</sup>	microgram(s)/ sq. meter

##### Radioactivity

Bq	becquerel(s)
GBq	gigabecquerel(s)
MBq	megabecquerel(s)
Kbq	kilobecquerel(s)
Ci	curie(s)
mCi	millicurie(s)
µCi	microcurie(s)
nCi	nanocurie(s)

##### Volume

l	litre(s)
ml	millilitre(s)
µl	microlitre(s)

##### Other

mol	mole(s)
mmol	millimole(s)
µmol	micromole(s)
iu	international unit(s)
kiu	iu(1000s)
Miu	iu(1,000,000s)
iu/kg	iu/kilogram
mEq	milliequivalent(s)
%	percent
gtt	drop(s)
DF	dosage form

##### User Guidance:

This is the list of accepted units. When having other measure units, transformation is recommended if possible. Otherwise use the free text field.

##### Definition of Interval List

Minutes

Hours

Days

Weeks

Months

Years

Cyclical

As necessary

Total

#### Attachment 2

##### Route of Administration List

Auricular

Buccal  
Cutaneous  
Dental  
Endocervical  
Endosinusial  
Endotracheal  
Epidural  
Extra-amniotic  
Hemodialysis  
Intra corpus cavernosum  
Intra-amniotic  
Intra-arterial  
Intra-articular  
Intra-uterine  
Intracardiac  
Intracavernous  
Intracerebral  
Intracervical  
Intracisternal  
Intracorneal  
Intracoronary  
Intradermal  
Intradiscal (intraspinial)  
Intralesional  
Intralymphatic  
Intramedullar (bone marrow)  
Intramenigeal  
Intramuscular  
Intraocular  
Intrapericardial  
Intraperitoneal  
Intrapleural  
Intrasynovial  
Intrathecal  
Intrathoracic  
Intratracheal  
Intravenous  
Intravesical  
Iontophoresis  
Nasal  
Occlusive dressing technique  
Ophthalmic  
Oral  
Oropharyngeal  
Other  
Parenteral  
Periarticular  
Perineural  
Rectal  
Respiratory (inhalation)  
Retrolbulbar  
Subconjunctival  
Subcutaneous  
Subdermal  
Sublingual  
Transdermal  
Transmammary  
Transplacental  
Unknown  
Urethral  
Vaginal

Dated: September 24, 1996.

William K. Hubbard,

*Associate Commissioner for Policy  
Coordination.*

[FR Doc. 96-25034 Filed 9-30-96; 8:45 am]

BILLING CODE 4160-01-F

#### [Docket No. 96N-0322]

### Mammography Facility Performance, Calendar Year 1995; Availability

**AGENCY:** Food and Drug Administration,  
HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the document entitled "Mammography Facility Performance, Calendar Year 1995." This document, mandated by Congress in the Mammography Quality Standards Act of 1992 (the MQSA), is intended to inform physicians and the general public about mammography facility performance in the calendar year 1995.

**ADDRESSES:** Submit written requests for single copies of the document entitled "Mammography Facility Performance, Calendar Year 1995" to MQSA, c/o SciComm, Inc., P.O. Box 30224, Bethesda, MD 20824-9998. Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. The document is also available on the Internet (<http://www.fda.gov>). "Mammography Facility Performance, Calendar Year 1995" is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Carole Sierka, Office of Health and Industry Programs, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-594-3534, FAX 301-594-3306.

**SUPPLEMENTARY INFORMATION:** The MQSA of 1992 (Pub. L. 102-539) was enacted on October 27, 1992. Under the MQSA, FDA is required annually to compile and make available to physicians and to the general public information assisting in the selection of an FDA-certified facility. The report must include a list of facilities:

- (1) That have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks;
- (2) that have been subject to sanctions under MQSA together with a statement of the reasons for the sanctions;
- (3) that have had certificates revoked or suspended, together with a statement of the reasons for the revocation or suspension;
- (4) against which the Secretary of the Department of Health and Human Services has sought an injunction under MQSA, together with a statement of the reasons for the action;
- (5) whose accreditation has been revoked, together with a statement of the reasons for the revocation;

(6) against which a State has taken adverse action; and

(7) that meets such other measures of performance as the Secretary may develop.

The information compiled in this report must be accompanied by information that will assist in the interpretation of the report.

Accordingly, FDA is making the list and explanatory information available through this report. This report also provides background information on quality mammography and directs consumers on how to acquire a list of FDA-certified mammography facilities.

Dated: September 27, 1996.

William B. Schultz,

*Deputy Commissioner for Policy.*

[FR Doc. 96-25197 Filed 9-27-96; 12:11 pm]

BILLING CODE 4160-01-F

## Health Care Financing Administration

[HCFA-R-117]

### Submitted for Collection of Public Comment: Submission for OMB Review

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements contained in 42 CFR 447.253; *Form No.:* HCFA-R-117; *Use:* In order to receive HCFA approval of a Medicaid State plan amendment which changes the methods and standards used to establish payment rates for inpatient hospital or long-term care services, a Medicaid State Agency must provide a statement which assures the HHS Secretary that the resulting rates will conform to all the

requirements specified in section 1902(a)(13)(A) of the Social Security Act and implementing regulations at 42 CFR 447.253; *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 54; *Total Annual Responses:* 54; *Total Annual Hours:* 54.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 23, 1996.

Edwin J. Glatzel,

*Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.*

[FR Doc. 96-25060 Filed 9-30-96; 8:45 am]

BILLING CODE 4120-03-P

[BPD-874-N]

### Medicare Program; Update of Ambulatory Surgical Center Payment Rates Effective for Services on or After October 1, 1996

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

**ACTION:** Notice.

**SUMMARY:** This notice implements section 1833(i)(2)(C) of the Social Security Act, which mandates an automatic inflation adjustment to Medicare payment amounts for ambulatory surgical center (ASC) facility services during the years when the payment amounts are not updated based on a survey of the actual audited costs incurred by ASCs.

**EFFECTIVE DATE:** The payment rates contained in this notice are effective for services furnished on or after October 1, 1996.

*Copies:* To order copies of the Federal Register containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be

placed by calling the order desk at (202) 512-1800 or by faxing to (202) 512-2250. The cost for each copy is \$8. As an alternative, you can view and photocopy the Federal Register document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the Federal Register.

This Federal Register document is also available from the Federal Register online database through *GPO Access*, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is <http://www.access.gpo.gov/su/xdocs/>, by using local WAIS client software, or by telnet to [swais.access.gpo.gov](http://swais.access.gpo.gov), then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512-1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to [help@eids05.eids.gpo.gov](mailto:help@eids05.eids.gpo.gov); by faxing to (202) 512-1262; or by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except for Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Joan Haile Sanow, (410) 786-5723.

#### SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) provides that benefits under the Medicare Supplementary Medical Insurance program (Part B) include services furnished in connection with those surgical procedures that, under section 1833(i)(1)(A) of the Act, are specified by the Secretary and are performed on an inpatient basis in a hospital but that also can be performed safely on an ambulatory basis in an ambulatory surgical center (ASC), in a rural primary care hospital, or in a hospital outpatient department. To participate in the Medicare program as an ASC, a facility must meet the standards specified under section 1832(a)(2)(F)(i) of the Act and 42 CFR 416.25, which set forth basic requirements for ASCs.

Generally, there are two elements in the total charge for a surgical procedure: A charge for the physician's professional services for performing the procedure, and a charge for the facility's

services (for example, use of an operating room). Section 1833(i)(2)(A) of the Act authorizes the Secretary to pay ASCs a prospectively determined rate for facility services associated with covered surgical procedures. ASC facility services are subject to the usual Medicare Part B deductible and coinsurance requirements. Therefore, participating ASCs are paid 80 percent of the prospectively determined rate for facility services, adjusted for regional wage variations. This rate is intended to represent our estimate of a fair payment that takes into account the costs incurred by ASCs generally in providing the services that are furnished in connection with performing the procedure. Currently, this rate is a standard overhead amount that does not include physician fees and other medical items and services (for example, durable medical equipment for use in the patient's home) for which separate payment may be authorized under other provisions of the Medicare program.

We have grouped procedures into nine groups for purposes of ASC payment rates. The ASC facility payment for all procedures in each group is established at a single rate adjusted for geographic variation. The rate is a standard overhead amount that covers the cost of services such as nursing, supplies, equipment, and use of the facility. (For an indepth discussion of the methodology and rate-setting procedures, see our Federal Register notice published on February 8, 1990, entitled "Medicare Program; Revision of Ambulatory Surgical Center Payment Rate Methodology" (55 FR 4526).)

#### *Statutory Provisions*

Section 1833(i)(2)(A) of the Act requires the Secretary to review and update standard overhead amounts annually. Section 1833(i)(2)(A)(ii) requires that the ASC facility payment rates result in substantially lower Medicare expenditures than would have been paid if the same procedure had been performed on an inpatient basis in a hospital. Section 1833(i)(2)(A)(iii) requires that payment for insertion of an intraocular lens (IOL) include an allowance for the IOL that is reasonable and related to the cost of acquiring the class of lens involved.

Under section 1833(i)(3)(A), the aggregate payment to hospital outpatient departments for covered ASC procedures is equal to the lesser of the following two amounts:

- The amount paid for the same services that would be paid to the hospital under section 1833(a)(2)(B)

(that is, the lower of the hospital's reasonable costs or customary charges less deductibles and coinsurance); or

- The amount determined under section 1833(i)(3)(B)(i) based on a blend of the lower of the hospital's reasonable costs or customary charges, less deductibles and coinsurance, and the amount that would be paid to a free-standing ASC in the same area for the same procedures.

Under section 1833(i)(3)(B)(i), the blend amount for a cost reporting period is the sum of the hospital cost proportion and the ASC cost proportion. Under section 1833(i)(3)(B)(ii), the current hospital cost proportion and the ASC cost proportion are 42 and 58 percent, respectively.

Section 13531 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) (Public Law 103-66), enacted on August 10, 1993, prohibited the Secretary from providing for any inflation update in the payment amounts for ASCs determined under section 1833(i)(2) (A) and (B) of the Act for Federal fiscal years (FYs) 1994 and 1995. Section 13533 of OBRA 1993 reduced the amount of payment for an IOL inserted during or subsequent to cataract surgery in an ASC on or after January 1, 1994, and before January 1, 1999, to \$150.

Section 141(a)(1) of the Social Security Act Amendments of 1994 (SSAA 1994) (Public Law 103-432), enacted on October 31, 1994, amended section 1833(i)(2)(A)(i) of the Act to require that, for the purpose of estimating ASC payment amounts, the Secretary survey not later than January 1, 1995, and every 5 years thereafter, the actual audited costs incurred by ASCs, based upon a representative sample of procedures and facilities.

Section 141(a)(2) of SSAA 1994 added section 1833(i)(2)(C) to the Act to provide that, beginning with FY 1996, there be an automatic application of an inflation adjustment during a fiscal year when the Secretary does not update ASC rates based on survey data of actual audited costs. Section 1833(i)(2)(C) of the Act provides that ASC payment rates be increased by the percentage increase in the consumer price index for urban consumers (CPI-U), as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved, if the Secretary has not updated rates during a fiscal year, beginning with FY 1996.

Section 141(a)(3) of SSAA 1994 amended section 1833(i)(1) of the Act to require the Secretary to consult with appropriate trade and professional organizations in reviewing and updating the list of Medicare-covered ASC procedures. Section 141(b) of SSAA

1994 requires the Secretary to establish a process for reviewing the appropriateness of the payment amount provided under section 1833(i)(2)(A)(iii) of the Act for IOLs with respect to a class of new-technology IOLs.

#### *ASC Survey*

Regulations set forth at § 416.140 ("Surveys") require us to survey a randomly selected sample of participating ASCs no more often than once a year to collect data for analysis or reevaluation of payment rates. In addition, section 1833(i)(2)(A)(i) of the Act requires that, for the purpose of estimating ASC payment amounts, the Secretary survey not later than January 1, 1995, and every 5 years thereafter, the actual audited costs incurred by ASCs, based upon a representative sample of procedures and facilities.

In July 1992, we mailed Form HCFA-452A, Medicare Ambulatory Surgical Center Payment Rate Survey (Part I), to the nearly 1,400 ASCs that were on file as being certified by Medicare at the end of 1991. Part I data provided baseline information for selecting a sample of 320 ASCs to complete Form HCFA-452B, Medicare Ambulatory Surgical Center Payment Rate Survey (Part II). The sample was randomly selected and is representative of ASCs nationally in terms of facility age, utilization, and surgical specialty.

Part II of the ASC survey was mailed to the sample of ASCs in March 1994. Part II of the ASC survey asked for data on costs incurred by the facility that are directly related to performing certain surgical procedures, such as cataract extraction with IOL insertion, as well as information on facility overhead and personnel costs. We asked facilities to report total volume, Medicare volume, OR time, and their average billed charge for the Medicare covered procedures that were performed at the facility during the survey year. We audited 100 randomly selected Part II surveys between November 1994 and February 1995. We intend to use the 1994 survey data as the basis for updating the schedule of ASC payment rates as well as for revising our method of ratesetting, all of which will be described in a proposed notice in the Federal Register in accordance with standard notice and comment procedures. In compliance with the requirement in section 1833(i)(2)(A)(i) of the Act that we survey ASC costs every 5 years we expect to conduct the next survey of ASC costs before April 1999.

Although we have completed our preliminary analysis of procedure costs based on data from the 1994 Medicare Ambulatory Surgical Center Payment

Rate Survey, we are still revising and updating the method of using those data to determine ASC payment rates. Therefore, we are not implementing rates that reflect 1994 survey data in FY 1997.

We published our last ASC payment rate update notice on September 26, 1995 (60 FR 49619).

## II. Provisions of This Notice

During years when the Secretary has not otherwise updated ASC rates based on a survey of actual audited costs, section 1833(i)(2)(C) of the Act requires application of an inflation adjustment. That inflation adjustment must be the percentage increase in the CPI-U as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved. (The CPI-U is a general index that reflects prices paid for a representative market basket of goods and services.)

Based on estimates prepared by Data Resources, Inc./McGraw Hill, the forecast rate of increase in the CPI-U for the fiscal year that ends March 31, 1997 is 2.6 percent. Increasing the ASC payment rates currently in effect by 2.6 percent results in the following schedule of rates that are payable for facility services furnished on or after October 1, 1996:

Group 1—\$312  
 Group 2—\$419  
 Group 3—\$479  
 Group 4—\$591  
 Group 5—\$674  
 Group 6—\$785 (635+150)  
 Group 7—\$935  
 Group 8—\$923 (773+150)

ASC facility fees are subject to the usual Medicare deductible and copayment requirements. Under section 13531 of OBRA 1993, the allowance for an IOL that is part of the payment rates for group 6 and group 8 is \$150.

A ninth payment group allotted exclusively to extracorporeal shockwave lithotripsy (ESWL) services was established in the notice with comment period published December 31, 1991 (56 FR 67666). The decision in *American Lithotripsy Society v. Sullivan*, 785 F. Supp. 1034 (D.D.C. 1992), prohibits payment for these services under the ASC benefit at this time. ESWL payment rates are the subject of a separate Federal Register proposed notice, which was published October 1, 1993 (58 FR 51355).

We will continue to use the inpatient hospital prospective payment system (PPS) wage index to standardize ASC payment rates for variation due to geographic wage differences in accordance with the ASC payment rate

methodology published in the February 8, 1990 Federal Register (55 FR 4526). Because ASC payment rates are updated concurrently with the annual update of the hospital inpatient PPS wage index, the wage index in the PPS final rule that will be implemented on October 1, 1996 will be used to adjust the ASC payment rates announced in this notice for facility services furnished beginning October 1, 1996.

## III. Regulatory Impact Analysis

### A. Introduction

This notice implements section 1833(i)(2) of the Act, which mandates an automatic inflation adjustment to Medicare payment amounts for ASC facility services during the years when the payment amounts are not updated based on a survey of the actual audited costs incurred by ASCs.

Actuarial estimates of the cost of updating the ASC rates by 2.6 percent are as follows:

PROJECTED ADDITIONAL MEDICARE  
COSTS  
[In millions]\*

	Dollar amounts <sup>1</sup>
FY 1997 .....	\$30
FY 1998 .....	30
FY 1999 .....	30
FY 2000 .....	40
FY 2001 .....	40

\* Rounded to the nearest \$10 million.

<sup>1</sup> These amounts are in the Medicare budget baseline.

### B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all ASCs and hospitals are considered to be small entities.

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

Although we believe an impact analysis on small rural hospitals is not required, this notice may have a significant impact on a substantial

number of ASCs. Therefore, we believe that a regulatory flexibility analysis is required for ASCs. In addition, we are voluntarily providing a brief discussion of the impact this notice may have on hospitals.

### 1. Impact on ASCs

Section 1833(i)(2)(C) of the Act requires that we automatically adjust ASC rates for inflation during a fiscal year when we do not update ASC payment rates based on survey data. Therefore, we are updating the current ASC payment rates, which were published in our September 26, 1995 Federal Register notice (60 FR 49619), by incorporating the projected rate of change in the CPI-U for the 12-month period ending March 31, 1997, a 2.6 percent increase. There are other factors, however, that affect the actual payments to an individual ASC.

First, variations in an ASC's Medicare case mix affect the size of the ASC's aggregate payment increase. Although we uniformly adjusted ASC payment rates by the CPI-U forecast for the 12-month period ending March 31, 1997, we did not adjust the IOL payment allowance that is included in the payment rate for group 6 and group 8 because OBRA 1993 froze the amount of payment for an IOL furnished by an ASC at \$150 for the period beginning January 1, 1994 through December 31, 1998. Therefore, because the net adjustment for inflation for procedures in group 6 is 2.08 percent and for group 8 is 2.21 percent, ASCs that perform a high percentage of the IOL insertion procedures that comprise these groups may expect a somewhat lower increase in their aggregate payments than ASCs that perform fewer IOL insertion procedures.

A second factor determining the effect of the change in payment rates is the percentage of total revenue an ASC receives from Medicare. The larger the proportion of revenue an ASC receives from the Medicare program, the greater the impact of the updated rates in this notice. The percentage of revenue derived from the Medicare program depends on the volume and types of services furnished. Since Medicare patients account for as much as 80 percent of all IOL insertion procedures performed in ASCs, an ASC that performs a high percentage of IOL insertion procedures will probably receive a higher percentage of its revenue from Medicare than would an ASC with a case mix comprised largely of procedures that do not involve insertion of an IOL. For an ASC that receives a large portion of its revenue from the Medicare program, the changes

in this notice will likely have a greater influence on the ASC's operations and management decisions than they will have on an ASC that receives a large portion of revenue from other sources. In general, we expect the rate changes in this notice to affect ASCs positively by increasing the rates upon which payments are based.

## 2. Impact on Hospitals and Small Rural Hospitals

Section 1833(i)(3)(A) of the Act mandates the method of determining payments to hospitals for ASC-approved procedures performed in an outpatient setting. The Congress believed some comparability should exist in the amount of payment to hospitals and ASCs for similar procedures. The Congress recognized, however, that hospitals have certain overhead costs that ASCs do not and allowed for those costs by establishing a blended payment methodology. For ASC procedures performed in an outpatient setting, hospitals are paid based on the lower of their aggregate costs, aggregate charges, or a blend of 58 percent of the applicable wage-adjusted ASC rate and 42 percent of the lower of the hospital's aggregate costs or charges. According to statistics from the Office of the Actuary within HCFA, 10.7 percent of Medicare payments to hospitals by intermediaries for outpatient department services is attributable to services furnished in conjunction with ASC-covered procedures.

We believe that, due to a variety of factors, the ASC rate increase in this notice will result in only a 0.8 percent increase in intermediary payments to hospitals for ASC-covered procedures. We would not expect an ASC rate increase in every instance to keep pace with actual hospital cost increases, although we would fully recognize cost increases resulting from inflation alone to the extent that the blended payment methodology includes aggregate hospital costs. The weight of the ASC portion of the blended payment amount, which would reflect the ASC rate increase, is offset to a degree when hospital costs significantly exceed the ASC rate. Another element that would eliminate the effect of the ASC rate increase on hospital outpatient payments is the application of the lowest payment screen in determining payments. Applying the lowest of costs, charges, or a blend can result in some hospitals being paid entirely on the basis of a hospital's costs or charges. In those instances, the increase in the ASC rates will have no effect on hospital payments. The number of Medicare beneficiaries a hospital serves and its

case-mix variation would also influence the total impact of the new ASC rates on Medicare payments to hospitals. Based on these factors, we have determined, and we certify that this notice will not have a significant impact on a substantial number of small rural hospitals. Therefore, we have not prepared a small rural hospital impact analysis.

## IV. Waiver of 30-Day Delay in the Effective Date

We ordinarily publish notices, such as this, subject to a 30-day delay in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to the public interest, we may waive the delay in the effective date. The provisions of this notice are effective for services furnished beginning on October 1, 1996, to coincide with the FY 1997 PPS updated wage index. These provisions will increase payment to ASCs by 2.6 percent (as modified by any change to the wage indices), in accordance with section 1833(i)(2)(C) of the Act, which requires automatic application of an inflation adjustment. As a practical matter, if we allowed a 30-day delay in the effective date of this notice, ASCs would be unable to take timely advantage of the increase in payment rates contained in this notice. Moreover, we believe a delay is impractical and unnecessary because the statute, as explained earlier, provides that ASC payment rates be increased by the percentage increase in the CPI-U if the Secretary has not updated rates during a fiscal year beginning with FY 1996. Therefore, we find good cause to waive the delay in the effective date.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget. This rule is not a major rule as defined by U.S.C. 804(2).

(Sections 1832(a)(2)(F) and 1833(i) (1) and (2) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F) and 1395l(i) (1) and (2)); 42 CFR 416.120, 416.125, and 416.130)

(Catalog of Federal Domestic Assistance Programs No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 9, 1996.

Bruce C. Vladeck,  
*Administrator, Health Care Financing Administration.*

Dated: September 26, 1996.

Donna E. Shalala,  
*Secretary.*

[FR Doc. 96-25253 Filed 9-30-96; 8:45 am]

BILLING CODE 4120-01-P

## Indian Health Service

### Method for Evaluating and Establishing Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Service Regulations—Portland, Alaska, and Nashville Areas

**ACTION:** Extension of project date.

**SUMMARY:** The termination date for the Portland Pilot Project now being conducted in the Portland, Alaska, and Nashville Areas to determine an alternative method of evaluating and establishing reimbursement rates for contract health services (CHS) has been changed from September 30, 1996 to September 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Nancy Davis, Chief, Contract Health Services Branch, Division of Health Care Administration/Contract Health Services, Room 6A-39, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-2694 (this is not a total-free number).

**SUPPLEMENTARY INFORMATION:** The Indian Health Service (IHS) issued a general notice in 56 FR 10566 on March 13, 1991 to inform the public that the IHS was conducting a pilot project in the IHS Portland Area. This project is designed to determine whether an alternative method of evaluating and establishing reimbursement rates for CHS will result in greater participation by health care providers and lower costs to IHS. The project invited providers within the Portland Area to submit their most favorable rate quotations and was scheduled to end on March 31, 1992. The response was far greater than the expectations of the IHS. As a result of this greater than expected response, and the need to develop complex rate quotation analysis methodologies for facilities, outpatient and professional providers, and the need to develop preferred provider lists from these analyses, the termination date was extended to March 31, 1993, 57 FR 10671. The termination date was again extended to March 31, 1995, 58 FR 11864. Additionally, the IHS published notification on June 18, 1992, 57 FR 27262, that additional sites were being added to the pilot project to provide more information from a wide geographic area.

The evaluation of the facility component of the project was completed January 28, 1994. The overall results of the evaluation were positive. The formal review process of the professional provider component has not been completed. Extension of the project termination date to September 30, 1997 will allow the IHS time to complete the

evaluation and to assess the results. Based upon the results of the evaluation, IHS will formulate, publish and implement a new payment and procurement policy for CHS. We are, therefore, extending the termination date of this pilot project from September 30, 1996, to September 30, 1997.

This pilot project does not change the current IHS payment policy requirement that health care services be procured at rates which do not exceed prevailing Medicare rates.

Dated: September 9, 1996.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 96-25033 Filed 9-30-96; 8:45 am]

BILLING CODE 4160-16-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4135-N-01]

### Office of the Assistant Secretary for Housing-Federal Housing Commissioner; Debenture Recall

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice announces a debenture recall of certain Federal Housing Administration debentures, in accordance with authority provided in the National Housing Act.

**FOR FURTHER INFORMATION CONTACT:**

Richard Keyser, Room B133, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755-7510. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD regulations at 24 CFR 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all Federal Housing Administration debentures, with a coupon rate of 7% or above, except for those debentures subject to "debenture lock agreements," that have been registered on the books of the Federal Reserve Bank of Philadelphia, and are, therefore, "outstanding" as of September 30, 1996. The date of the call is January 1, 1997.

The debenture will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debentures will be paid with the principal at redemption.

During the period from the date of this notice to the call date, debentures that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after October 1, 1996. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date. Payment of final principal and interest due on January 1, 1997, will be made automatically to the registered holder.

Dated: September 26, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96-25159 Filed 9-30-96; 8:45 am]

BILLING CODE 4210-27-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Receipt of an Application, and Availability of an Environmental Assessment and Finding of No Significant Impact for an Incidental Take Permit to Fort Morgan Paradise Joint Venture, for Construction of a Residential Project on the Fort Morgan Peninsula, Alabama

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Fort Morgan Paradise Joint Venture, (Applicant), seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), (Act) as amended. The ITP would authorize for a period of 30 years the incidental take of an endangered species, the Alabama beach mouse (*Peromyscus polionotus ammobates*), known to occupy an 86.3-acre tract of land owned by the Applicant on the Fort Morgan Peninsula, Baldwin County, Alabama. The project would be called The Beach Club and consists of 753 residential units and 2 commercial areas. The residential component of the project will include four, 16-story condominium complexes with 513 units, and 240 residential duplexes, triplexes, and quadraplexes. Associated landscaped grounds and parking areas, recreational amenities, and dune walkover structures would also be constructed.

The Service also announces the availability of an Environmental Assessment (EA) and Habitat Conservation Plan (HCP) for this incidental take application. Copies of the EA and/or HCP may be obtained by making a request in writing to the Regional Office (see **ADDRESSES**). This notice also advises the public that the Service has made preliminary determinations that issuing an ITP to the Applicant is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, (NEPA) as amended. The Findings of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

**DATES:** Written comments on the application, EA and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before October 31, 1996.

**ADDRESSES:** Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or at the Daphne, Alabama, Field Office, 2001 Highway 98, Daphne East Office Plaza, Suite A, Daphne, Alabama 36526. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments must be submitted in writing to be processed. Please reference permit(s) under PRT-819464 in such comments, or in requests for the documents discussed herein. Requests for the documents must be in writing to be adequately processed.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick G. Gooch, Regional Permit Coordinator, Atlanta, Georgia (see **ADDRESSES** above), telephone: 404/679-7110; or Ms. Celeste South at the Daphne, Alabama, Field Office (see **ADDRESSES** above), telephone: 334/441-5181.

**SUPPLEMENTARY INFORMATION:** The Alabama beach mouse (ABM), *Peromyscus polionotus ammobates*, is a subspecies of the common oldfield mouse *Peromyscus polionotus* and is restricted to the dune systems of the

Gulf Coast of Alabama. The known current range of ABM extends from Fort Morgan eastward to the western terminus of Alabama Highway 182, including the Perdue Unit on the Bon Secour National Wildlife Refuge. The sand dune systems inhabited by this species are not uniform; several habitat types are distinguishable. The species inhabits primary dunes, interdune areas, secondary dunes, and scrub dunes. The depth and area of these habitats from the beach inland varies. Population surveys indicate that this subspecies is usually more abundant in primary dunes than in secondary dunes, and usually more abundant in secondary dunes than in scrub dunes. Optimal ABM habitat is currently considered dune systems with all dune types. Though fewer ABM inhabit scrub dunes, these high dunes can serve as refugia during devastating hurricanes that overwash, flood, and destroy or alter secondary and frontal dunes. ABM surveys on the Applicant's properties reveal habitat occupied by ABM. The Applicant's properties contain designated critical habitat for the ABM. Construction of the project may result in the death of, or injury to ABM. Habitat alterations due to condominium placement and subsequent human habitation of the project may reduce available habitat for food, shelter, and reproduction.

The EA considers the environmental consequences of several alternatives for each project. One action proposed for each project is the issuance of the ITP based upon submittal of the HCP as proposed. This alternative provides for restrictions that include placing no habitable structures seaward of the designated ABM critical habitat, establishment of walkover structures across designated critical habitat, a prohibition against housing or keeping pet cats, ABM competitor control and monitoring measures, scavenger-proof garbage containers, creation of educational and information brochures on ABM conservation, and the minimization and control of outdoor lighting. Further, the HCP proposes to provide an endowment to acquire ABM habitat off-site or otherwise perform some other conservation measure for the ABM. The HCPs provide funding sources for these mitigation measures. Another alternative is consideration of different project designs that further minimize permanent loss of ABM habitat. A third alternative is no-action, or for the Service to deny the request for authorization to incidentally take the ABM.

As stated above, the Service has made a preliminary determination that the

issuance of this ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA and will result in the FONSI. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.
2. The proposed take is incidental to an otherwise lawful activity.
3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.
4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITPs are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITPs are contingent upon the Applicant's compliance with the terms of their permits and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of either Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue either ITP.

Dated: September 17, 1996.

Jerome M. Butler,

*Acting Regional Director.*

[FR Doc. 96-25080 Filed 9-30-96; 8:45 am]

BILLING CODE 4310-55-P

## **Bureau of Land Management**

[OR-030-06-1220-00: GP6-0281]

### **Call for Nominations for Academician on the Southeast Oregon Resource Advisory Council**

**AGENCY:** Vale District, Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to solicit public nominations for an academician for the Southeast Oregon

Resource Advisory Council, established and authorized in 1995 by the Secretary of the Interior to provide advice and recommendations to the Bureau of Land Management and Forest Service on management of public lands. This is an additional vacant position to those identified in a Federal Register Notice published April 15, 1996. Public nominations will be received through October 31, 1996. The Council, which was established in August, 1995, is made up of 15 members. The Academician has resigned from the Council, and we are seeking nominees to replace this position for the balance of its term through August of 1997.

The Council, which covers southeastern Oregon, has to date identified three issues that they would like to work on with the Bureau of Land Management and the Forest Service: Standards for rangeland health and guidelines for grazing management, the Southeastern Oregon Resource Management Plan, and the Interior Columbia Basin Ecosystem Management Project.

This council is authorized under the Federal Land Policy and Management Act (FLPMA), which directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by Bureau of Land Management. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, Resource Advisory Council membership must be balanced and representative of the various interests concerned with the management of public lands.

These include three categories:

Category One: holders of federal grazing permits, representatives of energy and mining development, timber industry, transportation or rights-of-way, off-road vehicle use and developed recreation.

Category Two: representatives of environmental and resource conservation organizations, dispersed recreation, archaeological and historic interests, and wild horse and burro groups.

Category Three: representatives of State and local government, Native American tribes, academicians involved in natural sciences, employees of State agencies responsible for the management of natural resources, land, or water, and the public at large. Individuals may nominate themselves or others. Nominees must be residents of the State of Oregon. The Southeast

Oregon Council covers southeastern Oregon. A nomination form may be obtained from the Vale District, Bureau of Land Management, 100 Oregon Street, Vale, Oregon 97918 or by calling (541) 473-3144. Nominations must be received by October 31, 1996.

Nominees will be evaluated based on their academic experience in natural resources that contributes to knowledge of rangeland health issues and their knowledge of the geographic area covered by the Council. Nominees must also have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications. The Bureau of Land Management Oregon/Washington State Director, the Forest Service Regional Forester, and the Oregon Governor's Office will forward the nominations to the Secretary of the Interior, who will make the appointment to the Council. This nomination period will also be announced through press releases issued by the Bureau of Land Management Oregon/Washington State Office. Nominations for Resource Advisory Councils should be sent to: Ed Singleton, Bureau of Land Management, Vale District Manager, 100 Oregon Street, Vale, OR, 97918.

**DATES:** All nominations must be received by the Bureau of Land Management Vale District on or before October 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Jonne Hower, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 541-473-3144).

Ed Singleton,  
Vale District Manager.

[FR Doc. 96-25057 Filed 9-30-96; 8:45 am]

BILLING CODE 4310-33-M

[ES-030-06-1430-01; MOES-044175 & MOES-044158]

### Notice of Realty Action: Sale of Public Land in Maries County, Missouri.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** The following land has been found suitable for sale under authority of the Color-of-Title Act of December 22, 1928, as amended July 28, 1953, 43 U.S.C. 1068, 1068a (1982), as a claim of Class I at the estimated fair market value

less equities presented by the applicant. The land will not be offered for sale until at least 60 days after the date of this notice.

Fifth Principal Meridian,  
T.39N., R.9W.  
Sec. 13, SWNE & NWSE  
Containing 80 acres.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

This land is being offered by direct sale to Albert Crump, Trustee for Paul and Selma Iserman and Everett Osterloh. The mineral interest will not be conveyed simultaneously. Acceptance of the direct sale offer will qualify the purchaser to make application for conveyance of those mineral interests under Sec. 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713).

The patent, when issued, will contain certain reservations to the United States. Detailed information concerning these reservations, as well as specific conditions of the sale, are available for review at the Bureau of Land Management, Milwaukee District Office, 310 West Wisconsin Avenue, Suite 450, Milwaukee, Wisconsin.

**DATES:** Interested parties may submit comments until November 18, 1996. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

**ADDRESSES:** Comments should be sent to: Bureau of Land Management, Milwaukee District, P.O. Box 631, Milwaukee, Wisconsin 53201-0631.

**FOR FURTHER INFORMATION CONTACT:** Larry Johnson, Realty Specialist, Milwaukee District, (414) 297-4413.

Dated: September 25, 1996.

James W. Dryden,  
District Manager.

[FR Doc. 96-25079 Filed 9-30-96; 8:45 am]

BILLING CODE 4310-GJ-P

### National Park Service

#### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 22, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance

of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127. Written comments should be submitted by October 16, 1996.

Carol D. Shull,  
Keeper of the National Register.

### ARKANSAS

#### Phillips County

Chicago Mill Company Office Building (West Helena MPS) 129 N. Washington St., West Helena, 96001133

Denison House (West Helena MPS) 427 Garland Ave., West Helena, 96001132

Faust House (West Helena MPS) 114

Richmond Hill, West Helena, 96001130

Gemmill-Faust House (West Helena MPS) 321 St. Andrew's Terrace, West Helena, 96001134

Myers House (West Helena MPS) 221 St.

Andrew's Terrace, West Helena, 96001136

Nelson House (West Helena MPS) 303 St.

Andrew's Terrace, West Helena, 96001135

### CALIFORNIA

#### Ventura County

Rancho Camulos, 5164 E. Telegraph Rd., Piru, 96001137

### GEORGIA

#### Coweta County

Smith, Dr. Robert L. and Sarah Alberta, House, 1262 Bob Smith Rd., Sharpsburg vicinity, 96001139

#### Fulton County

Coca-Cola Building Annex, 187 Edgewood Ave., Atlanta, 96001138

### IOWA

#### Appanoose County

Wabash Combination Depot—Moravia (The Advent and Development of Railroads in Iowa MPS) W. North St., near jct. with Brandon St., Moravia, 96001158

#### Clayton County

Goedert Meat Market, 322 Main St., McGregor, 96001159

#### Polk County

Ayrshire Apartments (Towards a Greater Des Moines) 1815 6th Ave., Des Moines, 96001144

Bailey, William H. and Alice, House (Towards a Greater Des Moines MPS) 1810 6th Ave., Des Moines, 96001148

Baker, C. H., Double House (Towards a Greater Des Moines MPS) 1700-1702 6th Ave., Des Moines, 96001153

Bates Park Historic District (Towards a Greater Des Moines MPS) 4th St. between Orchard and Clark Sts., Des Moines, 96001154

Baum, William A. and Etta, Cottage (Towards a Greater Des Moines MPS) 1604 8th St., Des Moines, 96001147

Beeson, Byron A., House (Towards a Greater Des Moines) 1503 5th Ave., Des Moines, 96001141

Franklin Apartments (Towards a Greater Des Moines) 1811 6th Ave., Des Moines, 96001142

Hayes, William B., House (Towards a Greater Des Moines) 1547 Arlington Ave., Des Moines, 96001140

Johnstone, Dr. Anna E. and Andrew A., House (Towards a Greater Des Moines MPS) 1810 8th St., Des Moines, 96001152

Kromer Flats (Towards a Greater Des Moines MPS), 1433—1439 6th Ave., Des Moines, 96001151

Maine, The (Towards a Greater Des Moines), 1635 6th Ave., Des Moines, 96001143

New Lawn, The (Towards a Greater Des Moines MPS), 1245 6th Ave., Des Moines, 96001150

Oaklands, The, Historic District (Towards a Greater Des Moines MPS), Oakland and Arlington Aves. between Franklin and College Aves., Des Moines, 96001155

Perry and Brainard Block (Towards a Greater Des Moines MPS), 1601 6th Ave., Des Moines, 96001149

Riverview Park Plat Historic District (Towards a Greater Des Moines MPS), Arlington Ave. between Franklin and 6th Aves., Des Moines, 96001157

Sixth and Forest Historic District (Towards a Greater Des Moines MPS), Jct. of 6th and Forest Aves., NE and NW corners, Des Moines, 96001156

Trent—Beaver House (Towards a Greater Des Moines), 1802 6th Ave., Des Moines, 96001145

#### KANSAS

Douglas County

Clinton School District 25, 1180 N 604 East Rd., Lawrence vicinity, 96001160

#### LOUISIANA

Bossier Parish

Hughes House, 414 Sibley St., Benton, 96001163

Caddo Parish

Caddo Lake Bridge, LA 538, over the Caddo Lake, Mooringsport, 96001166

Caldwell Parish

Downtown Columbia Historic District, Jct. of Main and Pearl Sts., Columbia, 96001164

Morehouse Parish

Snyder House, 1610 E. Madison—US 165, Bastrop, 96001165

Richland Parish

Miles—Hanna House, 206 Charter, Delhi, 96001161

St. Martin Parish

St. Martinville Elementary School, 303 Church St., St. Martinville, 96001162

Tangipahoa Parish

Hammond High School, 500 E. Thomas, Hammond, 96001167

#### MARYLAND

Montgomery County

East Oaks, Address Restricted, Poolesville vicinity, 96001168

#### NEW YORK

Jefferson County

Central Garage (Orleans MPS), N. side of Clayton St., W of jct. with Main St., Hamlet of La Fargeville, Orleans, 96001172

Monroe County

Hildreth—Lord—Hawley Farm, 44 N. Main St., Pittsford, 96001169

Watts, Ebenezer, House (Inner Loop MRA), 47 S. Fitzhugh St., Rochester, 85003632

#### UTAH

Utah County

Bunnell, Stephen and Mary, House, 970 S. 800 West, Utah Valley State College, Orem, 96001171

Wasatch County

Clyde, James William, House, 312 S. Main St., Heber City, 96001170

#### VIRGINIA

Clarke County

Long Marsh Run Rural Historic District, Roughly bounded by WV state line, VA 608, VA 612, VA 7, and VA 653, Berryville vicinity, 96001173

[FR Doc. 96-25065 Filed 9-30-96; 8:45 am]

BILLING CODE 4310-70-P

#### Notice of Inventory Completion for Native American Human Remains from South Dakota in the Possession of the Fruitlands Museums, Harvard, MA

AGENCY: National Park Service  
ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains in the possession of the Fruitlands Museums, Harvard, MA.

A detailed inventory and assessment of the human remains has been made by Fruitlands Museums professional staff in consultation with representatives of the Cheyenne River Sioux Tribe, Oglala Sioux Tribe, and Rosebud Sioux Tribe.

The human remains consist of the scalp and hair of a single individual. The scalp was purchased by the museum in 1937 from Mr. F.R. Milner. Mr. Milner identified the scalp as that of Bad Hand which was taken on August 6, 1876 by Harry Young fifty miles northwest of Deadwood, South Dakota. Mr. Young's account of taking the scalp was documented in his book *Hard Knocks* (1915) Wells and Co., Portland, OR.

Consultation with representatives of the Cheyenne River Sioux Tribe, Oglala Sioux Tribe, and Rosebud Sioux Tribe reveal that while the Bad Hand family name is present among both Oglala

Sioux and Rosebud Sioux tribal members, a direct and unbroken line of ancestry between these human remains and a particular lineal descendant cannot be established and all attempts to contact lineal descendants have produced no results. Representatives of the Cheyenne River Sioux Tribe, the Oglala Sioux Tribe and the Rosebud Sioux Tribe have identified the Rosebud Sioux Tribe as having the strongest cultural affiliation with these remains.

Based on the above mentioned information, Fruitlands Museums officials have determined, pursuant to 43 CFR 10 (d)(1), that the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Fruitlands Museums have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the human remains and the Rosebud Sioux Tribe.

This notice has been sent to officials of the Cheyenne River Sioux Tribe, Oglala Sioux Tribe, and Rosebud Sioux Tribe. Notice was also published in *Indian Country Today* and *Todd County Times* on September 5, 1996. Any lineal descendant or Indian tribe that believes itself to be culturally affiliated with these human remains should contact Michael A. Volmar, Curator, Fruitlands Museum, Harvard, MA 01451, phone: (508) 456-3924, before October 31, 1996. Repatriation of these human remains to the Rosebud Sioux Tribe may begin after that date if no additional claimants come forward.

Dated: September 25, 1996,

Francis P. McManamon,

*Departmental Consulting Archeologist,  
Manager, Archeology and Ethnography  
Program.*

[FR Doc. 96-25087 Filed 9-30-96; 8:45 am]

BILLING CODE 4310-70-F

#### INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-380]

#### Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation as to Respondent Nitto Trading Corporation on the Basis of a Consent Order; Issuance of Consent Order

In the Matter of Certain Agricultural Tractors Under 50 Power Take-Off Horsepower.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission had determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) in the above-captioned investigation granting complainants' and respondent Nitto Trading Corporation's ("Nitto") joint motion to terminate the investigation as to Nitto on the basis of a consent order.

**FOR FURTHER INFORMATION CONTACT:** Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone 202-205-3090.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 in the importation and sale of certain agricultural tractors under 50 PTO horsepower, on February 14, 1996. On August 15, 1996, complainants Kubota Tractor Corporation, Kubota Manufacturing of America Corporation, and Kubota Corporation, and respondent Nitto jointly moved for termination of the investigation as to Nitto based on a consent order stipulation and proposed consent order. The parties' agreement provides that (1) Nitto admits that complainants' four registered trademarks at issue in this investigation are valid, subsisting, and enforceable and agrees not to challenge the validity of the marks in any proceeding to enforce the consent order; (2) Nitto will cease and desist from exporting, importing, selling, distributing or otherwise transferring the tractors that are the subject of this investigation; (3) Nitto waives all right to seek judicial review or otherwise challenge the validity of the consent order; (4) the consent order shall not apply to the extent that any of complainants' marks has expired or been found invalid or unenforceable, provided such finding is final and nonreviewable; and (5) the consent order is subject to enforcement, modification and revocation in accordance with Commission rules. On August 26, 1996, the Commission investigative attorney (IA) filed a response supporting the motion to terminate on the grounds that it satisfied all Commission procedural and substantive requirements, that settlements are generally in the public interest, and that the IA has no basis to conclude that termination of the investigation with respect to Nitto would be contrary to the public interest. On September 6, 1996, ALJ issued an ID (Order No. 50) granting the joint motion.

No petitions for review of the ID were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.42).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E. Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810.

Issued: September 25, 1996.

By order of the Commission.

Donna R. Koehnke,  
Secretary.

[FR Doc. 96-25084 Filed 9-30-96; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of September, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-32,540; *I.C.I. Explosives USA, Inc., Tamaqua, PA*

TA-W-32,554; *Concord Fabrics, Inc., New York, NY*

TA-W-32,548; *Stonehenge Products, Springfield, KY*

TA-W-32,608; *Crown Pacific Limited Partnership, Redmond, OR*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA-W-32,595; *Fieldcrest Cannon Mill Division—York Plant #19, York, SC*

TA-W-32,665; *Zenith Data Systems Corp., St. Joseph, MI*

TA-W-32,658; *Advance Pressure Castings Div. of Mid-West Spring Corp., Denville, NJ*

TA-W-32,625; *Woodbridge Group, Cartex Corp., Fairless Hills, PA*

TA-W-32,597; *Medical Innovations Corp., Ventura*

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-32,573; *Thomson Consumer Electronics, Inc., Syracuse, NY*

TA-W-32,628; *Fashion Bug (Charming Shoppes, Inc), Gallery II, Philadelphia, PA*

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA-W-32,561; *Kingstree Knits, a Div. of Texfi Industries, Inc., Midway, GA: July 11, 1995.*

TA-W-32,632; *Liberty Childrenswear Co., Birmingham, AL: August 1, 1995.*

TA-W-32,679; *Chic By H.I.S., Belmont, MS: August 9, 1995.*

TA-W-32,705; *Union Knitting Mills, Inc., Schuylkill Haven, PA: August 22, 1995.*

TA-W-32,166; *Tifton Apparel Mfg Co., Tifton, GA: March 12, 1995.*

TA-W-32,640; *Hubbard Farms, Statesville, NC: August 2, 1995.*

TA-W-32,563; *KL Manufacturing Co., Inc., Post Falls, ID: July 1, 1995.*

TA-W-32,535; *North American Rayon Corp., Elizabeth, TN: June 19, 1995.*  
 TA-W-32,536; *North American Polyester, Elizabeth, TN: June 19, 1995.*  
 TA-W-32,547; *ASARCO, Inc., Omaha, NE: July 1, 1995.*  
 TA-W-32,564; *Beck/Arnley Worldparts Corp., Pittsburgh, PA: July 2, 1995.*  
 TA-W-32,604; *Dana Manufacturing, Inc., Providence, RI: July 18, 1995.*  
 TA-W-32,686; *Melton Co., Batavia, NY: August 19, 1995.*  
 TA-W-32,593; *Connor Forest Industries, Inc., Wakefield, MI: July 12, 1995.*  
 TA-W-32,566; *Decaturville Manufacturing #3, Parsons, TN: July 5, 1995.*  
 TA-W-32,580; *El Paso Apparel Group, Inc., El Paso, TX: July 10, 1995.*  
 TA-W-32,707, A, B; *Nordictrack, Chaska, MN, Glencoe, MN and Belle Plaine, MN: August 22, 1995.*  
 TA-W-32,602; *Energy Efficient Products, Inc., Bellevue, OH: July 15, 1995.*  
 TA-W-32,630; *Conoco, Inc., Exploration & Production, North America, Houston, TX & Operating at Various Locations in The Following States: A; TX, B; CO, C; LA, D; ND, E; NM, F; OK: September 26, 1996.*

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the month of August & September, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

- (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely,
- (3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such

workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

#### Negative Determinations NAFTA-TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA-TAA-01145; *Fieldcrest Cannon Mill, York Plant #19, York, SC*  
 NAFTA-TAA-01173; *L.L. Brewton Lumber Co., Inc., Winnfield, LA*  
 NAFTA-TAA-01192; *Gonyea's Woodworking, Inc., Monroe, WA*  
 NAFTA-TAA-01149; *Crown Pacific Limited Partnership, Redmond, OR*  
 NAFTA-TAA-01172; *EJL Boot Mfg., El Paso, TX*  
 NAFTA-TAA-01176; *W.E.A. Manufacturing, Inc., Olyphant, PA*  
 NAFTA-TAA-01159; *Runnymede Mills, Inc., Tarboro, NC*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA-TAA-01163; *Fire Mountain, Inc., aka Fire Mountain Enterprises, Inc., Colstrip, MT*

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

#### Affirmative Determinations NAFTA-TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA-TAA-01169; *Hubbard Farms, Div. of British United Turkeys of America, Statesville, NC: August 5, 1995.*  
 NAFTA-TAA-01162; *Thomas & Betts Corp., Reznor Div., Mercer, PA: July 17, 1995.*  
 NAFTA-TAA-01204; *Avery Dennison, K & M Division, Torrance, CA: August 21, 1995.*  
 NAFTA-TAA-01164; *Sun Broom Co., Mattoon, IL: July 12, 1995.*  
 NAFTA-TAA-01183; *Dynamic Axle Co., Rancho Dominguez, CA: August 7, 1995.*

NAFTA-TAA-01194; *Roundwood Timber Products, Inc., Chemult, OR: August 14, 1995.*

I hereby certify that the aforementioned determinations were issued during the month of September, 1996. Copies of these determinations are available for inspection in Room C-4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 20, 1996.

Curtis K. Kooser,

*Acting Program Manager, Policy & Reemployment Services Office of Trade Adjustment Assistance*

[FR Doc. 96-25092 Filed 9-30-96; 8:45 am]

BILLING CODE 4510-30-M

#### [TA-W-32,310, TW-W-32,310A]

#### **Crown Pacific Limited Partnership Albeni Falls, Oldtown, and Coeur D'Alene, Idaho; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 7, 1996, applicable to all workers of Crown Pacific Limited Partnership, Albeni Falls, Oldtown, Idaho. The notice was published in the Federal Register on June 20, 1996 (61 FR 31552).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at Crown Pacific's administrative offices located in Coeur d'Alene, Idaho. The workers are engaged in employment supporting production of board and dimensional lumber and chips produced at the subject firm's Oldtown, Idaho mill.

The intent of the Department's certification is to include all workers of Crown Pacific Limited Partnership adversely affected by imports. Accordingly, the Department is amending the certification to include all workers at the subject firms' Coeur d'Alene, Idaho location.

The amended notice applicable to TA-W-32,310 is hereby issued as follows:

All workers of Crown Pacific Limited Partnership, Albeni Falls, Oldtown, Idaho (TA-32,210) and Coeur d'Alene, Idaho (TA-

W-32,310A) who became totally or partially separated from employment on or after April 22, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of September 1996.

Russell T. Kile,

*Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 96-25093 Filed 9-30-96; 8:45 am]

BILLING CODE 4510-30-M

### **Job Training Partnership Act: Native American Employment and Training Council; Notice of Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and section 401(h)(1) of the Job Training Partnership Act (JTPA), as amended [29 U.S.C. 1671(h)(1)], notice is hereby given of a meeting of the Native American Employment and Training Council.

*Time and Date:* The meeting will begin at 8:00 a.m. on October 17, 1996, and continue until close of business that day; and will reconvene at 8:00 a.m. on October 18, 1996, and adjourn at 5:00 p.m. that day. Time will be reserved for participation and presentations by members of the public from 3:00 p.m. to 5:00 p.m. on October 17, 1996.

*Place:* Room S-4215, A, B, and C, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

*Status:* The meeting will be open to the public. Persons with disabilities, who need special accommodations, should contact the undersigned no less than 10 days before the meeting.

*Matters to be Considered:* The agenda will focus on the following topics: Legislative Update, Welfare Reform, Partnership Plan, Regulations, Evaluation, Technical Assistance and Training Status, Automated Reporting System Update, Electronic Communication, Closeout, and Other Grant Problems.

*Contact Person For More Information:* Thomas M. Dowd, Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-4641, Washington, DC 20210. Telephone: (202) 219-8502 (this is not a toll-free number).

Signed at Washington, DC, this 20th day of September, 1996.

Paul A. Mayrand,

*Director, Office of Special Targeted Programs.*

[FR Doc. 96-25094 Filed 9-30-96; 8:45 am]

BILLING CODE 4510-30-M

### **Occupational Safety and Health Administration**

#### **Proposed Collection; Comment Request**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Benzene Standard 29 CFR 1910.1028. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addressee section of this notice.

**DATES:** Written comments must be submitted to the office listed in the addressee section below on or before December 2, 1996. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection technique or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Comments are to be submitted to the Docket Office, Docket No. ICR 96-12, U.S. Department of Labor, Room N-2625, 200 Constitution

Avenue, NW, Washington, DC 20210, telephone number (202) 219-7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219-5046.

#### **FOR FURTHER INFORMATION CONTACT:**

Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219-8076.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Benzene standard and its information collection is designed to provide protection for employees from the adverse health effects associated with occupational exposure to benzene. The standard requires employers to monitor employee exposure to benzene, to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

##### **II. Current Actions**

This notice requests an extension of the current OMB approval of the paperwork requirements in the Benzene Standard. Extension is necessary to provide continued protection to employees from the health hazards associated with occupational exposure to benzene.

*Type of Review:* Extension.

*Agency:* Occupational Safety and Health Administration.

*Title:* Benzene.

*OMB Number:* 1218-0129.

*Agency Number:* Docket Number ICR 96-12.

*Affected Public:* Business and other for-profit, Federal and State government, Local or Tribal governments.

*Total Respondents:* 13,441.

*Frequency:* On Occasion.

*Total Responses:* 275,863.

*Average Time per Response:* Time per response ranges from 5 minutes to maintain records to 4 hours to complete a referral medical examination.

*Estimated Total Burden Hours:* 139,367.

*Estimated Capital, Operation/Maintenance Burden Cost:* \$7,895,301. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 23, 1996.  
 John F. Martonik,  
*Deputy Director, Directorate of Health  
 Standards Programs.*  
 [FR Doc. 96-25091 Filed 9-30-96; 8:45 am]  
 BILLING CODE 4510-26-M

## NATIONAL COUNCIL ON DISABILITY

### Sunshine Act Meeting

**TYPE:** Quarterly Meeting.

**AGENCY:** National Council on Disability.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability. Notice of this meeting is required under Section 522b(e)(1) of the Government in the Sunshine Act, (Pub. L. 94-409).

**DATES:** November 18-20, 1996, 8:30 a.m. to 5:00 p.m.

**LOCATION:** Hyatt Regency Phoenix, At Civic Plaza, 122 North Second Street, Phoenix, Arizona; 602-252-1234.

**FOR INFORMATION CONTACT:** Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F. Street NW., Suite 1050, Washington, DC 20004-1107; (202) 272-2004 (Voice), (202) 272-2074 (TT), (202) 272-2022 (Fax); mquigley@ncd.gov (e-mail).

**AGENCY MISSION:** The National Council on Disability is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature or severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

**ACCOMMODATIONS:** Those needing interpreters or other accommodations should notify the National Council on Disability prior to this meeting.

**ENVIRONMENTAL ILLNESS:** People with environmental illness must reduce their exposure to volatile chemical substances in order to attend this meeting. In order to reduce such exposure, we ask that you not wear perfumes or scents at the meeting. We also ask that you smoke only in designated areas and the privacy of your room. Smoking is prohibited in the meeting room and surrounding area.

**OPEN MEETING:** This quarterly meeting of the National Council on Disability shall be open to the public.

**AGENDA:** The proposed agenda includes:

Reports from the Chairperson and the Executive Director  
 Committee Meeting and Committee Reports  
 Strategic Planning  
 Unfinished Business  
 New Business  
 Announcements  
 Adjournment

Records shall be kept of all National Council on Disability proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on September 27, 1996.

Ethel D. Briggs,  
*Executive Director.*

[FR Doc. 96-25263 Filed 9-27-96; 3:05 pm]  
 BILLING CODE 6820-BS-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Process for Reconsideration of Declined General Applications for Federal Assistance

**AGENCY:** National Endowment for the Arts.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Arts has been restructured. The Notices of Process for Reconsideration of Declined General Applications published on January 14, 1992 and March 29, 1993, are amended herein to reflect the agency's new structure, including new office and division names.

**FOR FURTHER INFORMATION CONTACT:** Karen K. Christensen, General Counsel (202) 682-5418, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 518, Washington, DC 20506.

#### 1. Purpose

The processes by which the National Endowment for the Arts (the "Endowment") offers financial and technical assistance have been designed to result in supporting projects of artistic excellence and merit. The Endowment relies on discipline review and advisory panel review of grant applications to assure that projects are of substantial artistic and cultural significance. Panel recommendations are subsequently reviewed by the National Council on the Arts, which provides advice to the Endowment's chairperson who then decides whether to approve the applications recommended by the Council.

This Circular modifies the procedure for reconsideration of applications for

financial and technical assistance which have been declined by the National Endowment for the Arts based on negative recommendations of the advisory panel. This procedure does not include reconsideration of grant amounts once a grant is awarded. This process does not apply to applications recommended by the advisory panel but rejected by the Council or Chairperson. Reconsideration of such applications is had at the discretion of the Chairperson only. These revisions are being made in light of a major restructuring of the Endowment and its grant making process. The provisions of this Circular, which updates and amends the earlier Circulars on this subject, dated December 16, 1992 and March 29, 1983, do not apply to procurement governed by the Federal Acquisition Regulations. These provisions will apply to all requests for reconsideration filed after October 1, 1996.

#### 2. Policy

(a) Statement. Award of financial and technical assistance is discretionary. Discipline and panel recommendations are made using criteria described in the Endowment guidelines. Criteria that involve subjective, qualitative judgments are not subject to reconsideration. Notwithstanding this fact, a Project Director, Authorizing Official, or individual whose application has been declined (hereafter referred to as "applicant") may obtain an explanation of the declination from the appropriate Endowment Discipline Director (hereafter referred to as "Director"). Following receipt of the explanation, if the applicant believes that the declination was based on one or more of the following Grounds for Reconsideration, reconsideration may be obtained under the procedure outlined in Section 3, below.

(b) Ground(s) for Reconsideration. Reconsideration of application declinations is available solely for one or more of the following three reasons relating to procedural impropriety or error:

(i) Discipline reviewers or advisory panel considered criteria other than those appearing in the relevant guidelines.

(ii) Individual(s) with conflict of interest served as a discipline reviewer or on the advisory panel.

(iii) Information relevant to the deliberations was provided by staff, reviewers, panelists, or others, but not including the applicant, which was inaccurate or incomplete, despite the fact that the applicant provided the Endowment staff with accurate and

complete information as part of the regular application process.

### 3. Procedure To Be Followed for Reconsideration

(a) Explanation by Director. Within 30 days following written notification from the Endowment of its decision on any application, the applicant may request an explanation for a declined application from the appropriate Director. This initial request may be by telephone, in person or in writing. The Director will explain within 30 days following the applicant's request the basis for declination which may include a summary of the discipline review, advisory panel comments, applicable on-site evaluation reports, the names of all discipline reviewers, panel and staff members, and other information not otherwise exempt from disclosure requested by the applicant. If the Director cannot provide such explanation within 30 days, the applicant will receive a written explanation of the need for more time and an estimate of when the results can be expected.

The Director may designate another Endowment official to provide the explanation for the declination to the applicant. The term "Director" as used here applies to such designees.

(b) Request for Reconsideration. If the Director's explanation appears to the applicant to indicate the presence of one or more of the "Grounds for Reconsideration" listed in paragraph 2(b) above, the applicant may submit to the Deputy Chairperson for Grants and Partnership (hereafter referred to as "the Deputy") a written Request for Reconsideration. This written request must reference the particular ground(s) for reconsideration and specify the facts supporting his or her claim, with enough particularity to enable the Deputy to determine whether the claim is meritorious. A request of this nature will be considered only if (a) the Request for Reconsideration is based on one or more of the grounds listed in paragraph 2(b); (b) the applicant has obtained an explanation from the appropriate Director, (c) the applicant has specified with sufficient particularity the facts supporting his or her claim; and (d) the Request for Reconsideration is received by the Deputy within 30 days after the date of the Director's explanation.

(c) Action by the Deputy.

(i) The Deputy will review the applicant's Request for Reconsideration, records of the discipline review and panel discussions, the applicant's application file, and any other relevant materials to determine if the

recommendations were influenced by one or more of the grounds listed in paragraph 2(b). In conducting this review, the Deputy may request additional information from the applicant, obtain advice from an advisory panel, or conduct additional investigation or review. However, no revisions or additions to the grant application materials will be accepted in connection with the Request for Reconsideration except to the extent that additional materials are necessary to substantiate the applicant's claim that one or more of the grounds listed in paragraph 2(b) exists.

(ii) The Deputy may conduct the reconsideration personally or may designate another Endowment official who had no part in the initial evaluation to do so. The term "the Deputy", as used here, applies to such designees.

(iii) The Deputy will provide written notification of the results of the reconsideration within 45 days following receipt of the Request for Reconsideration. If the Deputy cannot provide such notice within 45 days, the applicant will receive a written explanation of the need for more time and an estimate of when the results can be expected.

(d) Resolution of Requests for Reconsideration. Reconsideration is not an adversarial process and a formal hearing is not provided. The Endowment cannot assure applicants that reconsideration will result in the award of a grant even if error is established in connection with the initial evaluation. The Deputy shall make one of the following four determinations. The determinations of the Deputy shall be in writing and shall be final.

(i) If the Deputy determines that none of the grounds listed in paragraph 2(b) existed, the declination will be affirmed.

(ii) If the Deputy determines that one or more of the grounds listed in paragraph 2(b) existed, but the recommendation of the advisory panel was not affected materially, the declination will be affirmed.

(iii) If the Deputy determines that one or more of the grounds listed in 2(b) existed, and he or she can determine, based on the materials reviewed, that but for the infirmity in the review process, the application would have been recommended, the application will be considered by the National Council on the Arts at its next regularly scheduled meeting. The Chairperson of the Endowment then will decide whether to approve applications recommended by the Council.

(iv) If the Deputy determines that one or more of the grounds listed in

paragraph 2(b) occurred, but he or she cannot determine whether, but for the infirmity, the advisory panel would have recommended that application, the application will be reviewed by a panel. If the panel recommends the application for support, the National Council on the Arts will review it at the next regularly scheduled meeting. The Chairperson of the Endowment then will decide whether to approve applications recommended by the Council.

### 4. Reporting Requirements

The Deputy will maintain a record of Requests for Reconsideration in accordance with the Endowment's Records Disposition schedule. The record will include the date of receipt, the name of the applicant, including name of organization or institution where applicable, the application number, the determinations of the Deputy, and once the Deputy's review is complete, the date on which each applicant was notified of the results of the reconsideration, and what those results were.

Dated: September 23, 1996.

Karen Christensen,

*General Counsel, National Endowment for the Arts.*

[FR Doc. 96-25075 Filed 9-30-96; 8:45 am]

BILLING CODE 7536-01-M

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## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** U. S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

**SUMMARY:** The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: Billing Instructions for NRC Cost Type Contracts.

2. Current OMB approval number: (3150-0109).

3. How often the collection is required: Monthly.

4. Who is required or asked to report: NRC Contractors.

5. The number of annual respondents: 106.

6. The number of hours needed annually to complete the requirement or request: 2000 hours (Billing Instructions 1384 hours + 616 License Fee Recovery Cost Summary).

7. Abstract: The NRC Division of Contracts in administering its contracts provides Billing Instructions for its contractors to follow in preparation of invoices. These instructions stipulate the level of detail in which supporting cost data must be submitted for NRC review. The review of this information ensures that all payments made by NRC for valid and reasonable costs are in accordance with the contract terms and conditions. Submit, by December 2, 1996, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW., (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703-321-3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1-800-303-9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703-487-4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1-800-397-4209, or within the Washington, DC, area at 202-634-3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-6 F33, Washington, DC, 20555-0001, by telephone at (301) 415-7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 23rd day of September, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

*Designated Senior Official for Information Resources Management.*

[FR Doc. 96-25067 Filed 9-30-96; 8:45 am]

BILLING CODE 7590-01-P

**[Docket Nos. 50-266 and 50-301]**

**Wisconsin Electric Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Power Plant, Units 1 and 2, located in Manitowoc County, Wisconsin.

The proposed amendments would change Technical Specification requirements related to the low temperature overpressure protection (LTOP) system. Specifically, the reactor coolant system (RCS) temperature below which LTOP is required to be enabled and one high pressure safety injection pump is required to be rendered inoperable would be changed from 275 °F to 355 °F. Also, a specification would be added stating that only one reactor coolant pump shall be operated when the RCS temperature is less than or equal to 125 °F. Finally, editorial changes would be made to rename the "Overpressure Mitigating System" as the "Low Temperature Overpressure Protection System."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. The proposed changes will explicitly define the temperature at which LTOP is required to be enabled in accordance with NRC guidance, increase the safety margin of the LTOP system by raising the temperature at which one high pressure safety injection pump is required to be rendered inoperable, and ensure that required safety margins are maintained by imposing a restriction on the operation of multiple reactor coolant pumps at low temperatures. The consequences or probability of a previously evaluated accident will, therefore, not significantly be increased.

II. The underlying purpose of the LTOP system is to prevent the pressure of the reactor vessel from exceeding the allowable limits as defined by ASME Code Section XI, Appendix G at any given reactor coolant system temperature. Since this purpose remains unchanged, a new or different kind of accident cannot be created.

III. The proposed changes implement administrative controls that are more restrictive than those required by the present Technical Specifications in order to ensure that the margins of safety previously evaluated for the LTOP system are maintained. It has been determined that the proposed changes will provide acceptable margins as specified in Appendix G of the ASME Code Section XI. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in preventing startup of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 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, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 31, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment

and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail H. Marcus: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 19, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 26th day of September 1996.

For the Nuclear Regulatory Commission.  
Richard J. Laufer,  
*Acting Project Manager, Project Directorate  
III-3, Division of Reactor Projects—III/IV,  
Office of Nuclear Reactor Regulation.*  
[FR Doc. 96-25066 Filed 9-30-96; 8:45 am]  
BILLING CODE 7590-01-P

## Advisory Committee on Reactor Safeguards; Procedures for Meetings

### Background

This notice describes procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Reactor Safeguards (ACRS). These procedures are set forth so that they may be incorporated by reference in future notices for individual meetings.

The ACRS is a statutory group established by Congress to review and report on applications for the licensing of nuclear power reactor facilities and on certain other nuclear safety matters. The Committee's reports become a part of the public record. The ACRS meetings are normally open to the public and provide opportunities for oral or written statements from members of the public to be considered as part of the Committee's information gathering process. The meetings are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board Panel as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those related to radiological safety. ACRS full Committee meetings are conducted in accordance with the Federal Advisory Committee Act.

### General Rules Regarding ACRS Meetings

An agenda is published in the Federal Register for each full Committee meeting. There may be a need to make changes to the agenda to facilitate the conduct of the meeting. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his/her judgment, will facilitate the orderly conduct of business, including making provisions to continue the discussion of matters not completed on the scheduled day on another meeting day. Persons planning to attend the meeting may contact the Chief of the Nuclear Reactors Branch, ACRS, prior to the meeting to be advised of any changes to the agenda that may have occurred. This individual can be contacted (telephone: 301/415-7364)

between 7:30 a.m. and 4:15 p.m., Eastern Time.

The following requirements shall apply to public participation in ACRS meetings:

(a) Persons wishing to submit written comments regarding the agenda items may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the Federal Register Notice for the individual meeting in care of the Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments should be in the possession of the Designated Federal Official at least five days prior to a meeting to allow time for reproduction and distribution. Comments should be limited to areas related to nuclear safety within the Committee's purview.

Written comments may also be submitted by providing a readily reproducible copy to the Designated Federal Official at the beginning of the meeting.

(b) Persons desiring to make oral statements at the meeting should make a request to do so to the Designated Federal Official. If possible, the request should be made five days before the meeting, identifying the topics to be discussed and the amount of time needed for presentation so that orderly arrangements can be made. The Committee will hear oral statements on topics being reviewed at an appropriate time during the meeting as scheduled by the Chairman.

(c) Information regarding topics to be discussed, changes to the agenda, whether the meeting has been cancelled or rescheduled and the time allotted to present oral statements can be obtained by contacting the Chief of the Nuclear Reactors Branch, ACRS (telephone: 301/415-7364) between 7:30 a.m. and 4:15 p.m., Eastern Time.

(d) During the ACRS meeting presentations and discussions, questions may be asked by ACRS members, Committee consultants, NRC staff, and the ACRS staff.

(e) The use of still, motion picture, and television cameras will be permitted at the discretion of the Chairman and subject to the condition that the physical installation and presence of such equipment will not interfere with the conduct of the meeting. The Designated Federal Official will have to be notified prior to the meeting and will authorize the installation or use of such equipment after consultation with the Chairman. The use of such equipment will be restricted as is necessary to protect proprietary or privileged information

that may be in documents, folders, etc., in the meeting room. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

(f) A transcript is kept for certain open portions of the meeting and will be available in the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555, for use within one week following the meeting. A copy of the certified minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate reproduction charges. Transcripts of the meeting are available in electronic format from the NRC electronic bulletin board on FedWorld (800-303-9672) or <ftp.fedworld>. They are also available for downloading or reviewing on the Internet at <http://www.nrc.gov/ACRSACNW>.

### ACRS Subcommittee Meetings

ACRS Subcommittee meetings will also be conducted in accordance with these procedures, as appropriate. When Subcommittee meetings are held at locations other than at NRC facilities, reproduction facilities may not be available at a reasonable cost. Accordingly, 25 additional copies of the materials to be used during the meeting should be provided for distribution at such meetings.

### Special Provisions When Proprietary Sessions Are To Be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of the ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The Designated Federal Official should be informed of such an agreement at least five working days prior to the meeting so that it can be confirmed, and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior

to the beginning of the meeting for admittance to the closed session.

Dated: September 26, 1996.

Andrew L. Bates,

*Advisory Committee Management Officer.*

[FR Doc. 96-25070 Filed 9-30-96; 8:45 am]

BILLING CODE 7590-01-P

## Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of September 30, October 7, 14, and 21, 1996.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

### MATTERS TO BE CONSIDERED:

*Week of September 30*

Wednesday, October 2

11:00 a.m.—Affirmation Session (Public Meeting) (tentative).

- a. Final Amendments to 10 CFR Parts 20 and 35 on Criteria for the Release of Individuals Administered Radioactive Material.
- b. Amendments to 10 CFR Parts 50, 52, and 100, and Issuance of a New Appendix S to Part 50.
- c. Amendments to 10 CFR Part 60 on Disposal of High-Level Radioactive Wastes in Geologic Repositories—Design Basis Events for the Geologic Repository Operations Area—Final Rulemaking.
- d. Final Rulemaking—Revision to 10 CFR Part 34. Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations and Revision to the NRC Enforcement Policy.
- e. Louisiana Energy Services (Claiborne Enrichment Center): Atomic Safety and Licensing Board Partial Initial Decision (Resolving Contentions H. L. and M). LBP-96-7.

*Week of October 7—Tentative*

Monday, October 7

2:00 p.m.—Briefing on Site Decommissioning Management Plan (SDMP) (Public Meeting) (Contact: Mike Webber, 301-415-7297).

Wednesday, October 9

11:30 a.m.—Affirmation Session (Public Meeting) (if needed).

*Week of October 14—Tentative*

Tuesday, October 15

1:00 p.m.—Briefing by Executive Branch (Closed—Ex. 1).

Wednesday, October 16

9:00 a.m.—Briefing on Containment Degradation (Public Meeting) (Contact: Gary Holahan, 301-415-2884).

2:00 p.m.—Briefing PRA Implementation Plan (Public Meeting) (Contact: Gary Holahan, 301-415-2884).

3:30 p.m.—Affirmation Session (Public Meeting) (if needed)

Friday, October 18

9:00 a.m.—Briefing on Integrated Safety Assessment Team Inspection (ISAT) at Maine Yankee (Public Meeting) (Contact: Ed Jordan, 301-415-7472)

*Week of October 21—Tentative*

There are no meetings scheduled for the Week of October 21.

\* The Schedule for Commission Meetings is Subject to Change on Short Notice. To verify the Status of Meetings Call (Recording)—(301) 415-1292. Contact Person for More Information: Bill Hill (301) 415-1661.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary. Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmh@nrc.gov](mailto:wmh@nrc.gov) or [dkw@nrc.gov](mailto:dkw@nrc.gov).

\* \* \* \* \*

Dated: September 27, 1996.

William M. Hill, Jr.,

*Secy Tracking Officer, Office of the Secretary.*

[FR Doc. 96-25255 Filed 9-27-96; 2:44 pm]

BILLING CODE 7590-01-M

[Docket No. 72-18]

### Prairie Island Offsite Independent Spent Fuel Storage Installation Establishment of Temporary Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has designated the Red Wing Public Library, Red Wing, Minnesota, as a temporary local public document room (LPDR) for records pertaining to Northern States Power Company's proposed Prairie Island Offsite Independent Spent Fuel Storage Installation (ISFSI). The NRC's official full service LPDR for the Prairie Island Nuclear Station, located at the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota, is still operational and also maintains records on the Offsite ISFSI.

Members of the public may now inspect and copy documents related to the proposed Prairie Island Offsite ISFSI at the Red Wing Public Library, 225 East Avenue, Red Wing, Minnesota 55066-2298. The library is open on the following schedule: Monday through Thursday 9:00 a.m. to 9:00 p.m.; Friday

and Saturday 9:00 a.m. to 5:00 p.m.; and Sunday (winter hours) 1:00 p.m. to 5:00 p.m.

For further information, interested parties in the area of the proposed Offsite ISFSI may contact the LPDR directly through Ms. Betsy Schwarz, telephone number (612) 385-3673. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, Washington, DC 20555, telephone number (202) 634-3273.

Questions concerning the NRC's local public document room program or the availability of documents should be addressed to Ms. Jona Souder, LPDR Program Manager, Freedom of Information/Local Public Document Room Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (301) 415-7170 or toll-free 1-800-638-8081.

Dated at Rockville, Maryland, this 25 day of September, 1996.

For the Nuclear Regulatory Commission.

Carlton Kammerer,

*Director, Division of Freedom of Information and Publications Services, Office of Administration.*

[FR Doc. 96-25068 Filed 9-30-96; 8:45 am]

BILLING CODE 7590-01-P

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### Summary of Proposal(s)

- (1) *Collection title:* Application for Survivor Death Benefits.
- (2) *Form(s) submitted:* AA-21, AA-11a, G-131, and G-273a.
- (3) *OMB Number:* 3220-0031.
- (4) *Expiration date of current OMB clearance:* October 31, 1996.
- (5) *Type of request:* Revision of a currently approved collection.
- (6) *Respondents:* Individuals or households, Business or other for-profit.
- (7) *Estimated annual number of respondents:* 22,600.
- (8) *Total annual responses:* 22,600.
- (9) *Total annual reporting hours:* 8,717.
- (10) *Collection description:* Collection obtains the information needed to pay

death benefits and annuities due but unpaid at death under the Railroad Retirement Act. Benefits are paid to designated beneficiaries or to survivors in a priority designated by law.

#### Additional Information or Comments

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington DC 20503. Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96-25058 Filed 9-30-96; 8:45 am]

BILLING CODE 7905-01-M

## DEPARTMENT OF TRANSPORTATION

### Aviation Proceedings; Agreements Filed During the Week Ending 9/21/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

*Docket Number:* OST-96-1712.

*Date filed:* September 17, 1996.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC12 NMS/ME 0001 dated September 10, 1996, North Atlantic-Middle East Expedited Resos, r-1-070g r-2-073 r-3-090p, intended effective date: November 1, 1996.

*Docket Number:* OST-96-1721.

*Date filed:* September 20, 1996.

*Parties:* Members of the International Air Transport Association.

*Subject:* PTC1 0004 dated August 30, 1996, TC1 Caribbean Resolutions r1-16, PTC1 005 dated August 30, 1996, within South America Resolutions r17-30, intended effective date: January 1, 1997.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96-25098 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-62-P

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending September 20, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of

the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST-96-1709.

*Date filed:* September 16, 1996.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* October 14, 1996.

*Description:* Application of Magadan Airlines, pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Department's Rules of Practice, applies for a foreign air carrier permit to engage in scheduled and charter combination service between the Russian Federation and the United States.

*Docket Number:* OST-96-1722.

*Date filed:* September 20, 1996.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* October 18, 1996.

*Description:* Application of Digex Aero Cargo Ltda, pursuant to 49 U.S.C. Section 402 of the Act, and Subpart Q of the Regulations, applies for a foreign air carrier permit authorizing the carriage of cargo and mail on a charter basis between a point or points in Brazil and a point or points in the United States.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96-25099 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-62-P

## Coast Guard

[CGD 96-048]

### National Boating Safety Activities: Funding for National Nonprofit Public Service Organizations

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of availability.

**SUMMARY:** The Coast Guard is seeking to enter into financial assistance agreements with national nonprofit public service organizations to promote boating safety on the national level. This announcement seeks proposals for projects that might be eligible for this assistance.

**DATES:** Application packages may be obtained on or after October 1, 1996. Proposals must be received before 4:30 p.m. eastern time December 31, 1996.

**ADDRESSES:** Application packages may be obtained from Coast Guard Customer Infoline (800) 368-5647 and proposals submitted to Commandant (G-OPB-1g), U.S. Coast Guard Headquarters, 2100 Second Street SW., Room 3100, Washington, DC 20593-0001.

#### FOR FURTHER INFORMATION CONTACT:

Ms. Betty Alley, Office of Boating Safety, U.S. Coast Guard (G-OPB-1g/room 3100), 2100 Second Street SW., Washington, DC 20593-0001; (202) 267-0954.

#### SUPPLEMENTARY INFORMATION:

Title 26, United States Code, section 9504, establishes the Boat Safety Account of the Aquatic Resources Trust Fund. The Coast Guard may award up to 5 percent of the available funds to national, nonprofit, public service organizations to promote national boating safety. It is anticipated that \$2,250,000 will be available for fiscal year 1997. Fifteen awards totalling \$1,500,000 were made in fiscal year 1996 ranging from \$10,000 to \$396,286. Nothing in this announcement should be construed as committing the Coast Guard to dividing available funds among qualified applicants or awarding any specified amount.

It is anticipated that several awards will be made by the Director, Operations Policy, U.S. Coast Guard. Applicants must be nongovernmental, nonprofit, public service organizations and must establish that their activities are, in fact, national in scope. An application package may be obtained by writing or calling the point of contact listed in **ADDRESSES** on or after October 1, 1996. The application package contains all necessary forms, an explanation of how the grant program is administered, and a checklist for submitting a grant application. Specific information on organization eligibility, proposal requirements, award procedures, and financial administration procedures may be obtained by contacting the person listed in **FOR FURTHER INFORMATION CONTACT**.

Some general areas of continuing and particular interest for grant funding include the following:

1. *Develop and Conduct a National Annual Safe Boating Campaign.* The Coast Guard seeks a grantee to develop and conduct the 1998 year-round National Annual Safe Boating Campaign that targets specific boater market segments and recreational boating safety topics. This year-round campaign must support the organizational objectives of the Recreational Boating Safety Program to save lives, reduce the number of boating accidents and associated health care costs as well as support the

nationwide grassroots activity of the many volunteer groups who coordinate local media events, education programs, and public awareness activities. Products must include, but are not limited to: situation analysis, post campaign component evaluation processes, measures of effectiveness, marketing strategy, distribution plan, and final report. All print, audio and video material must be designed to emphasize multiple year-round boating safety and accident prevention messages. Highlights of the Calendar Year 1998 national campaign will be special select materials and activities to support National Safe Boating Week and other selected boating events. The major focus of the campaign will be affecting the behavior of all boaters to increase wearability of Personal Flotation Devices (PFDs), with special emphasis on use by children. An established portion of allocated grant funds must support a National Boating Accident Reporting Awareness Program that is designed to reach all boaters and with a message on the importance of reporting all boating accidents as well as a propeller injury prevention awareness initiative. Efforts will also be coordinated, year round, with other national transportation safety activities and special media events, in particular those which focus on the prevention of operating a boat under the influence of alcohol or drugs. Point of Contact: Ms. Jo Calkin, (202) 267-0994.

2. *Develop and Conduct a National Recreational Boating Safety Outreach and Awareness Conference.* The Coast Guard seeks a grantee to plan, implement, and conduct a National Recreational Boating Safety Outreach and Awareness Conference. This conference must support the organizational objectives of the Recreational Boating Safety Program to save lives, reduce the number of boating accidents, and lower associated health care costs. The conference should be scheduled for the spring of 1998 and be held concurrent or consecutively with additional major national recreational boating safety and aquatic symposiums. The design of the conference should enhance the awareness and development of paid and volunteer professionals; national, state, and local boating safety program organization leaders; and industry specialists. It should provide a unifying link between their programs to those on the national level. The conference should be a collaborative effort of national organizations interested in the betterment of boating and aquatic safety and should include, but not be limited

to, plenary sessions, hands-on workshops, and the distribution of a post conference report publication describing the activities of the conference. Products should include, but are not limited to, evaluation processes, measures of effectiveness, marketing strategy, and final report. Point of Contact: Ms. Jo Calkin, (202) 267-0994.

3. *Information Resources Management: Recreational Boating Safety Measures of Effectiveness Data Capture Project Phase II.* The Coast Guard seeks a grantee to conduct the second phase of a Recreational Boating Safety Measures of Effectiveness (MOE) project. The first phase (FY 1995 grant) identified data elements and data sources needed to develop risk based measures of program effectiveness. The second phase (FY 1997 phase) would be contingent on the findings of the first phase regarding the need for and extent of data collection. If it is determined that the second phase of the project is necessary, the grantee would collect the data elements identified under the FY95 project. The overall goal of the 1997 project would be to determine boat occupant exposure hours for developing risk-based measures of effectiveness for the Recreational Boating Safety Program. Point of Contact: Mr. Bruce Schmidt, (202) 267-0955.

4. *Recreational Boating Accident Health Care Cost Model.* The Coast Guard seeks a grantee to evaluate and modify existing transportation injury cost models that will be used to determine the societal costs of recreational boating accidents. The grant recipient would adapt existing models to enable U.S. Coast Guard to perform analyses of boating injuries using a sufficient and statistically valid sample of injury data. The injury cost model would be used to categorize different types of injuries, their severity, and their associated health care costs, medical costs, legal costs, and administrative costs for comparison across various modes of transportation. Point of Contact: Mr. Bruce Schmidt, (202) 267-0955.

5. *Evaluative Study of Learning/Behavioral Objectives in Boating Safety Education.* The Coast Guard seeks a grantee to conduct an evaluative study of the existing recreational boating safety course material and assist Coast Guard with establishing minimum, individual subject specific, 'Standards of Care' for the Recreational Boating Safety Program. These "standards" (the by-products of various objectives) will be utilized in educating and training future recreational boaters; while establishing the national standards for

RBS. The establishment of these "Standards of Care" must support the organizational objectives, as well as state oriented objectives of safe boat handling and prudent operator care while on the water.

In addition, Coast Guard seeks grantee to conduct a study to evaluate the existing mandatory boating education programs to determine if they contribute significantly to the prevention of boating accidents and whether or not such programs help reduce complaints about unsafe and discourteous boat operation. Point of Contact: Mr. John Malatak, (202) 267-6286.

6. *State/Federal/Boating Organizations Cooperative Partnering Efforts.* The Coast Guard seeks grantees to provide programs to encourage greater participation and uniformity in boating safety efforts. Applicants would provide a forum to encourage greater uniformity of boating laws and regulations, reciprocity among jurisdictions, and closer cooperation and assistance in developing, administering, and enforcing Federal and State laws and regulations pertaining to boating safety. Point of Contact: Ms. Jeanne Timmons, (202) 267-0857.

7. *Develop and Conduct Boating Accident Seminars.* The Coast Guard seeks a grantee to develop and provide instructional materials and conduct training courses nationwide for boating accident investigators, including three courses at the Coast Guard Reserve Training Center in Yorktown, Virginia. Point of Contact: Mr. Gary Larimer, (202) 267-0986.

8. *Voluntary Standards Development Support.* The Coast Guard seeks a grantee to carry out a program to encourage active participation by members of the public and other qualified persons, in the development of technically sound voluntary boating safety standards. Point of Contact: Mr. Peter Eikenberry, (202) 267-6894.

9. *Recreational Boat Hazard Analysis Methodology.* The Coast Guard seeks a grantee to identify, characterize, and prioritize hazards aboard recreational boats that could lead to mishaps of concern. By applying hazard analysis methodology, decision makers would be able to determine what resources and intervention are necessary to eliminate, mitigate or monitor the risk of various hazards. The grantee shall develop a methodology for performing hazard analysis and risk assessment on recreational boats. Point of Contact: Mr. Rick Gipe, (202) 267-0985.

10. *Technology Comparison of Propellers, Propeller Guards, and Pump Jets.* The Coast Guard seeks a grantee to

conduct tests comparing the operating efficiency, maneuverability characteristics, and protection factors of propeller/propeller guard combinations, pump jets, after-market pump jet installations, and conventional propellers. Point of Contact: Mr. Jay Doubt, (202) 267-6810.

11. *Boat Occupant Protection.* The Coast Guard seeks a grantee to develop recommendations for reducing recreational boating fatalities and injuries on boats less than 26 feet regarding capsizings, swampings, sinkings, and falls overboard, through analysis of such things as boat construction/design, stability, operating characteristics, and human factors engineering. Point of Contact: Mr. Rick Gipe, (202) 267-0985.

Proposals addressing other boating safety concerns are welcome. A more detailed discussion of specific projects of interests to the Coast Guard may be obtained by contacting the Boating Safety Infoline at (800) 368-5647 and requesting a copy of a specific proposal. The Boating Safety Financial Assistance Program is listed in section 20.005 of the Federal Domestic Assistance Catalog.

Dated: September 17, 1996.

Michael F. McCormack,

*Captain, U.S. Coast Guard, Acting Director, Operations Policy.*

[FR Doc. 96-24421 Filed 9-30-96; 8:45 am]

BILLING CODE 4910-14-M

## Federal Aviation Administration

### Aviation Rulemaking Advisory Committee Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction.

**SUMMARY:** The Federal Aviation Administration (FAA) is issuing this notice to correct the agenda for the October 3, 1996, meeting of the FAA Aviation Rulemaking Advisory Committee to discuss rotorcraft issues. In the Federal Register notice dated September 16, 1996, (61 FR 48728) the agenda only included status reports for each working group. However, two of the working groups intend to present their recommendations for ARAC approval.

**FOR FURTHER INFORMATION CONTACT:** Mr. David B. Higginbotham, Federal Aviation Administration, Office of Rulemaking (ARM-207), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3498; fax (202) 267-5075.

**SUPPLEMENTARY INFORMATION:** The agenda for the October 3, 1996, meeting is revised as follows:

1. Presentation of the status reports from each of the working groups listed below:

- a. Harmonization of Miscellaneous Rotorcraft Issues;
- b. Critical Parts;
- c. Performance and Handling Qualities Requirements;
- d. Class D External Loads;
- e. Normal Category Gross Weight and Passenger Issues.

2. Presentation of documents for ARAC approval by the working groups for Harmonization of Miscellaneous Rotorcraft Issues and Class D External Loads.

3. Introduction of Mr. John D. Swihart, Jr., who will assume the position of the ARAC Assistant Chair for Rotorcraft Issues on October 4, 1996.

Copies of the documents that will be presented for approval may be obtained by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on September 25, 1996.

Chris A. Christie,

*Executive Director, Aviation Rulemaking Advisory Committee.*

[FR Doc. 96-25124 Filed 9-26-96; 3:13 pm]

BILLING CODE 4910-13-M

## Federal Highway Administration

### Environmental Impact Statement: Salt Lake County, Utah

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed transportation project in Salt Lake County, Utah.

**FOR FURTHER INFORMATION CONTACT:** Tom Allen, Project Development Engineer, U.S. Department of Transportation, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, Telephone (801) 963-0182; or Jon Nepstad, Wasatch Front Regional Council, Suite 200, 420 West 1500 South, Bountiful, Utah 84010, Telephone (801) 292-4469.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Utah Department of Transportation (UDOT), the Utah Transit Authority (UTA), the Wasatch Front Regional Council (WFRC), Draper City, Sandy City, and

Salt Lake County will prepare an EIS for transportation improvements in the corridor at 2000 East (Highland Drive) from 9400 South in the city of Sandy, Utah to Interstate 15 between 11400 South and 14600 South (inclusive) in the city of Draper, Utah.

To provide for local and regional travel demands, the Salt Lake Area Long Range Transportation Plan has identified needed improvements to the Highland Drive corridor from Interstate 215 to Interstate 15, for the past 30 years. These suggested improvements have varied throughout the years and for this reason, the Wasatch Front Regional Council along with Salt Lake County, Sandy City, Draper City, the Utah Transit Authority, and the Utah Department of Transportation desire to prepare an EIS for the Highland Drive corridor from 9400 South to Interstate 15. The section from Interstate 215 to 9400 South will not be included in the EIS because it is an existing roadway.

Alternatives that will be considered in this study include: (1) Taking no action; (2) transportation system management; and (3) build alternatives. A multimodal evaluation of transportation improvements in the corridor will be the focus of the study. Transportation build alternatives to be studied include, but are not limited to: (1) collector roadway; (2) freeway; (3) arterial roadway; (4) high occupancy vehicle lane (HOV)/bus lane; and (5) others, as well as combinations of the alternatives mentioned.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Formal scoping meetings are planned to be held in November 1996 in Sandy City and Draper City. In addition, a public hearing will be held after the draft EIS has been prepared. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the WFRC at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of

Federal programs and activities apply to this program)

Issued on: September 25, 1996.

John R. Baxter,

Assistant Division Administrator, Salt Lake City, Utah.

[FR Doc. 96-25081 Filed 9-30-96; 8:45 am]

BILLING CODE 4190-22-M

## Research and Special Programs Administration

[Notice No. 96-19]

### Information Collection Activities

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, RSPA invites comments on certain information collections pertaining to hazardous materials safety for which RSPA intends to request approval from the Office of Management and Budget (OMB).

This notice also announces OMB approval of Information Collection Requests (ICRs), published in the Federal Register on March 5, 1996 [61 FR 8706] with a 60-day comment period and forwarded to OMB in a Federal Register dated May 30, 1996 [61 FR 27126] for review and approval.

**DATES:** Interested persons are invited to submit comments on or before December 2, 1996.

**ADDRESSES:** Please address written comments to Dockets Unit (DHM-30), Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

Comments may also be faxed to (202) 366-3753. Comments should identify this Notice number (96-19) and the appropriate Office of Management and Budget (OMB) Control Number(s). Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the notice number. Public information may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except holidays.

Requests for a copy of an information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

**FOR FURTHER INFORMATION CONTACT:** Deborah Boothe, Office of Hazardous

Materials Standards (DHM-10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

**SUPPLEMENTARY INFORMATION:** Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collections that RSPA is submitting to OMB for extension. These collections are contained in the Hazardous Materials Regulations (HMR; 49 CFR 171-180). RSPA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number, (3) summary of the information collection activity, (4) description of affected public, (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. RSPA will request a three-year term of approval for each information collection activity and, when approved by OMB, publish notice of the approval in the Federal Register.

#### I. RSPA Requests Comments on the Following ICRs

**Title:** Crashworthiness Protection Requirements for Tank Cars [Former title: Rail Carrier and Tank Car Tank Requirements].

**OMB Control Number:** 2137-0559.

**Summary:** This information collection consolidates provisions for detection and repair of cracks, pits, corrosion, lining flaws, thermal protection flaws and other defects of tank car tanks under various provisions in parts 173, 179 and 180 of the HMR. The HMR require facilities that build, repair and ensure the structural integrity of tank cars to develop and implement a quality assurance program; allow the use of non-destructive testing techniques, in lieu of currently prescribed periodic hydrostatic pressure tests, for fusion welded tank cars; require thickness measurements of tank cars; allow the continued use of tank cars, with limited reduced shell thicknesses, for certain hazardous materials; increase the frequency for inspection and testing of tank cars; and other provisions to ensure crashworthiness protection for tank cars.

**Affected Public:** Manufacturers, owners and rail carriers of tank cars.  
**Annual Reporting and Recordkeeping:**  
**Number of Respondents:** 1,091.  
**Total Annual Responses:** 3,674.  
**Total Annual Burden Hours:** 2,659.  
**Frequency of collection:** Annually.  
**Title:** Requirements for Cargo Tanks.  
**OMB Control Number:** 2137-0014.

**Summary:** This information collection consolidates provisions for manufacture, qualification, maintenance and use of all specification cargo tank motor vehicles. This information collection clarifies certain commodity sections in part 173, reorganizes the cargo tank specifications in part 178 and provides for vacuum-loaded cargo tanks. It includes part 180 requirements governing the maintenance, use, inspection, repair, retest and requalification of cargo tanks used to transport hazardous materials and certain registration requirements in part 107 for persons who are engaged in manufacture, repair or certification of any DOT specification cargo tank or any cargo tank manufactured under exemption to transport hazardous materials.

**Affected Public:** Manufacturers and owners of cargo tanks.

**Annual Reporting and Recordkeeping Burden:**

**Number of Respondents:** 41,366.

**Total Annual Responses:** 132,000.

**Total Annual Burden Hours:** 106,262.

**Frequency of collection:** Periodically.

**Title:** Rulemaking Procedures and Exemption Requirements [Former title: Rulemaking and Exemption Requirements]

**Summary:** Rulemaking procedures enable RSPA to determine if a rule change is necessary; be consistent with public interest; and maintain a level of safety equal to or superior to that of current regulations. Exemption procedures provide the information required for analytical purposes for approval or denial of requests for exemptions.

**Affected Public:** Shippers, carriers, packaging manufacturers, and other affected entities.

**Total Reporting and Recordkeeping Burden:**

**Number of Respondents:** 3,305.

**Total Annual Responses:** 4,295.

**Total Annual Burden Hours:** 4,279.

**Frequency of Collection:** Periodically.

#### II. ICRs Approved by OMB

In accordance with the Paperwork Reduction Act of 1995, OMB has approved the following ICRs:

**Title:** Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.

OMB Control Number: 2137-0018.  
 Title: Testing, Inspection, and Marking Requirements for Cylinders.  
 OMB Control Number: 2137-0557.  
 Title: Hazardous Materials Incident Reports.  
 OMB Control Number: 2137-0039.  
 Title: Flammable Cryogenic Liquids.  
 OMB Control Number: 2137-0542.  
 Title: Approvals for Hazardous Materials.  
 OMB Control No: 2137-0557.  
 Title: Testing Requirements for Packaging.  
 OMB Control Number: 2137-0572.  
 Title: Container Certification.  
 OMB Control Number: 2137-0582.  
 Title: Hazardous Materials Public Section Planning and Training Grants.  
 OMB Control Number: 2137-0586.  
 Title: Response Plans for Shipments of Oil.  
 OMB Control Number: 2137-0591.

Issued in Washington, DC on September 20, 1996.  
 Edward T. Mazzullo,  
 Director, Office of Hazardous Materials Standards.  
 [FR Doc. 96-24713 Filed 9-30-96; 8:45 am]  
 BILLING CODE 4910-60-P

#### Surface Transportation Board<sup>1</sup>

[STB Finance Docket No. 33117]

#### Fox Valley & Western Ltd.—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP), a Class I railroad, has agreed to grant non-exclusive trackage rights, subject to certain routing restrictions, to Fox Valley & Western Ltd. (FVW), a Class II railroad, over its trackage between milepost 4.00 at Duck Creek, WI, and milepost 5.70, at Howard, Brown County, WI.

The transaction is scheduled to be consummated on September 26, 1996.

The trackage rights will enable FVW to move loaded and empty cars for the purpose of serving industries at Howard, WI.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323-24.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33117, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Janet H. Gilbert, Esq., Fox Valley & Western Ltd., 6250 N. River Road, Suite No. 9000, Rosemont, IL 60018.

Decided: September 24, 1996.

By the Board, David M. Konschnick,  
 Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96-25095 Filed 9-30-96; 8:45 am]

BILLING CODE 4915-00-P

#### Surface Transportation Board<sup>1</sup>

[STB Finance Docket No. 33124]

#### Norfolk Southern Railway Company—Corporate Family Transaction Exemption—The Georgia Midland Railway Company and Elberton Southern Railway Company

Norfolk Southern Railway Company (NSR), a Class I railroad, The Georgia Midland Railway Company (GM), and Elberton Southern Railway Company (Elberton), Class III railroads that own property located entirely in the State of Georgia, have jointly filed a verified notice of exemption. The exempt transaction is a merger of GM and Elberton with and into NSR.<sup>2</sup>

The transaction is expected to be consummated on or soon after October 1, 1996.

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323-24.

<sup>2</sup> NSR is controlled through stock ownership by Norfolk Southern Corporation, a noncarrier holding company. GM and Elberton are wholly owned, direct subsidiaries of NSR. GM owns approximately 4 miles of road which are and have been leased by NSR since 1896. Elberton owns approximately 2 miles of road which are and have been operated by NSR since approximately 1909. The proposed agreement and plan of merger states that any outstanding shares of GM's and Elberton's capital stock will be canceled and retired, and no consideration will be paid in respect of such shares.

The proposed merger will eliminate GM and Elberton as separate corporate entities, thereby simplifying the corporate structure of NSR and the NSR system, and eliminating costs associated with separate accounting, tax, bookkeeping and reporting functions.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33124, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on James A. Squires, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-2191.

Decided: September 24, 1996.

By the Board, David M. Konschnick,  
 Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96-25096 Filed 9-30-96; 8:45 am]

BILLING CODE 4915-00-P

#### Surface Transportation Board<sup>1</sup>

[STB Docket No. AB-337 (Sub-No. 4X)]

#### Dakota, Minnesota & Eastern Railroad Corporation—Abandonment Exemption—in Brown County, SD

Dakota, Minnesota & Eastern Railroad Corporation (DM&E) has filed a notice of exemption under 49 CFR 1152 Subpart

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

F—*Exempt Abandonments* to abandon approximately 0.55 miles of its line of railroad known as the Aberdeen Line (of former Aberdeen to Oakes Subdivision) from approximately milepost 83.15+/- to approximately milepost 82.6+/- in Brown County, SD.<sup>2</sup>

DM&E has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 31, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>5</sup> must be filed by October

11, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 21, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Kevin V. Schieffer, Schieffer, Cutler & Donahoe, 431 North Phillips Avenue, Suite 300, Sioux Falls, SD 57102.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

DM&E has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 4, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 24, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.  
Vernon A. Williams,  
Secretary.

[FR Doc. 96-25097 Filed 9-30-96; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF VETERANS AFFAIRS

### Performance Review Board Members

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Notice.

**SUMMARY:** Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the Federal Register of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA) Performance Review Boards which was published in the Federal Register on October 10, 1995 (60 FR 195).

**EFFECTIVE DATE:** October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Caren E. Eirkson, Office of Human

consummated and the abandoning railroad is willing to negotiate an agreement.

Resources Management (053), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-4937.

### VA Performance Review Board (PRB)

Eugene A. Brickhouse, Assistant Secretary for Human Resources and Administration (Chairperson)

Stephen L. Lemons, Ed.D, Deputy Under Secretary for Benefits

Shirley Carozza, Deputy Assistant Secretary for Budget

Harold F. Gracey, Jr., Chief of Staff, Office of the Secretary

Thomas L. Garthwaite, M.D., Deputy Under Secretary for Health

Gerald K. Hinch, Deputy Assistant Secretary for Equal Opportunity

Kathy E. Jurado, Assistant Secretary for Public and Intergovernmental Affairs

Mary Lou Keener, General Counsel

William T. Merriman, Deputy Inspector General

Roger R. Rapp, Director of Field Operations, National Cemetery System

Patricia A. Grysavage, Director, Executive Management and Communications, Veterans Benefits Administration (Alternate)

Jule D. Moravec, Ph.D., Chief Network Officer (Alternate)

### Veterans Benefits Administration PRB

Stephen L. Lemons, Ed.D., Deputy Under Secretary for Benefits (Chairperson)

Celia Dollarhide, Director, Education Service

Leo Wurschmidt, Director, Southern Region

Patrick Nappi, Director, Central Area

Newell Quinton, Director, Veterans Assistance Service

Robert Gardner, Chief, Financial Officer

Harold F. Gracey, Jr., Chief of Staff, Office of the Secretary

### Veterans Health Administration PRB

Thomas L. Garthwaite, M.D., Deputy Under Secretary for Health (Chairperson)

Jule D. Moravec, Ph.D., Chief Network Officer (Co-Chairperson)

R. David Albinson, Chief Information Officer

Terrance S. Batliner, D.D.S., Chief Network Director, VISN 19

Barry L. Bell, Network Director, VISN 20

Linda W. Belton, Network Director, VISN 11

John T. Carson, Network Director, VISN 14

Vernon Chong, M.D., Network Director, VISN 17

Patricia A. Crosetti, Network Director, VISN 15

Joan E. Cummings, M.D., Network Director, VISN 12

Larry R. Deal, Network Director, VISN 7

Jim W. Delgado, Director, Voluntary Service Office

Larry E. Deters, Network Director, VISN 9

James J. Farsetta, Network Director, VISN 3

Denis J. Fitzgerald, M.D., Network Director, VISN 1

W. Todd Grams, Chief Financial Officer

Harold F. Gracey, VA Chief of Staff

Leroy P. Gross, M.D., Network Director, VISN 6

<sup>2</sup> Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant in its verified notice, indicated a proposed consummation date of October 25, 1996. Because the verified notice was not filed until September 11, 1996, however, consummation should have not been proposed to take place prior to October 31, 1996. Applicant's representative has been contacted and has confirmed that the correct consummation date is on or after October 31, 1996.

<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

<sup>5</sup> The Board will accept late-filed trail use requests so long as the abandonment has not been

John R. Higgins, M.D., Network Director,  
VISN 16  
Thomas J. Hogan, Director, Management and  
Administrative Support Office (Ex Officio)  
Thomas V. Holohan, M.D., Chief Patient Care  
Services Officer  
Thomas B. Horvath, M.D., Director, Mental  
Health and Behavioral Sciences  
Michael J. Hughes, VHA Chief of Staff  
Smith Jenkins, Jr., Network Director, VISN 22  
Robert L. Jones, M.D., Network Director,  
VISN 4  
Frederick L. Malphurs, Network Director,  
VISN 2  
Lydia B. Mavridis, Chief Administrative  
Officer  
Laura J. Miller, Network Director, VISN 10

James J. Nocks, M.D. Network Director, VISN  
5  
Gregg Pane, M.D., M.P.A., Chief Policy,  
Planning, and Performance Officer  
Robert A. Petzel, M.D., Network Director,  
VISN 13  
Robert H. Roswell, M.D., Network Director,  
VISN 8  
Thomas A. Trujillo, Network Director, VISN  
18  
Majorie Sue Wolf, Network Director, VISN 21  
Office of Inspector General PRB  
David A. Brinkman, Director, Audit  
Followup Directorate, Department of  
Defense (Chairperson)

Wilbur L. Daniels, Assistant Inspector  
General for Inspections and Evaluations,  
Department of Transportation  
William E. Whyte, Assistant Inspector  
General for Audit, General Services  
Administration  
Dated: September 23, 1996.  
Jesse Brown,  
*Secretary of Veterans Affairs.*  
[FR Doc. 96-25051 Filed 9-30-96; 8:45 am]  
**BILLING CODE 8320-01-M**

# Corrections

Federal Register

Vol. 61, No. 191

Tuesday, October 1, 1996

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 HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 252

[Docket No. FR-3813-F-02]  
RIN 2502-AG50

#### Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Conversion From Coinsurance to Full Insurance

##### *Correction*

In rule document 96-23716 beginning on page 49036 in the issue of Tuesday, September 17, 1996, make the following correction:

On page 49038, in the second column, amendatory instruction 9. to §§ 252.4 and 252.5 was inadvertently omitted. It should read as set forth below.

9. Sections 252.4 and 252.5 are removed.

BILLING CODE 1505-01-D

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 550

RIN 3206-AH09

#### Pay Under the General Schedule; Termination of Intermin Geographic Adjustments

##### *Correction*

In rule document 96-1835, beginning on page 3539, in the issue of Thursday,

February 1, 1996, make the following correction:

### §550.106 [Corrected]

On page 3542, in the second column, in the amendment to § 550.106(c)(1), the revised paragraph "(a)" should read paragraph "(1)".

BILLING CODE 1505-01-D

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37524; File No. SR-Phlx-96-29]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Extending the Pilot Program for Equity and Index Option Specialist Enhanced Parity Participants

August 5, 1996.

##### *Correction*

In notice document 96-20575 beginning on page 42080 in the issue of Tuesday, August 13, 1996, in the third column, in the first line, the release number should read as set forth above.

BILLING CODE 1505-01-D

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37593; File No. SR-Phlx-96-32]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Index Option Exercise Advices

##### *Correction*

In notice document 96-21888 beginning on page 44379 in the issue of

Wednesday, August 28, 1996, make the following correction:

On page 44379, in the second column, "August 21, 1996." should have appeared below the subject heading.

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 96-AGL-10]

#### Establishment of Class E Airspace; Hazen, ND

##### *Correction*

In proposed rule document 96-22946 beginning on page 47466 in the issue of Monday, September 9, 1996, make the following corrections:

### §71.1 [Corrected]

1. On page 47467, in the first column, in the incorporation by reference in §71.1, in the last paragraph, in the second line, "5.8-mile" should read "6.8-mile".

2. On the same page, in the same column, in the same section, in the same paragraph, in the seventh line, after "east" insert "by".

BILLING CODE 1505-01-D

**United States  
Federal Register**

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Tuesday  
October 1, 1996

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**Part II**

**Environmental  
Protection Agency**

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**40 CFR Part 372**

**Addition of Reporting Elements; Toxic  
Chemical Release Reporting; Community  
Right-to-Know; and Emergency Planning  
and Community Right-to-Know; Notice of  
Public Meetings; Proposed Rules**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

[OPPTS-400106; FRL-5387-6]

#### Addition of Reporting Elements; Toxic Chemical Release Reporting; Community Right-to-Know

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Advance Notice of Proposed Rulemaking (ANPR).

**SUMMARY:** EPA intends to expand its Community Right-to-Know initiatives to increase the information available to the public on chemical use. This Advance Notice of Proposed Rulemaking is intended to give notice of EPA's consideration of this issue and to solicit comments on all aspects of chemical use and the collection of chemical use data and is an initial step in the regulatory development process. In the context of this action, EPA is considering all potential components of "chemical use." For the purposes of this Notice, the term "chemical use" refers to the information most commonly described as materials accounting data: amounts of a toxic chemical coming into a facility, amounts transformed into products and wastes, and the resulting amounts leaving the facility site. EPA believes that the collection of additional chemical use information beyond that already provided by the Toxic Release Inventory (TRI) data base would provide a more detailed and comprehensive picture to the public about environmental performance and about toxic chemicals in communities. TRI is the data base in which information collected under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA) is made available. EPA is considering expanding the type of information contained in this data base. A number of important concerns associated with the reporting and interpretation of chemical use information have been raised to the Agency, and EPA has determined that additional evaluation is needed before EPA can develop a proposal. In this ANPR, EPA is (1) Describing the Agency's plans to further evaluate these issues; (2) providing preliminary notice of additional public meetings; (3) requesting comment and information on issues where additional assessment is needed; (4) soliciting actual assessments that have been performed on these issues and (5) seeking public input

concerning development of regulation in this area.

**DATES:** Written and electronic comments in response to this ANPR must be received on or before December 30, 1996.

**ADDRESSES:** Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-G099, 401 M St., SW., Washington, DC 20460. Comments containing information claimed as confidential must be clearly marked as confidential business information (CBI). If CBI is claimed, three additional sanitized copies must also be submitted. Nonconfidential versions of comments will be placed in the record for this action and will be available for public inspection. Comments should include the docket control number for this ANPR, OPPTS-400106 and the EPA contact. Unit IV. of this document contains additional information on submitting comments containing information claimed as CBI.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: [oppt.ncic@epamail.epa.gov](mailto:oppt.ncic@epamail.epa.gov). Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS-400106. No CBI should be submitted through e-mail. Electronic comments on this ANPR may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IV. of this document.

**FOR FURTHER INFORMATION CONTACT:** Matt Gillen at 202-260-1801, e-mail: [gillen.matthew@epamail.epa.gov](mailto:gillen.matthew@epamail.epa.gov); or Christine Lottes at 202-260-7258, e-mail: [lottes.christine@epamail.epa.gov](mailto:lottes.christine@epamail.epa.gov) for specific information regarding this ANPR. For further information on EPCRA section 313 contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460. Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 800-553-7672.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

##### A. Background

EPA considers Right-to-Know to be among its most effective strategies for

improving environmental performance. Facilities currently covered by the TRI have reduced their reported releases of toxic chemicals by 44 percent, or 1.6 billion pounds, since 1988. These reductions have been attributed to voluntary industry action motivated by a number of factors including: (1) The availability of TRI data for release and transfers of covered chemicals; (2) public involvement in facility and community planning; (3) flexibility in choosing reduction methods; and (4) transparency of facility performance. In the Federal Register of November 30, 1994 (59 FR 61432) (FRL-4922-2), EPA issued a final rule that expanded the chemical coverage of TRI to include 286 additional toxic chemicals; and in the Federal Register of June 27, 1996 (61 FR 33588) (FRL-5379-3), EPA proposed adding an additional seven industrial sectors to TRI. The Agency's commitment to expanding the TRI and the Right-to-Know Program is premised on its effectiveness as a tool to encourage pollution prevention, improved environmental quality, informed public involvement and public awareness of toxic chemicals that move to and through their communities.

The TRI-Phase 3 project builds on two successful strategies: Pollution Prevention and Community Right-to-Know. [In this ANPR, the title "TRI-Phase 3" is used to designate the entire chemical use right-to-know project. The "TRI" is retained in recognition that the project arose out of a TRI background, even though EPA is currently considering use of non-TRI statutory authorities.] Pollution prevention provides the framework for identifying opportunities to reduce pollution at the source through cost effective changes in production, operation, and raw materials use. It encourages companies to consider opportunities for source reduction as the preferred route to improved environmental performance. Community Right-to-Know provides the framework for informing and educating citizens so that they can participate more effectively in decisions that affect their families and communities. Community Right-to-Know is increasingly recognized as an essential decisionmaking tool for both the public and industry. Public information fosters informed environmental involvement by many different segments of society, from citizens and consumers to corporate decisionmakers. Expanding public participation motivates improved environmental performance, and over the long term promotes the integration of environmental goals with economic and social goals. In addition to these

benefits, EPA believes that materials accounting has the potential to significantly increase the utility and completeness of data that would be available to identify, evaluate, and track toxic chemicals in the workplace and community. This is important because it is at the community level where environmental problems can first be identified, and where the groups with the most at stake can come together to develop solutions to best fit local needs.

EPA believes that publicly available chemical use information shows promise for filling a number of data gaps identified by TRI stakeholders and that it could link together pollution prevention and Community Right-to-Know. Chemical use information could expand the public's ability to evaluate a range of national and community level environmental issues. Some stakeholders suggest that chemical use data may be used to assess the amounts of chemicals flowing into and through communities, the overall quantities of toxics going into products, worker safety and health issues, and facility pollution prevention performance. Chemical use data, in conjunction with existing TRI data, could also provide a more comprehensive picture of chemical use at the facility level. The more complete the understanding of use and wastestreams, the better positioned a facility is to assess process and product efficiencies and to modify use, process, or product as appropriate. Likewise, the more complete the understanding, the better positioned the public is to participate on an equal footing in environmental decisionmaking.

The TRI-Phase 3 project began in 1993, and public meetings were held in 1994 and 1995 to receive stakeholder comments. On August 8, 1995, in a memorandum to the EPA Administrator, President Clinton directed EPA to expedite Community Right-to-Know initiatives stating: "I am committed to the effective implementation of this law [EPCRA] because Community Right-to-Know protections provide a basic informational tool to encourage informed community-based environmental decisionmaking and provide a strong incentive for businesses to find their own ways of preventing pollution." The memorandum directed EPA to develop and implement "an expedited, open, and transparent process for consideration of reporting under EPCRA on information on the use of toxic chemicals at facilities, including information on mass balance, materials accounting, or other chemical use data." This ANPR is part of EPA's response to this directive.

### *B. Statutory Authority*

EPA has available a number of statutory authorities that would allow the Agency to collect chemical use data elements. Because EPA has not determined which data elements would constitute a "chemical use data set," it is premature to identify which specific authority(ies) would be used. Instead, at this time, EPA is considering a variety of strategies that could be used, individually or in combination, to expand the reporting and public availability of chemical use data. For example, the Agency might propose the addition of several data elements to expand the TRI reporting requirements established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. section 11023), and statutorily expanded under section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. section 13106). Alternatively, EPA might consider actions under the Toxic Substances Control Act (TSCA), the Clean Water Act (CWA), the Clean Air Act (CAA), etc. EPA is also reviewing existing use data collected under other environmental statutes and by other Federal agencies such as the Occupational Safety and Health Administration and the Department of Transportation, and could propose a strategy based on improving public access to such data. Improved public access is likely to involve some type of linkage with TRI, since it is considered the main public source of environmental data.

EPCRA section 313 requires the owner or operator of a facility at which a listed chemical was manufactured, imported, processed or otherwise used at levels exceeding the statutory thresholds, to report certain information. Among the information required to be reported about each toxic chemical is the general category or categories of use, an estimated range of the maximum amount present at the facility, and the annual quantity entering each environmental medium. Section 328 grants the Administrator general rulemaking authority to implement EPCRA. 42 U.S.C. section 11048.

Section 6607 of the PPA requires owners and operators of a facility who must report under EPCRA section 313, to also report annually to EPA certain information on source reduction and recycling. Among the information that must be reported is the amount of the chemical recycled on or off-site, the quantity of the chemical released into the environment, the quantity of the chemical entering any waste stream (or

otherwise released into the environment) prior to recycling, treatment or disposal. Facilities must also report on source reduction practices and the techniques used to identify source reduction opportunities.

Section 8(a) of TSCA provides EPA with authority to require manufacturers, importers, and processors of a chemical substance or mixture to submit such reports as the Administrator may reasonably require. 15 U.S.C. section 2607(a). This section grants EPA broad discretion in determining what information must be reported, including: categories of use for each chemical substance or mixture; estimates of the amount manufactured or processed for each category of use; a description of the by-products resulting from manufacture, processing, use or disposal of each chemical substance or mixture; and estimates of the number of workers exposed and the duration of such exposure.

EPA is currently developing proposed amendments to the TSCA Inventory Update Rule (IUR) (51 FR 21438, June 12, 1986) to require submission of information predictive of the potential for chemical exposures including data on industrial and consumer uses. These amendments of the IUR are referred to as the Chemical Use Inventory. EPA intends to use the data collected under the Chemical Use Inventory to screen chemical risks and to establish risk assessment and risk management priorities.

While, arguably, some similar information could be collected under section 8(a) of TSCA and under EPCRA section 313 and PPA section 6607, there are differences in the underlying purposes and available authorities that may make it preferable to use multiple authorities to accomplish the goal. For example, TSCA section 8(a) covers a larger number of chemicals than EPCRA section 313; however, EPCRA section 313 covers pesticides, whereas TSCA section 8(a) does not. Use of EPCRA section 313 raises fewer public access issues, but would not involve the statutory small business exclusion included in TSCA section 8(a). A further distinction is that TRI includes information from manufacturers (including importers), processors and users, whereas TSCA section 8(a) is limited to manufacturers, importers, and processors. In considering any proposed rule(s) to require chemical use information in furtherance of its Community Right-to-Know objectives, EPA is mindful of its possibly overlapping authorities and will continue to coordinate its efforts to avoid duplicative requirements.

In addition to the provisions discussed above, EPA is also considering the information collection authority available under all of the other statutes it implements, including the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. section 136 et. seq., the Clean Water Act, 33 U.S.C. section 1251 et. seq., the Clean Air Act, 42 U.S.C. section 7401 et. seq., the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et. seq., and the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. section 9601 et. seq.

EPA has received a number of comments challenging EPA's authority to collect the kind of information discussed in this ANPR under EPCRA or the PPA. EPA believes that it has a broad array of statutory authorities available to it to require reporting of data elements discussed in this ANPR. EPA is currently examining all of the statutes it implements to determine which authorities would be relevant to the collection of chemical use data and the goals outlined in this ANPR. However, until EPA determines the course of action to follow, any discussion of specific statutory authority is premature.

### C. Chemical Use and Materials Accounting Concepts and Background

"Chemical use" is a broad information category that includes qualitative (e.g., function or end-use), and quantitative (e.g., amount or material flow) components. Use data are basic facility management information and essential to understanding material use and costs. In the TRI-Phase 3 project, EPA is looking at those aspects of use related to the amounts of toxic chemicals entering and leaving a facility, along with ancillary information connecting worker activity and chemical use. The tracking of chemical throughput data is an established engineering practice for many processes, currently performed at many facilities to develop estimates for TRI reporting and to monitor the engineering efficiency of facility processes. "Mass balance" is the term used to describe the systematic collection and evaluation of throughput data. The term reflects the principle that the sum of the mass of chemical inputs (into a process or facility) should equal the sum of the outputs after all chemical changes and accumulations have been accounted for. Closure occurs when inputs and outputs match or balance (within the accuracy of the measurements). Mass balance is used as a tool for managing chemicals because lack of closure may point to the need to

examine the system for possible losses. Such losses can have important economic and environmental costs associated with them. Closure increases confidence that potential losses have been identified and accounted for. Mass balance serves a function similar to financial accounting, where inputs (income) and outputs (expenses) are reconciled on a regular basis as a routine check on financial performance.

Engineering mass balance is the most accurate type of mass balance, as it involves actual measurement of process streams. It is useful for engineering design of processes. Materials accounting is a more approximate method of reporting a mass balance. It relies on routinely collected information such as records of incoming shipments of raw materials, production records, and product composition data. While it is less accurate than engineering mass balance, it nevertheless provides useful information and is also less costly to perform. Materials accounting has been the main focus of TRI-Phase 3.

The utility of reporting mass balance information on TRI has been debated for over a decade. It was discussed during the negotiations that led to the passage of EPCRA in 1986. Proponents of mass balance data claimed that it would provide essential reference data underlying release estimates, and provide for a ledger check on TRI estimates. As such, proponents contend that chemical throughput should itself be considered a Right-to-Know issue. Opponents questioned the added value provided by materials balance data when compared to the cost, the public's need for information beyond release estimates, and the potential loss of sensitive or confidential business information.

Because this issue was unresolved at the time of passage, section 313(l) of EPCRA directed EPA to arrange for the National Academy of Sciences (NAS) to study this issue further. The resulting report, entitled "Tracking Toxic Substances at Industrial Facilities" was released in 1990. The purpose of the NAS study, as stated in EPCRA section 313, was to examine the contribution that mass balance information could make to assessing the accuracy of chemical release estimates, evaluating waste-reduction efficiency, and providing perspective on chemical management practices. The study was inconclusive as to a recommendation to pursue or to drop consideration of mass balance reporting. The NAS panel did, however, conclude that *materials accounting data*, properly validated and interpreted by persons with sufficient technical knowledge, may have better

potential for achieving the goals for the national uses listed in section 313 than *engineering mass balance data*. It went on to state that materials accounting data were not precise enough for some purposes such as checking on the accuracy of release estimates, but that these data did warrant further consideration for looking at other issues such as the reasonableness of release estimates, and for providing a better picture of waste reduction progress. Finally, the study provided a number of recommendations for future studies, many of which are reflected in EPA's requests for comment in this ANPR.

Because the NAS evaluation was completed prior to enactment of PPA, it did not evaluate the utility of materials accounting data against the current TRI data set. Availability of the Form R section 8 data may have allowed for a more definitive NAS conclusion.

TRI reporting trends clearly indicate that industry has made reductions in releases and that industry is moving up the waste management hierarchy established by PPA. However, based on 1994 TRI data, the overall level of waste generated by industry is not declining, thus raising many questions about the extent to which source reduction progress is occurring and how it should be measured. The PPA charges the Administrator with establishing standard methods for measuring source reduction, and EPA believes materials accounting data could facilitate the development and implementation of such methods. TRI currently provides the public with quantitative data on the methods of managing pollutants - recycling, treatment, and release (including disposal). It does not provide data on source reduction, even though it is the preferred national approach for improving environmental performance.

Two states, New Jersey and Massachusetts, already require materials accounting reporting. New Jersey began collection of such data in 1987 and expanded reporting beginning with the 1993 reporting year. The state uses ten data elements to collect information on inputs and outputs. Massachusetts began collection of materials accounting data in 1990 and uses five data elements to collect information on inputs and outputs. Each state also collects data on performance measures calculated from the materials accounting data. Some groups believe that the resulting data have been useful in improving understanding and measurement of source reduction progress. In addition, the availability of these data have raised awareness about related Right-to-Know issues such as the flow of toxics through communities and the potential

contribution of the product stream to environmental releases and wastes. Stakeholders have indicated that information which would allow life-cycle analysis of toxic chemicals would be useful in environmental planning. Taken together, these developments have sustained general interest in chemical use reporting over the years, and influenced EPA to pursue additional review of materials accounting.

#### *D. TRI-Phase 3 Origin and Status*

The TRI-Phase 3 project grew out of EPA stakeholder meetings held in 1993 to discuss the possible creation of a "Chemical Use Inventory" (CUI). EPA initiated these discussions based on increasing awareness of the potential value of "use" data to the Agency for chemical screening and priority-setting under TSCA. Environmental and public interest stakeholders were also interested in the concept of facility-level chemical use data as a fundamental right-to-know issue, and recommended that the Agency expand the project to put materials accounting data in the public domain. These stakeholders described TRI as the most logical place for this data, given its features and importance. Industry stakeholders question that there is any fundamental right to know about facility-level chemical use data unless there is a demonstrated use. EPA created the TRI-Phase 3 project in response to this interest and the importance of the underlying issues.

EPA prepared an initial issues paper (Issues Paper #1 - Ref. 3) and held a public meeting in September of 1994 to begin the process of exploring chemical use issues. The focus of the meeting was to learn more about both stakeholder data needs driving the interest in materials accounting and the nature of industry concerns. EPA subsequently developed a three-step approach for categorizing and evaluating TRI-Phase 3 issues and combined it with preliminary Agency findings in a second issues paper released in October of 1995 (Issue Paper #2 - Ref. 4). A report was also prepared in response to Executive Order 12969 (Report to President Clinton - Expansion of Community Right-to-Know Reporting to Include Chemical Use Data: Phase III of the Toxics Release Inventory, Ref. 6). The Agency invited additional comments in a second public meeting in October of 1995. This meeting provided opportunity for more extensive discussion on issues such as CBI concerns, and the potential for overlap with existing Agency reporting. The Agency has prepared a third issues paper to report back to stakeholders on

what the Agency heard at the second public meeting, and to describe plans for additional evaluation (Ref. 5). The issues paper can be obtained from the EPCRA hotline at the numbers listed in the FOR FURTHER INFORMATION CONTACT unit of this document, or electronically via EPA's TRI Homepage at <http://www.epa.gov/opptintr/tri>.

#### *E. Discussion of Data Elements*

EPA is considering several categories of data elements for inclusion in this use information initiative, including elements on chemical inputs, outputs, and occupational exposure indicators. By input, EPA refers to the amounts of toxic chemicals brought into or originating at a facility. By output, EPA refers to the amounts produced, transformed into other chemicals, or present in products leaving the site. EPA derived preliminary data element options from those used in Massachusetts and New Jersey, where materials accounting data is reported. Additional options were developed for occupational indicator elements. The options, first described in Issues Paper #2 (Ref. 2), are described below. They are intended to encourage public discussion.

##### *Input options*

- Set A -Starting raw material inventory amount of the substance
  - Amount produced on site
  - Amount brought on site
- Set B -Amount manufactured
  - Amount processed
  - Amount otherwise used
- Set C -Total input amount

##### *Output options*

- Amount consumed on site
- Amount shipped off-site as (or in) product
- Ending raw material inventory amount
  - Amount stored on site as or in product

##### *Occupational exposure indicator options*

- Set A -Total number of workers at the facility
- Set B -Total number of workers at the facility
  - Number of workers potentially exposed to each EPCRA section 313 listed toxic chemical
- Set C -Total number of workers at the facility
  - Number of workers potentially exposed to each EPCRA section 313 listed toxic chemical
  - Whether exposure assessment was performed for the chemical during the year
  - Whether exposure monitoring has ever been performed for the chemical

##### *Materials accounting measures*

- Waste-related source reduction performance measures
  - Amount of wastes prevented by source reduction, in pounds
  - Annual percentage (or index) reduction in total wastes
- Normalization refinements
  - Procedure for weighting multiple chemical uses

#### *F. Relationship to Other Agency and Administration Priorities*

EPA has received questions and comments on the value of chemical use data to the Agency, and how it might fit with other Agency priorities. TRI-Phase 3 is related to a variety of important issues that cut across the Agency. EPA's 5-year strategic plan includes "Prevention of wastes and harmful chemical releases," "Improved understanding of the environment," and "Worker safety" among its national environmental goal areas. "Pollution prevention" and "Environmental accountability" are among EPA's guiding principles (Ref. 2). EPA's responsibilities under PPA include establishing standard methods of measurement of source reduction and facilitating the adoption of source reduction techniques by business. The Agency recognizes that improving efficiency of material use, for chemicals as well as all other raw materials, is an important component of sustainable development. The President's Council on Sustainable Development recently recommended that the Federal government develop indicators of progress toward national sustainable development goals and to regularly report on these indicators to the public (Ref. 1).

EPA's role as a provider of information is central to a strategy that promotes, empowers, and broadens activity by others to protect the environment. This role must be carefully expanded if EPA is to move beyond its traditional role as regulator of first resort. Community Right-to-Know is among the most successful alternatives to command and control approaches, and EPA believes that it provides an important foundation for new alternative performance-based management systems. For example, EPA is developing programs to increase community participation and partnerships to move environmental decision-making closer to the source of problems and solutions. Community access to meaningful information is an important ingredient for the success of this approach. Agency efforts to encourage more flexible approaches, such as the Common Sense Initiative

and Project XL, also require the right set of information to measure and understand environmental results. EPA's Common Sense Initiative involves multi-stakeholder groups looking for industry-specific "cleaner, cheaper, smarter" approaches to environmental protection, and sector groups have discussed the value of materials accounting data. EPA's Project XL (for excellence and leadership) is intended to encourage innovation and flexibility in meeting higher environmental performance standards. Stakeholders in Project XL and CSI have indicated that chemical use information would facilitate progress in these projects as well. In sum, while the TRI-Phase 3 project involves a number of difficult issues, continued development of this chemical use project will have benefits across the Agency.

## II. Key Issues and Request for Information

EPA has classified TRI-Phase 3 issues into five major categories based on stakeholder comments to date. EPA encourages all interested persons to submit comments on these issues, and to identify any other relevant issues as well. This input will assist the Agency in developing a proposed rule that successfully addresses information needs while minimizing potential reporting problems associated with chemical use information. EPA requests that commenters making specific recommendations include supporting documentation where appropriate.

### A. Questions about the Premise for and Utility of Chemical Use Information

A fundamental TRI-Phase 3 issue is the usefulness and need for chemical use information. There is substantial disagreement among stakeholder groups on this question, and EPA solicits additional comments and examples. The two areas of use information are described below:

1. *Materials accounting information.* Environmental and public interest groups contend that while TRI is an extremely valuable tool, it falls short of providing the complete right-to-know picture needed to fully understand toxic chemical issues. These groups have suggested materials accounting data as the best remedy for addressing these issues. Based on stakeholder input, EPA has identified the following Right-to-Know "data gaps": (1) The need for information on the flow and use of toxic chemicals at a facility; (2) the need for tracking toxic chemicals in products; (3) better information on occupational issues; (4) the need to create a "scorecard" for measuring and

promoting pollution prevention/source reduction; (5) the lack of a ledger check on TRI estimates; (6) the need to improve TRI to serve as a better tool for regulatory integration efforts; and (7) other uses such as research and priority-setting.

Industry and trade association commenters disagree and contend that chemical use information is of limited value. These groups have presented the following arguments against the merits and need for collecting materials accounting information: (1) Chemical use reporting is based on a false premise that any type of chemical use is harmful and should be eliminated; (2) a convincing argument has not been made as to the utility of materials accounting data to the public; and (3) materials accounting data does not in fact allow more accurate measurement of source reduction progress. EPA recognizes that some companies routinely collect materials accounting data as a way of monitoring their operations. These firms use the data internally to reduce chemical losses, improve product yield, and to manage their materials. EPA recognizes that this is not a universally accepted business practice and could be more appropriate for some industries than for other industries.<sup>1</sup>

Some stakeholders from the industrial, environmental and state regulatory communities have indicated that materials accounting data are useful for looking at a variety of important environmental issues. For example, chemical inputs can be compared with existing TRI releases and wastes to examine the efficiency of facility chemical use over time. This may provide important pollution prevention insights. Knowing that 38 percent of the chemical input at a hypothetical chemical processing facility goes into the release and waste stream, and that the percentage has been increasing over time is valuable information, for facility managers, for state and EPA regulators, and for communities interested in looking at pollution prevention performance. It should be noted however, it is not yet clear to what extent the inaccuracies inherent in such data may limit its usefulness for this purpose. Supporters of the Right-to-Know Program believe that this is the best approach currently available and better than the current gap in information. Access to such information facilitates dialogue on approaches that rely on preventing the generation of

<sup>1</sup>EPA is specifically requesting comment on the costs associated with materials accounting data collection and concern associated with sensitive or confidential business information.

pollution over those that rely on more traditional end-of-pipe solutions. In the long run, the pursuit of strategies that improve efficiency are more likely to enhance the viability of affected facilities, and the success of the surrounding communities as well. Additional examples regarding the flow and use of toxics through communities and the value of product stream data can be found in EPA Issues Papers #1 and #2 (Refs. 3 and 4).

While materials accounting data may provide important insights to the Agency, the public, and to industry, EPA acknowledges that further evaluation is needed. EPA requests additional comments that provide greater detail on how the public would use materials accounting data. EPA also welcomes comments that take issue with the need for use data, or challenge its information value. The Agency will use the comments to perform a more comprehensive review of the premise for use reporting.

2. *Occupational exposure indicator information.* The manufacturing, processing, and use of chemicals also involves workers; and environmental and labor groups have recommended that data elements be included to describe this aspect of chemical use. Workers are also community members, and there is increasing interest in the link between occupational exposure and environmental performance as well. Data on the worker demographics at a facility can be viewed as part of the core data set needed to characterize a facility. The data elements describing the number of workers, providing basic estimates on the number of potentially exposed workers, and indicating the extent to which employee exposures have been assessed would enhance the usefulness of TRI. Industry commenters agree that worker exposure which may be tied to adverse effects should be monitored closely and provided to workers, but have suggested that the issue be deferred to agencies such as the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH). Industry stakeholders have also suggested that some data are already available through OSHA and NIOSH. Preliminary discussion with these agencies indicates that they support efforts by EPA to collect this information and put it in the public domain. EPA is interested in additional commentary and examples related to occupational exposure indicator issues.

In summary, EPA requests additional comments on the premise for chemical use information and its value to the

different sectors of the public. In addition to commentary, the Agency requests that hypothetical or actual examples be submitted. EPA is also interested in comments that distinguish between direct application of chemical use data (e.g., using chemical input or output to look at the flow of toxics through a community) and derived applications where the data are combined with other information to develop a measurement (e.g., combining chemical input with release and waste data to address efficiency). Several questions are provided below:

1a. Do gaps exist in the current Right-to-Know Program? Do chemical use data serve or not serve to fill right-to-know gaps identified by stakeholders? Provide examples that will support your position. EPA is interested in perspectives ranging from the community and facility level up to the national level.

2a. Are any individual chemical use data elements viewed as more useful than others?

3a. Can facility environmental performance be judged based on existing publicly available environmental data? EPA is interested in examples where data users could/could not judge facility performance. Is chemical use information seen as improving understanding and accountability?

4a. If chemical use information were available to the public, how would the public utilize this data? For example, what actions could a community take with a better system to track pollution prevention or the flow of toxics into and out of a neighborhood? Would there be the potential for serious misuse of the data?

5a. How have chemical use data been applied by the public in New Jersey and Massachusetts, where such reporting is already required? Has the public in other states ever requested chemical use information from facilities? If so, how was it used?

6a. What concerns are there about misuse, misunderstanding, or misinterpretation of chemical use data by the public? What is the basis for these concerns? Which specific data elements are most subject to potential misunderstandings about a facility? How should these concerns be considered in developing this initiative? EPA is also interested in any examples of misuse and misinterpretations resulting from the availability of this information in New Jersey and Massachusetts.

7a. Have industry and community organizations engaged in dialogue about issues such as pollution prevention

performance, toxics in products, flow of toxics through communities, or the need for accountability to support the use of flexible approaches to environmental protection? If so, what information was seen as helpful?

8a. How could occupational indicator data be used by various groups, including at the community level? Do other sources of data exist (e.g., OSHA's Hazard Communication Standard) that could fill this informational gap? EPA is interested in stakeholders views on the role of TRI and its relationship to worker safety and health performance, including the number of potentially exposed workers and environmental performance, and the appropriate linkage between them.

9a. What are the views of state environmental representatives about the utility of chemical use information? What experiences have states had in measuring pollution prevention efforts? What might the advantages and/or disadvantages be of having materials accounting data collected nationally rather than at the state level? EPA welcomes state perspectives on TRI-Phase 3 issues.

10a. Should EPA conduct a national pilot program to collect materials accounting data on a limited number of chemicals as recommended by the NAS report?

11a. What methodologies are available for quantifying the benefits of chemical use data? Could the relative use levels of data from New Jersey and Massachusetts be used to develop a measure of willingness to pay for the data? EPA welcomes comments from potential users of the data on their own willingness to pay. EPA is also interested in examples from New Jersey and Massachusetts on the savings versus costs of collecting and using materials accounting data.

#### *B. Agency-wide Environmental Reporting Issues*

Industry commenters have raised several issues concerning the relationship between TRI-Phase 3 and Agency-wide reporting policies. One comment is that the Agency may already collect certain types of chemical use data under other programs, and that EPA should explore how it could integrate such data into TRI before calling for additional reporting. This perspective appears to suggest that chemical use data gaps can be addressed with improvements in internal EPA data management. Another issue is the relationship between the TRI-Phase 3 project and EPA efforts under the National Performance Review "Reinventing Environmental

Regulation" project, which includes goals for reducing reporting burdens. EPA's objective is to identify and eliminate unnecessary burden so that resources dedicated to data collection can be focused on information considered more useful. The need to reduce overall reporting burden does not preclude all efforts to expand reporting. However, given the overall need for reduction, some commenters have inquired as to how chemical use data compares in priority with other types of environmental information across the Agency. Environmental stakeholders have asserted that the need to streamline current reporting requirements should not be confused with the need to collect the appropriate set of data on facility environmental performance. These groups have expressed confidence that materials accounting data are part of any core data set needed for performance review. EPA will be evaluating these environmental reporting issues further as part of TRI-Phase 3. In the meantime, the Agency encourages interested persons to submit comments on TRI-Phase 3 reporting issues. Several questions are provided below:

1b. Which existing EPA or other Federal agency data sources do stakeholders view as providing information equivalent to materials accounting and other chemical use data? The Agency is especially interested in perspectives of facility personnel filling out environmental reports, and members of the public and environmental groups who use EPA data.

2b. Please provide examples of existing sources of chemical use information which have been or could be used to examine data gap issues such as tracking pollution prevention, the flow of toxic chemicals through communities, and product stream issues. Please provide suggestions for improving access to such data and how these data could be used.

3b. Please comment on how materials accounting data can be used as a basis for streamlining multi-media permitting or similar efforts. Would the collection of materials accounting data replace the need to collect data currently being collected by EPA? If so, which data?

4b. For all of the above, how should EPA address situations where use data from other internal data bases have value, but the scope of chemical or facility coverage differs so that the end result would be an incomplete TRI data base?

### *C. Impacts on Confidential Business Information (CBI)*

Preliminary information provided by industry groups has been helpful in clarifying the set of issues related to CBI concerns. Industry is concerned that public dissemination of chemical use data collected under TRI-Phase 3 would result in release of CBI. They believe that access to chemical use information would provide competitors with the opportunity to extract sensitive product, process and economic information about a company. They are concerned that this would, in turn, put American companies at a competitive disadvantage and cause them to lose world-wide market share.

Environmental stakeholders recognize potential release of CBI as a legitimate concern, but are less certain about the magnitude and frequency of the problem. They contend that there is no indication that existing TRI data have been used for industrial espionage. Additionally, they assert that there have been no examples where materials accounting reporting has resulted in a loss to industry, specifically in New Jersey and Massachusetts where materials accounting information is collected by the state.

EPA agrees that the potential for loss of sensitive business information is a legitimate issue that must be addressed in order for chemical use reporting to move forward. EPA requests additional information describing and listing the different types of losses that are of concern to industry, so that the Agency can perform a more comprehensive review. For example, EPA is interested in the sequence by which materials accounting and other chemical use data, by itself or in combination with other environmental data, can be used by competitors to reveal sensitive business information. EPA also seeks additional information on conditions that could either contribute to or alleviate these concerns. For example, manufacturing facilities producing large numbers of different products might not have the same CBI concerns as smaller facilities producing only a few products. The volume of products and production lines might serve to mask the use information. Similarly, a facility using a toxic chemical in a variety of processes might not have the same CBI concerns of a facility producing or using a unique chemical or a distinct manufacturing process which requires a specific chemistry.

Case reports or studies that will allow the Agency and other stakeholders to understand and verify how losses occur would be especially useful. Such

information will assist the Agency in developing common-sense approaches to CBI issues. For example, the Chemical Manufacturers Association (CMA) commissioned a study by Kline Company to develop a business profile of an actual facility using publicly available information supplemented by materials accounting data. (CMA has provided EPA with a copy and it has been placed in the docket.) The study concluded that the materials accounting data were useful for developing an overall profile, although they were considered less useful than data from Clean Air Act (CAA) permit filings. The study helps to characterize the categories of losses considered important by industry. EPA is interested in receiving similar studies, and recommends that background information be included to allow a better understanding of the basis for conclusions. EPA is interested in the relative value of each materials accounting data element for the extraction of sensitive business information, the role and contribution made by other types of environmental data, and the impact of various safeguards in protecting CBI. The Agency is also interested in any differences in CBI issues among industry sectors. EPA invites comments on the following specific questions:

1c. What business loss categories (e.g., reverse engineering of product line, revealing of cost structure) does industry associate with public disclosure of materials accounting data? How do the categories rank in importance? For each category, which data elements are involved, and what is the sequence by which the information is used by competitors to transform the data into a competitive gain?

2c. Which loss categories are associated only with materials accounting data? What additional loss categories can result when materials accounting data are combined with other environmental data (e.g., Clean Air Act or Clean Water Act permit data)? What are the other types of data, and what is the sequence by which they can be used by competitors to reveal CBI?

3c. Have any cases been identified in New Jersey or Massachusetts where CBI loss was linked to public access to materials accounting data?

4c. Which of the materials accounting data elements is of most concern? What suggestions do CBI or Right-to-Know experts have for modifying materials accounting data elements to better protect CBI while still preserving public access to relevant chemical use data?

5c. To what extent do CBI issues vary by industry sector? Preliminary information indicates that the potential for business losses might be more of an issue for chemical manufacturers than for chemical users. EPA requests comment on this question. Do sector-specific differences offer any strategies for safeguarding CBI?

6c. If other EPA data play a significant role (when combined with materials accounting data) in loss of CBI, what suggestions do stakeholders have for changes to other data systems to improve protection of CBI?

### *D. Cost Estimates*

EPA believes that some of the raw data used as the basis for materials accounting will typically be generated or used in the normal course of business by many firms. EPA is interested in identifying which data are already routinely collected, which data that might be required for materials accounting are not already collected, the steps and factors involved in transforming the raw data into chemical-specific materials accounting and other use information, and the costs associated with this process. EPA is also interested in the extent to which firms already assemble materials accounting data. In some cases, full materials accounting data may already be routinely collected. In other cases, partial data, such as chemical inputs, may be collected at a facility in order to document that they exceed the 25,000 pound a year EPCRA section 313(f)(1) reporting threshold for manufacture or process activities, and/or the 10,000 pound a year threshold for otherwise use activities. In other cases, facilities may be collecting use information because they are using mass balance methods to estimate TRI releases. Where partial materials accounting data are already collected, the Agency is interested in steps and costs associated with collecting the additional materials accounting data, such as amounts consumed on-site and amounts shipped off-site in products. EPA encourages facilities that currently report under state programs in New Jersey and Massachusetts, or that currently collect materials accounting data for their own business purposes, to submit cost information for review. Estimates that include a general facility description (e.g., manufacturer versus processor, number of forms submitted), that address other uses of the data, and that provide estimates per chemical report form will be most helpful. A list of questions follows:

1d. What are the steps involved in gathering materials accounting data,

starting with the basic cost and operations data collected in the normal course of business? Are there obstacles in collecting this information? EPA is interested in descriptions for each data element, the estimated costs for each step, and a description of the obstacles and any remedies to address identified obstacles.

2d. What would be the steps and costs for facilities that already collect and use materials accounting information?

3d. How many facilities collect basic cost and operations data that can be used to generate partial or full materials accounting data? How many facilities currently generate partial or full materials accounting data?

4d. It has been suggested that while facilities which do not currently gather materials accounting data will likely have higher costs, these facilities would also be expected to derive the greater benefit and savings offsets from the inherent value of the information.

Others argue that facilities which do not currently collect such data may be those for which the data has the least value, or for which collecting it would be particularly difficult or expensive. EPA is interested in comments and examples on how this issue should be treated.

5d. Please provide existing cost estimates based on facility experiences in New Jersey and Massachusetts, or from other facilities where materials accounting data are collected as a good business practice.

6d. EPA is interested in information regarding both first year start-up costs and annual costs once a system is set up.

7d. EPA requests information on variations in cost. For example, are there any particular materials accounting data elements that are more costly than the others? How does the number of uses affect costs? How does the number of products in the product stream affect costs? Do costs differ among use sectors, especially for otherwise users who should not need to report on amounts consumed or put into the product stream?

8d. EPA requests comment on the potential costs to small businesses of collecting materials accounting data and on what factors EPA should focus in further developing this project so that these costs are minimized, e.g. facility size, employees, revenue, etc.

9d. TRI provides a number of reporting exemptions and modifications such as the alternate threshold reporting modification, de-minimis exemption, article exemption, laboratory exemption, structural component exemption, etc. How would these reporting exemptions and modifications

impact the collection and utility of materials accounting data if EPA were to expand TRI to collect chemical use information? What role could reporting exemptions and modifications play in alleviating the reporting burden to small businesses?

#### *E. Technical Collection and Interpretation Issues*

Stakeholders have raised technical questions about the mechanics of materials accounting and occupational exposure indicator reporting, and the precision and appropriate interpretation of the results. Topics range from the conceptual to the practical and include the following: (1) The activities that need to be accounted for to measure source reduction; (2) the mechanics of using materials accounting to measure source reduction, and the degree to which it improves upon the current TRI-based methods; (3) the role of normalization in the measurement of source reduction; (4) the mechanics of product stream reporting; (5) appropriate comparisons of materials accounting data between facilities; (6) the basis for estimating "potentially exposed workers"; and (7) the need for definitions for certain terms. EPA requests comments on these and other technical measurement and reporting issues. The Agency is also interested in alternative data element options and suggestions for safeguards that balance CBI and Right-to-Know. Specifically, EPA is soliciting information on the following:

1e. EPA is not aware of any major technical reporting or interpretation issues arising out of state requirements in New Jersey or Massachusetts that need to be addressed as part of TRI-Phase 3. Please provide information on any state reporting issues that should be considered relevant to TRI-Phase 3.

2e. Please provide any suggestions for additional data element options, along with rationale for why they should be considered.

3e. To what extent should EPA identify formulas that can be used to derive performance measures using materials accounting data? If some data gaps are best filled with derived measures, should EPA consider reporting of the measure instead?

4e. Are caveats needed when materials accounting data from two or more different facilities are being compared? If so, what are they?

#### **III. Plans for Evaluation and Proposal Development**

In addition to evaluating the public comments submitted in response to this Notice, EPA will also take the following

additional steps to evaluate several key issues.

#### *A. EPA Evaluation Activities*

EPA is taking steps to examine the following issues as part of its evaluation of TRI-Phase 3 issues.

1. *Comprehensive review of existing EPA data collection programs.* EPA will take a closer look at existing data bases to identify and evaluate sources of chemical use data already being collected by the Agency as well as data available from other Federal agencies such as OSHA and DOT. The purpose is to examine whether improving access to existing data might provide an effective alternative to new reporting requirements. The evaluation will include looking at the scope of facility and chemical coverage, and factors related to integration of the existing data into TRI. The review will also address: linkages between TRI-Phase 3 and the TSCA Inventory Update Rule expansion; coordination with the Agency One-Stop Reporting initiative; and the potential for using materials accounting to integrate regulatory requirements. EPA believes that TRI-Phase 3 and the TSCA Inventory Update Rule Amendments can be designed so that any overlap between them is minimal. However, the Agency will track this issue as the two projects are developed further. In addition, EPA will ask for public comment on how to minimize any overlap when the TSCA proposed rule is published.

2. *Evaluation of New Jersey and Massachusetts materials accounting programs.* EPA will review the impact that materials accounting reporting has made in these two states. EPA will look at who is using the data and for what purpose. The Agency also plans to examine the state program experience with CBI in order to learn more about the effectiveness of various approaches to protect CBI, and the potential impacts that are associated with loss of CBI. EPA also plans to examine the economic effects of the state programs, including reporting costs and qualitative and quantitative estimates of benefits from collecting, evaluating, and using the data.

3. *Evaluation of CBI issues.* EPA also plans to examine other aspects of the CBI issue in greater detail. The Agency will evaluate existing reports on this subject (e.g., the Kline Report), and will examine the relationship between specific data elements and the potential for loss of sensitive business information. EPA will also assess the adequacy and value of different mechanisms for protecting CBI.

4. *Review of occupational exposure indicator issue with OSHA and NIOSH.* EPA will continue its consultation with its occupational agency partners to discuss the utility of occupational exposure indicator information, and whether it is appropriate for EPA to collect it and make it available via TRI. EPA will also review alternative options for making this information available to the public.

#### B. Public Meetings

EPA will hold two 1-day public meetings, one in Boston, MA and one in Baton Rouge, LA to discuss the issues presented above. The tentative agenda for these public meetings will include a discussion of the issues presented in Unit II. of this ANPR. Specific information on these public meetings is contained in a Notice of public meeting published elsewhere in this issue of the Federal Register. Information from all public meetings will be placed into the TRI-Phase 3 docket.

#### C. Examination of Data Elements, Reporting Vehicles, and Formats

After reviewing public comments, internal evaluation results, and after further consideration of reporting vehicles, EPA will examine whether additional data element options can be, or need to be developed for consideration as part of any proposal. The Agency believes that careful selection of data elements and reporting features is essential to optimizing the Right-to-Know value of chemical use information while avoiding reporting problems. EPA is open to development of new combinations of data elements, and intends to examine whether additional types of reporting options and data elements might play a role in addressing concerns.

#### IV. Rulemaking Record and Electronic Filing of Comments

A record has been established for this ANPR under docket number "OPPTS-400106" (including comments and data submitted electronically as described below). A public version of this record, including printed paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Room NE-B607, 401 M St., SW., Washington, DC 20460.

Any person who submits comments claimed as CBI must mark the comments as "confidential," "CBI," or other appropriate designation.

Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any person submitting comments claimed to be confidential must prepare a nonconfidential public version of the comments in triplicate that EPA can place in the public file.

Electronic comments can be sent directly to EPA at [oppt.ncic@epamail.epa.gov](mailto:oppt.ncic@epamail.epa.gov). Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

#### V. References

1. PCSD. *Sustainable America - A New Consensus for Prosperity, Opportunity, and a Healthy Environment for the Future*. The President's Council on Sustainable Development, Washington, DC (1996).
2. USEPA/OA. *The New Generation of Environmental Protection - EPA's Five Year Strategic Plan*. U.S. Environmental Protection Agency, Washington, DC (1994).
3. USEPA/OPPT. *Issue Paper #1: Expansion of the Toxics Release Inventory to Gather Chemical Use Information: TRI-Phase 3: Use Expansion*. U.S. Environmental Protection Agency, Washington, DC (1994).
4. USEPA/OPPT. *Issue Paper #2: Expansion of the Toxics Release Inventory to Gather Chemical Use Information: TRI-Phase 3*. U.S. Environmental Protection Agency, Washington, DC (1995).
5. USEPA/OPPT. *Issue Paper #3: Expansion of the Toxics Release Inventory to Gather Chemical Use Information: TRI-Phase 3*. U.S. Environmental Protection Agency, Washington, DC (1996).
6. USEPA/OPPT. *Report to President Clinton - Expansion of Community Right-to-Know Reporting to Include Chemical Use Data: Phase III of the Toxics Release Inventory*. U.S. Environmental Protection Agency, Washington, DC (1995).

#### VI. Regulatory Assessment Requirements

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this ANPR is "significant" because it may raise novel legal or policy issues arising out of legal mandates and the President's priorities. This action was submitted to OMB for review, and any comments or changes made during that review have been documented in the public record.

In the event that EPA decides to issue a proposed rule (or rules) to expand its Community Right-to-Know program to include additional chemical use information, EPA will need to comply with a number of additional statutory and regulatory requirements. The exact requirements will vary depending on the specifics of the proposed rule(s). However, among the additional requirements with which EPA might need to comply are the Paperwork Reduction Act, the Unfunded Mandates Reform Act, and the Small Business Regulatory Enforcement Fairness Act. In addition, EPA might need to comply with the Executive Orders 12875, Enhancing the Intergovernmental Partnership; 12866, Regulatory Planning and Review; and 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. In preparing any proposed rule(s) contemplated by this ANPR, EPA will develop the analysis necessary to satisfy these other requirements, as well as comply with the procedural steps mandated by the underlying statutes, regulations, and Executive Orders.

#### List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: September 25, 1996.

Carol M. Browner,  
Administrator.

[FR Doc. 96-25012 Filed 9-30-96; 8:45 am]

BILLING CODE 6560-50-F

#### 40 CFR Part 372

[OPPTS-400106A; FRL-5396-2]

#### Emergency Planning and Community Right-to-Know; Notice of Public Meetings

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of public meeting.

**SUMMARY:** EPA will hold two public meetings to receive public comment on

issues raised by the Agency's advance notice of proposed rulemaking (ANPR) on increasing the information available to the public on chemical use.

**DATES:** The first meeting will take place in Boston, MA on October 16, 1996, at 10 a.m. and will continue through the last registered speaker. The second public meeting will take place in Baton Rouge, LA on October 30, 1996, at 10 a.m. and will continue through the last registered speaker.

**ADDRESSES:** The first meeting will be held at the Environmental Protection Agency, One Congress St., Boston, MA 02203 in the 11th floor Conference Room. The second meeting will be held at the Department of Environmental Quality, Rm. 326, Maynard Ketcham Building, 7290 Bluebonnet Blvd., Baton Rouge, LA, 70810.

**FOR FURTHER INFORMATION CONTACT:** To register to speak, contact Cassandra Vail at 202-260-0675, e-mail: [vail.cassandra@epamail.epa.gov](mailto:vail.cassandra@epamail.epa.gov). For additional information about the meetings, contact Denise Coutlakis at 202-260-5558, e-mail: [coutlakis.denise@epamail.epa.gov](mailto:coutlakis.denise@epamail.epa.gov). For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington,

DC 20460. Toll free 1-800-535-0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 800-553-7672.

**SUPPLEMENTARY INFORMATION:** In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA). Section 313 of EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment or otherwise manage. The information is placed in a publicly accessible data base known as the Toxics Release Inventory (TRI). The purpose of this requirement is to inform the public, government officials, and industry about the chemical management practices of specified toxic chemicals.

EPA is interested in expanding the information available via TRI to include chemical use information such as materials accounting data. The Agency began reviewing this issue in 1993 and held public meetings in 1994 and 1995. On August 8, 1995, President Clinton directed EPA to develop and implement, on an expedited schedule, a process for consideration of reporting use information under TRI. In response, EPA has begun the regulatory development process for additional review of chemical use reporting, which the Agency believes may provide a more

detailed and comprehensive picture to the public about environmental performance and about toxic chemicals in their communities. Elsewhere in this issue of the Federal Register EPA has issued an ANPR to give notice of EPA's consideration of this issue and to solicit comments on all aspects of chemical use and the collection of chemical use data. The purpose of the public meetings is to provide public forums for interested parties to provide input on the issues raised by the ANPR.

Oral statements will be scheduled on a first-come first-serve basis by calling Cassandra Vail at the telephone number listed under FOR FURTHER INFORMATION CONTACT. EPA encourages meeting participants to provide written statements. All statements will become part of the public record and will be considered in the development of any proposed rule. In order to accommodate and schedule speakers, EPA requests that those interested in speaking register by October 11, 1996.

Dated: September 10, 1996.

Susan B. Hazen,

*Acting Director, Office of Pollution Prevention and Toxics.*

[FR Doc. 96-25013 Filed 9-30-96; 8:45 am]

BILLING CODE 6560-50-F

# Federal Register

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Tuesday  
October 1, 1996

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## Part III

# Department of Transportation

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Research and Special Programs  
Administration

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49 CFR Part 106, et al.  
Hazardous Materials Regulations; Editorial  
Corrections and Clarifications; Final Rule

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration**

**49 CFR Parts 106, 107, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180**

[Docket HM-189M; Amdt. Nos. 106-13, 107-39, 171-148, 172-149, 173-256, 174-83, 175-84, 176-41, 177-88, 178-118, 179-53, 180-10]

RIN 2137-AC 93

**Hazardous Materials Regulations; Editorial Corrections and Clarifications**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule corrects editorial errors, makes minor regulatory changes, and in response to requests for clarification, improves the clarity of certain provisions to the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the HMR. The amendments contained in this rule are minor editorial changes and do not impose new requirements.

**DATES:** *Effective date.* The effective date is October 1, 1996.

*Incorporation by reference date.* The incorporation by reference of the publication listed in these amendments has been approved by the Director of the Federal Register to be effective on October 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Joan McIntyre, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:****Background**

RSPA annually reviews the Hazardous Materials Regulations (HMR) to identify errors which may be causing confusion to readers. Inaccuracies corrected in this final rule include typographical errors, incorrect references to other rules and regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In response to inquiries RSPA received concerning the clarity of particular requirements specified in the HMR, certain other changes are made to reduce uncertainties.

Because these amendments do not impose new requirements, notice and public procedure are unnecessary. In

addition, making these amendments effective without the customary 30-day delay following publication will allow the changes to appear in the next revision of 49 CFR.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss editorial corrections (e.g., typographical, capitalization and punctuation errors), changes to legal citations and certain other minor adjustments to enhance the clarity of the HMR.

**Section-by-Section Review****Part 106**

Several editorial changes are made to part 106. The words "he" or "his" have either been replaced or changed to "he or she" or "his or hers." Because the pipeline rulemaking procedures were incorporated in 49 CFR Part 190, (see final rule entitled "Pipeline Safety Rulemaking Procedures," Docket RSP-2, published in the Federal Register of September 27, 1996), reference to the pipeline safety office is removed. Part 106 now applies primarily to the Hazardous Materials Safety Program. The definition of "Administrator" is changed to include his or her delegate. Some of these changes are provisions that were recently amended under Docket RSP-1 (61 FR 30175, June 14, 1996).

**Part 107****Section 107.502**

Paragraph (f), containing a grandfather provision that allows persons to register as Design Certifying Engineers (DCEs) and Registered Inspectors (RIs) before December 31, 1995, is removed. The definitions for DCEs and RIs, in § 171.8, are revised in this final rule to recognize those persons eligible to register under the grandfather provision.

**Section 107.503**

Paragraph (b) introductory text is revised to remove an inference that an assembler must have an American Society of Mechanical Engineers (ASME) Certificate of Authorization for use of the "U" stamp. In addition, paragraph (b)(1), containing a provision that has expired, and paragraph (b)(2), containing a reference to an assembler, are removed. Current § 107.502 prescribes that "assembly" must involve no welding on the cargo tank wall.

**Part 171****Section 171.4**

Paragraph (d), containing a transitional provision that has expired, is removed.

**Section 171.7**

In paragraph (a)(3), the table of material incorporated by reference is revised to include the Truck Trailer Manufacturers Association's publication, TTMA RP No. 61-94, "Performance of Manhole and/or Fill Opening Assemblies on MC 306 and DOT 406 Cargo Tanks", which is referenced in § 180.405(g)(2)(i).

**Section 171.8**

Definitions for "Design Certifying Engineer" and "Registered Inspector" are revised to recognize those persons eligible to register by December 31, 1995, under an expired grandfather provision.

**Part 172**

RSPA is removing the Identification Number Cross Reference Index to Proper Shipping Names following the part 172 table of headings. The index is available as a separate handout from RSPA's Docket Unit, U.S. Department of Transportation, Room 8421, Washington, DC 20590-0001, telephone (202) 366-5046.

**Section 172.101**

The Hazardous Materials Table is amended as follows:

The entries "Boron trichloride," "Carbonyl sulfide," "Chlorine trifluoride," "Ethylene oxide or Ethylene oxide with nitrogen up to a total pressure of 1MPa (10 bar) at 50 degrees C.," "Germane," "Hydrogen iodide, anhydrous," "Methyl mercaptan," "Nitric oxide," and "Nitric oxide and dinitrogen tetroxide mixtures or Nitric oxide and nitrogen dioxide mixtures," "Perchloryl fluoride," "Silicon tetrafluoride," "Trifluoroacetyl chloride," and "Trifluoroethoxyethylene, inhibited, R1113" are corrected by removing Special Provision "25" in Column (7). Special Provision "25" was removed in a rulemaking action under HM-215A (59 FR 67485), published December 29, 1994, in a provision to delay more stringent packaging requirements for certain poisonous gases.

The entry "Thionyl chloride" is corrected to remove Special Provision "T42", which was removed in a rulemaking action under HM-189L (60 FR 49110), published September 21, 1995. Through a printing error, this entry was not removed from the CFR.

The entry "Organochlorine pesticides, liquid, toxic, flammable, flashpoint not less than 23 degrees C." is corrected by adding Packing Group III which was inadvertently removed through a printing error.

## Section 172.102

In paragraph (c)(1), Special Provision 115 is revised to update the wording "detonating primers" for consistency with the § 172.101 Hazardous Materials Table entries. In paragraph (c)(3), Special Provisions B30 and B32 are amended by removing the acronym "ASA."

*Part 173*

## Section 173.7

In paragraph (a), the first sentence is editorially revised to clarify the packaging requirements for U.S. Government material.

## Section 173.31

Paragraph (a)(6)(i) is removed because it is duplicative with § 173.31(c), which also authorizes the use of a tank car with a tank test pressure higher than the regulatory minimum. Paragraphs (a)(6)(ii) through (v), are redesignated (i) through (iv) respectively. In addition, in newly redesignated paragraphs (a)(6)(i) through (iv), the word "specification" is removed each place it appears for consistency with changes made under other rulemakings to reference the tank car "class" in place of the "specification". Paragraph (b)(5) is revised to clarify that the tank car must have bottom discontinuity protection. In paragraph (c)(3), a reference to see § 173.31(e)(2)(ii) (see HM-175A/201, 61 FR 33255, June 26, 1996) for compliance dates is added. In paragraph (d)(1)(vii), the wording "frangible disc" is revised to read "rupture disc" for consistency with the wording used elsewhere in the HMR.

## Section 173.224

Paragraphs (c)(1) and (c)(2) are revised to reflect the correct reference, "§ 173.124(a)(2)(iii)."

## Section 173.225

Paragraph (e)(1) is amended by removing references to the individual tank car *specifications* and adding references to the authorized tank car *classes*. Also, it permits use of higher integrity 120A tank cars. These revisions are made for consistency with changes made under other rulemakings.

## Section 173.306

Paragraph (b)(3) is editorially revised to clarify that the container may be filled with a solution that is a Division 6.1, PG III material.

## Section 173.315

In paragraphs (e) and (i)(3), a reference to paragraph "(a)(1)" is corrected to read "(a)."

*Part 174*

## Section 174.83

Paragraph (b) is revised to clarify that any Class DOT 113 tank car, displaying a Division 2.1 material placard, even when empty, may not be cut off while in motion. This revision is consistent with the requirements that these tank cars may not be humped or cut off. See the requirements for empty packagings in § 173.29, design of tank cars in § 179.400-13, shipping papers in § 172.203(g)(2), and tank car markings in § 179.400-25(d).

## Section 174.85

In § 174.85, in the paragraph (d) table, the restriction numbers "3", "4" and "5" are editorially revised for clarity. In restriction "5," the wording "temperature control equipment" is removed to clarify that this restriction applies only to internal combustion engines and open-flame devices (e.g., lighted heaters or stoves) in operation.

## Section 174.101

In paragraph (h), the terminology for detonating primers is editorially revised.

*Part 175*

## Section 175.320

In the paragraph (a) table, the terminology for detonating primers is editorially revised.

*Part 176*

## Section 176.194

In paragraphs (c) and (e), the terminology for detonating primers is editorially revised.

## Section 176.340

Several editorial revisions are made to this section to remove obsolete section references.

*Part 177*

## Section 177.835

In paragraph (g) introductory text for Class 1 (explosive) materials, the terminology for detonating primers is editorially revised.

*Part 178*

## Section 178.320

The definition for "Manufacturer" is revised to clarify that this term does not include persons (assemblers) who attach a cargo tank to a motor vehicle, or to a motor vehicle component if it involves no welding on the cargo tank wall.

## Section 178.345-2

In paragraph (a)(1), for cargo tanks constructed in accordance with the

ASME Code, "ASTM A 622" steel is added as an authorized material of construction for heads. This steel has been used successfully under DOT exemption E-11499 for manufacture of cargo tank heads. It has excellent ductile properties and strength and providing for its use under provisions of general applicability offers minor savings to industry.

## Section 178.345-7

In paragraph (d)(2), the table column heading "W<sup>1</sup>", the variable "W" in the second line, third column and the variable "W" following the table are redesignated as "J<sup>1</sup>", "J" and "J<sup>1</sup>", respectively. These changes eliminate confusion caused by having two "W" variables with different meanings within the same section. The variable "W" in paragraph (d)(1) is not changed.

*Part 179*

## Section 179.103-5

The first two sentences in paragraph (a)(1) are removed. They were removed under HM-175A/201 (60 FR 49077, Sept. 21, 1995), but not removed in the 49 CFR printing.

## Section 179.300-7

The first sentence in paragraph (a) is amended by removing the phrase "having heads fusion welded to the tank shell" for consistency with changes adopted under HM-216 (61 FR 28682, June 5, 1996; 61 FR 50255, Sept. 25, 1996).

*Part 178 and Part 180 Miscellaneous Changes*

The words "cargo tank," "cargo tank motor vehicle," and "tank"; "pressure test" and "pressure retest"; "leak test" and "leakage test" are corrected to ensure the accuracy of their use throughout the HMR.

## Rulemaking Analyses and Notices

*Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

*Executive Order 12612*

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism") and does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

*Regulatory Flexibility Act*

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

*Paperwork Reduction Act*

There are no new information collection requirements in this final rule.

## List of Subjects

*49 CFR Part 106*

Administrative practice and procedure, Hazardous materials transportation, Oil.

*49 CFR Part 107*

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

*49 CFR Part 171*

Exports, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Imports, Reporting and recordkeeping requirements.

*49 CFR Part 172*

Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

*49 CFR Part 173*

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

*49 CFR Part 174*

Hazardous materials transportation, Radioactive materials, Railroad safety.

*49 CFR Part 175*

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 176*

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 177*

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

*49 CFR Part 178*

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

*49 CFR Part 179*

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

*49 CFR Part 180*

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

**PART 106—RULEMAKING PROCEDURES**

1. The authority citation for part 106 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 49 CFR 1.53.

**§ 106.1 [Amended]**

2. In § 106.1, the wording "Hazardous Materials Safety Program" is added immediately before "regulations of the Research and Special Programs Administration of the Department of Transportation".

3. Section 106.3 is revised to read as follows:

**§ 106.3 Delegations.**

For the purposes of this part, "Administrator" means the Administrator, Research and Special Programs Administration, or his or her delegate.

4. Section 106.13 is revised to read as follows:

**§ 106.13 Initiation of rulemaking.**

The Administrator initiates rulemaking on his or her own motion; however, in so doing, the Administrator may use discretion to consider the recommendations of other agencies of the United States or of other interested persons, including those of any technical advisory body established by statute for that purpose.

**§ 106.17 [Amended]**

5. In § 106.17, in paragraph (b), the wording "In his discretion, the Administrator" is removed and "The Administrator" is added in its place.

6. Section 106.21 is revised to read as follows:

**§ 106.21 Contents of written comments.**

All written comments must be in English. It is requested, but not required, that five copies be submitted. Any interested person should submit as part of written comments all material considered relevant to any statement of fact. Incorporation of material by reference should be avoided; however, where necessary, such incorporated material shall be identified by document title and page.

**§ 106.25 [Amended]**

7. In § 106.25, the following changes are made:

a. In the first sentence, the word "he" is removed and "the Administrator" is added in its place.

b. In the second sentence, the word "his" is removed and "the Administrator's" is added in its place.

**§ 106.27 [Amended]**

8. In § 106.27, in paragraph (c), in the second sentence, the word "his" is removed and "his or her" is added in its place.

**§ 106.29 [Amended]**

9. In § 106.29, the following changes are made:

a. In the first sentence, the wording "the office concerned" is removed and "the Office of Hazardous Materials Safety" is added in its place.

b. In the second sentence, the word "his" is removed.

**§ 106.31 [Amended]**

10. In § 106.31, paragraphs (a), (c) introductory text and (d) are amended by adding the wording "for Hazardous Materials Safety" immediately following "Associate Administrator".

11. In § 106.33, paragraphs (b), (c), and (d) are revised to read as follows:

**§ 106.33 Processing of petition.**

\* \* \* \* \*

(b) *Grants.* If the Associate Administrator or the Chief Counsel determines that the petition contains adequate justification, he or she initiates rulemaking action under this subpart.

(c) *Denials.* If the Associate Administrator or the Chief Counsel determines that the petition does not justify rulemaking, the petition is denied.

(d) *Notification.* The Associate Administrator or the Chief Counsel will

notify a petitioner, in writing, of the decision to grant or deny a petition for rulemaking.

**§ 106.35 [Amended]**

12. In § 106.35, in paragraph (b), the word "he" is removed and "the petitioner" is added in its place.

13. In § 106.37, paragraph (a) is revised to read as follows:

**§ 106.37 Proceedings on petitions for reconsideration.**

(a) The Associate Administrator or the Chief Counsel may grant or deny, in whole or in part, any petition for reconsideration without further proceedings, except where a grant of the petition would result in issuance of a new final rule. In the event that the Associate Administrator or the Chief Counsel determines to reconsider any regulation, a final decision on reconsideration may be issued without further proceedings, or an opportunity to submit comment or information and data as deemed appropriate may be provided. Whenever the Associate Administrator or the Chief Counsel determines that a petition should be granted or denied, the Office of the Chief Counsel prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and the Associate Administrator or the Chief Counsel issues it to the petitioner. The Associate Administrator or the Chief Counsel may consolidate petitions relating to the same rules.

\* \* \* \* \*

**PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES**

14. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701, 49 CFR 1.45, 1.53.

**§ 107.202 [Amended]**

15. In § 107.202, in paragraph (d), the word "Editorial" is removed and "Editorial" is added in its place.

**§ 107.502 [Amended]**

16. In § 107.502, paragraph (f) is removed.

**§ 107.503 [Amended]**

17. In § 107.503, the following changes are made:

a. In paragraph (b) introductory text, the wording "who manufactures or

assembles a cargo tank" is removed and "who manufactures a cargo tank" is added in its place.

b. Paragraphs (b)(1) and (b)(2) are removed.

**§ 107.601 [Amended]**

18. In § 107.601, in paragraph (c), the wording "that meets a criteria for" is removed and "that meets the criteria for" is added in its place.

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

19. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 171.4 [Amended]**

20. In § 171.4, paragraph (d) is removed.

21. In the § 171.7(a)(3) Table, under Truck Trailer Manufacturers Association, a new entry is added in alphanumeric order to read as follows:

**§ 171.7 Reference material.**

(a) \* \* \*

(3) *Table of material incorporated by reference.* \* \* \*

Source and name of material	49 CFR reference
* * * * *	*
<i>Truck Trailer Manufacturers Association</i>	*
* * * * *	*
TTMA RP No. 61–94, Performance of Manhole and/or Fill Opening Assemblies on MC 306 and DOT 406 Cargo Tanks, December 28, 1994 Edition. ....	180.405
* * * * *	*

22. In § 171.8, the following definitions are revised to read as follows:

**§ 171.8 Definitions and abbreviations.**

\* \* \* \* \*

*Design Certifying Engineer* means a person registered with the Department in accordance with subpart F of part 107 of this chapter who has the knowledge and ability to perform stress analysis of pressure vessels and to otherwise determine whether a cargo tank design and construction meets the applicable

DOT specification. In addition, Design Certifying Engineer means a person who meets, at a minimum, any one of the following:

(1) Has an engineering degree and one year of work experience in cargo tank structural or mechanical design.

(2) Is currently registered as a professional engineer by the appropriate authority of a State of the United States or a Province of Canada.

(3) Has at least three years experience in performing the duties of a Design Certifying Engineer by September 1, 1991, and was registered with the Department by December 31, 1995.

\* \* \* \* \*

*Registered Inspector* means a person registered with the Department in accordance with subpart F of part 107 of this chapter who has the knowledge and ability to determine whether a cargo tank conforms with the applicable DOT specification. In addition, Registered Inspector means a person who meets, at a minimum, any one of the following:

(1) Has an engineering degree and one year of work experience.

(2) Has an associate degree in engineering and two years of work experience.

(3) Has a high school diploma or General Equivalency Diploma) and three years of work experience.

(4) Has at least three years experience in performing the duties of a Registered Inspector by September 1, 1991, and was registered with the Department by December 31, 1995.

\* \* \* \* \*

**PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS**

23. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

24. In § 172.101, the Hazardous Materials Table is amended by adding the following entry, in appropriate alphabetical order, to read as follows:

**§ 172.101 Purpose and use of hazardous materials table.**

\* \* \* \* \*

§ 172.101 HAZARDOUS MATERIALS TABLE

Sym- bols	Hazardous materials descrip- tions and proper shipping names	Hazard class or division	Identi- fication num- bers	PG	Label codes	Special pro- visions	(8) Packaging (§ 173.***)			(9) Quantity limi- tations		(10) Vessel stowage	
							Ex- cep- tions	Non- bulk	Bulk	Pas- senger air- craft/ rail	Cargo aircraft only	Lo- ca- tion	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
*	*	*	*	*	*	*	*	*	*	*	*	*	*
	Organochlorine pesticides, liq- uid, toxic, flammable, <i>flashpoint not less than 23 degrees C.</i> [ADD]	6.1	UN2995	***	***	***	***	***	***	***	***	***	***
	.....	.....		III	6.1	B1, T14	153	203	242	60 L	220 L	A	40
*	*	*	*	*	*	*	*	*	*	*	*	*	*

§ 172.101 [Amended]

25. In addition, in § 172.101, the following changes are made to the Hazardous Materials Table:

a. In column (7), the reference “25,” is removed for the entries “Boron trichloride”, “Carbonyl sulfide”, “Chlorine trifluoride”, “Hydrogen iodide, anhydrous”, “Methyl mercaptan”, “Nitric oxide”, and “Nitric oxide and dinitrogen tetroxide mixtures or Nitric oxide and nitrogen dioxide mixtures”, “Perchloryl fluoride”, “Trifluoroacetyl chloride”, and “Trifluoroethoxyethylene, inhibited, R1113”.

b. In column (7), the reference “25” is removed for the entries “Ethylene oxide or Ethylene oxide with nitrogen up to a total pressure of 1MPa (10 bar) at 50 degrees C.”, “Germane”, and “Silicon tetrafluoride”.

c. In column (7), the reference “T42,” is removed for the entry “Thionyl chloride”.

§ 172.102 [Amended]

26. In § 172.102, the followings changes are made:

a. In paragraph (c)(1), for Special Provision 115, the wording “detonator (detonating primers)” is removed and “detonator, detonator assemblies and boosters with detonators” is added in its place.

b. In paragraph (c)(3), for Special Provisions B30 and B32, in paragraph d., the acronym “ASA” is removed.

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

27. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

28. In § 173.7, in paragraph (a) introductory text, the first sentence is revised to read as follows:

**§ 173.7 U.S. Government material.**

(a) Hazardous materials offered for transportation by, for, or to the Department of Defense (DOD) of the U.S. Government, including commercial shipments pursuant to a DOD contract, must be packaged in accordance with the regulations in this subchapter or in packagings of equal or greater strength and efficiency as certified by DOD in accordance with the procedures prescribed by “Performance Oriented Packaging of Hazardous Material, DLAR 4145.41/AR 700–143/AFR 71–5/ NAVSUPINST 4030.55/MCO 4030.40.” \* \* \* \*

**§ 173.31 [Amended]**

29. In § 173.31, the following changes are made:

a. Paragraph (a)(6)(i) is removed.  
b. Paragraph (a)(6) (ii), (iii), (iv) and (v) are redesignated as paragraphs (a)(6) (i), (ii), (iii) and (iv), respectively.

c. In newly redesignated paragraphs (a)(6)(i) through (a)(6)(iv), the word “specification” is removed each place it appears.

d. In paragraph (b)(5), in the first sentence, the wording “tank car unless” is removed and “tank car with bottom discontinuity protection unless” is added in its place.

e. In paragraph (c)(3), the wording “(see § 173.31(e)(2)(ii) for compliance dates)” is added after the word “inhalation”.

f. In paragraph (d)(1)(vii), the wording “frangible disc” is removed and “rupture disc” is added in its place.

**§ 173.189 [Amended]**

30. In § 173.189, in paragraph (b), in the last sentence, the specification “4C,” is removed and “4C1, 4C2,” is added in its place.

**§ 173.224 [Amended]**

31. In § 173.224, in paragraphs (c)(1) and (c)(2), the reference “§ 173.124(a)(2)(vii)” is removed and “§ 173.124(a)(2)(iii)” is added each place it appears.

**§ 173.225 [Amended]**

32. In § 173.225, in paragraph (e)(1), in the first sentence, the wording “DOT 103W, 103AW, 111A60F1, 111A60W1, 111A100F2, and 111A100W2 tank car tanks” is removed and “Class DOT 103, 104, 105, 109, 111, 112, 114, 115, or 120 fusion-weld tank car tank” is added in its place.

**§ 173.300a [Amended]**

33. In § 173.300a, in paragraph (c), the word “Director” is removed and “Associate Administrator or his or her representative” is added in its place.

34. In § 173.306, in paragraph (b)(3), the first sentence is revised to read as follows:

**§ 173.306 Limited quantities of compressed gases.**

\* \* \* \* \*

(b) \* \* \*

(3) Nonrefillable metal containers charged with a Division 6.1 Packing Group III or nonflammable solution containing biological products or a medical preparation which could be

deteriorated by heat, and compressed gas or gases. \* \* \*

**§ 173.315 [Amended]**

35. In § 173.315, in paragraphs (e) and (i)(3), the reference “(a)(1)” is removed and “(a)” is added in its place.

**PART 174—CARRIAGE BY RAIL**

36. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 174.81 [Amended]**

37. In § 174.81, in paragraph (g) introductory text, the wording “for Class I” is removed and “for Class 1” is added in its place.

**§ 174.83 [Amended]**

38. In § 174.83, in paragraph (b) introductory text, the wording “or any Class DOT–113 tank car placarded for a Division 2.1 flammable gas may not be:” is removed and “or a Class DOT 113 tank car displaying a Division 2.1 (flammable gas) placard, including a Class DOT 113 tank car containing only a residue of a Division 2.1 material, may not be:” is added in its place.

**§ 174.85 [Amended]**

39. In § 174.85, in the paragraph (d) table, the following changes are made:

a. In the first column, the text of restriction number “3” is revised to read as follows: “A placarded car may not be placed next to an open-top car when any of the lading in the open top car protrudes beyond the car ends, or if the lading shifted, would protrude beyond the car ends.”

b. In the first column, the first sentence of restriction number “4” is revised to read as follows: “A placarded car may not be placed next to a loaded flat car, except closed TOFC/COFC equipment, auto carriers, and other specially equipped cars with tie-down devices for securing vehicles.”

c. In the first column, the text of restriction number “5” is revised to read as follows: “A placarded car may not be placed next to any transport vehicle or freight container having an internal combustion engine or an open-flame device in operation.”

**§ 174.101 [Amended]**

40. In § 174.101, the following changes are made:

a. In paragraph (h), in the first sentence, the wording “detonators or detonating primers” is removed and “detonators, detonator assemblies, or boosters with detonators” is added in its place.

b. In paragraph (o) introductory text, in the first sentence, the wording “on a flatcar car” is removed and “on a flatcar” is added in its place.

**§ 174.112 [Amended]**

41. In § 174.112, in paragraph (b), in the second sentence, the reference “§ 174.104(c)–(f)” is removed and “§ 174.104 (c) through (f)” is added in its place.

**PART 175—CARRIAGE BY AIRCRAFT**

42. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 175.320 [Amended]**

43. In § 175.320, in the paragraph (a) table, in the first column, for the first two entries, the wording “Detonators and detonating primers” is removed and “Detonators, detonator assemblies and boosters with detonators” is added each place it appears.

**PART 176—CARRIAGE BY VESSEL**

44. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 176.194 [Amended]**

45. In § 176.194, the following changes are made:

a. In paragraph (c), in the last sentence, the wording “Detonators, Division 1.1 (Class A explosive), and detonating primers, Division 1.1 (Class A explosive)” is removed and “Detonators, detonator assemblies and boosters with detonators, Division 1.1 (Class A explosive)” is added in its place.

b. In paragraph (e), in the last sentence, the wording “Detonators and detonating primers” is removed and “Detonators, detonator assemblies and boosters with detonators” is added in its place.

**§ 176.340 [Amended]**

46. In § 176.340, the following changes are made:

a. In paragraph (b)(1), the wording “§§ 178.251 and 178.253 of this subchapter,” is removed and “a DOT specification 57 portable tank,” is added in its place.

b. In paragraph (b)(3), the wording “in § 178.253–5 of this subchapter” is removed.

c. In paragraph (b)(4), the wording “Table III in § 178.341–4” is removed and “Table I in § 178.345–10” is added in its place.

d. In paragraph (b)(5), the wording “marking required by § 178.251–7 of

this subchapter,” is removed and “marking,” is added in its place.

**PART 177—CARRIAGE BY PUBLIC HIGHWAY**

47. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

48. In § 177.835, paragraph (g) introductory text is revised to read as follows:

**§ 177.835 Class 1 (explosive) materials.**

\* \* \* \* \*

(g) No detonator assembly or booster with detonator may be transported on the same motor vehicle with any Division 1.1, 1.2 or 1.3 (Class A or Class B explosive) material (except other detonator assemblies, boosters with detonators or detonators), explosives for blasting or detonating cord Division 1.4 (Class C explosive) material. No detonator may be transported on the same motor vehicle with any Division 1.1, 1.2 or 1.3 (Class A or Class B explosive) material (except other detonators, detonator assemblies or boosters with detonators), explosives for blasting or detonating cord, Division 1.4 (Class C explosive) material unless—

\* \* \* \* \*

**PART 178—SPECIFICATIONS FOR PACKAGINGS**

49. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

50. In § 178.320, in paragraph (a), the definition for “Manufacturer” is revised to read as follows:

**§ 178.320 General requirements applicable to all DOT specification cargo tank motor vehicles.**

(a) \* \* \*

Manufacturer means any person engaged in the manufacture of a DOT specification cargo tank, cargo tank motor vehicle or cargo tank equipment which forms part of the cargo tank wall. This term includes attaching a cargo tank to a motor vehicle or to a motor vehicle suspension component which involves welding on the cargo tank wall. A manufacturer shall register with the Department in accordance with subpart F of part 107 in subchapter A of this chapter.

\* \* \* \* \*

**§ 178.337–1 [Amended]**

51. In § 178.337–1, the following changes are made:

a. In paragraphs (b), (c)(1), (c)(2) introductory text, (c)(2)(i), (c)(2)(ii), (d), (e)(1), (e)(2) and (f), the word "tank" is removed and "cargo tank" is added each place it appears.

b. In paragraph (e)(2), the word "tanks" is removed and "cargo tanks" is added in its place.

c. In paragraph (f), in the first sentence, the word "accord-ance" is removed and "accordance" is added in its place.

**§ 178.337-2 [Amended]**

52. In § 178.337-2, the following changes are made:

a. In paragraph (a)(1), the word "tank" is removed and "cargo tank" is added in its place.

b. In paragraph (a)(2), in the first sentence, the wording "on steel used in fabrication on each tank" is removed and "on steel used in the fabrication of each cargo tank" is added in its place.

c. In paragraphs (a)(3), (a)(4), (b)(1) introductory text, (b)(2) introductory text and the last sentence in paragraph (c), the word "tank" is removed and "cargo tank" is added each place it appears.

d. In paragraph (b) heading, the wording "*a chlorine tank*" is removed and "*a chlorine cargo tank*" is added in its place.

**§ 178.337-3 [Amended]**

53. In § 178.337-3, the following changes are made:

a. In paragraph (b), in the second sentence, the wording "by the tank wall" is removed and "by the cargo tank wall" is added in its place.

b. In paragraphs (c)(1)(iii) (A), (B) introductory text and (C); (c)(1)(iv) (A), (B) and (C); (c)(2)(iii) (A), (B) introductory text and (C); and (c)(2)(iv) (A), (B) and (C), the wording "loaded cargo tank" is removed and "loaded cargo tank motor vehicle" is added each place it appears.

c. In paragraph (e), the word "tanks" is removed and "cargo tanks" is added each place it appears.

d. In paragraphs (f) and (g) introductory text, the word "tank" is removed and "cargo tank" is added each place it appears.

e. In paragraph (g)(1), in the second sentence, the wording "integrity of the tank" is removed and "integrity of the cargo tank" is added in its place.

**§§ 178.337-4, 178.337-6, 178.337-8 [Amended]**

54. In § 178.337-4 (b) and (c), in § 178.337-6(b) and in § 178-337-8(a)(1), the word "tank" is removed and "cargo tank" is added each place it appears.

**§ 178.337-9 [Amended]**

55. In § 178.337-9, the following changes are made:

a. In paragraph (a)(2), the word "tanks" is removed and "cargo tanks" is added in its place.

b. In paragraphs (a)(3), (b)(1) and (c), the word "tank" is removed and "cargo tank" is added each place it appears.

c. In paragraph (b)(6), in the third sentence, the wording "installation on the tank" is removed and "installation on the cargo tank" is added in its place.

d. In paragraph (d)(1), in the second sentence, the wording "at least tank test pressure" is removed and "at least the cargo tank test pressure" is added in its place.

e. In paragraph (d)(1), in the third and fourth sentences, the word "tank" is removed and "cargo tank" is added each place it appears.

f. In paragraph (d)(1), in the fourth sentence, the punctuation "." is added after the word leakage and preceding the word "The".

**§ 178.337-11 [Amended]**

56. In § 178.337-11, the following changes are made:

a. In paragraphs (a)(1) (ii), (iii), (iv) and (v); (a)(2) (i) and (ii); (b); and (c)(3), the word "tank" is removed and "cargo tank" is added each place it appears.

b. In paragraph (c)(1), the wording "self-closing" is removed the first time it appears.

**§ 178.337-13 [Amended]**

57. In § 178.337-13, the following changes are made:

a. In paragraph (a), in the first sentence, the wording "tank down" is removed and "cargo tank down" is added in its place; in the second sentence, the wording "tank and the vehicle chassis" is removed and "cargo tank and the vehicle chassis" is added in its place.

b. In paragraph (b), in the first sentence, the wording "tank motor vehicle" is removed and "cargo tank motor vehicle" is added in its place.

c. In paragraph (b), in the first sentence, the wording "tank supported" is removed and "cargo tank supported" is added in its place.

d. In paragraph (b), in the fourth sentence, the wording "loaded vehicle" is removed and "loaded cargo tank motor vehicle" is added in its place.

e. In paragraphs (c) and (d), the word "tank" is removed and "cargo tank" is added each place it appears.

**§ 178.337-14 [Amended]**

58. In § 178.337-14, in paragraph (b)(2), in the second sentence, the word "tank" is removed and "cargo tank" is added in its place.

**§ 178.337-15 [Amended]**

59. In § 178.337-15, in paragraph (a), in the third sentence, the word "tank" is removed and "cargo tank" is added in its place.

**§ 178.337-16 [Amended]**

60. In § 178.337-16, the following changes are made:

a. In paragraphs (a) and (b)(1), the word "tank" is removed and "cargo tank" is added each place it appears.

b. In paragraphs (a), (b)(2) and (c), the word "tanks" is removed and "cargo tanks" is added each place it appears.

**§ 178.337-17 [Amended]**

61. In § 178.337-17, in paragraph (a), the following changes are made:

a. The word "tank" is removed and "cargo tank" is added each place it appears.

b. In the third sentence, the wording "multitank vehicles plates" is removed and "multi-cargo tank motor vehicle plates" is added in its place.

**§ 178.337-18 [Amended]**

62. In § 178.337-18, the following changes are made:

a. In paragraph (a) introductory text, in the first sentence, the wording "cargo tank manufacturer" is removed and "cargo tank motor vehicle manufacturer" is added in its place.

b. In paragraph (a) introductory text, in the first sentence, the wording "tank manufacturer's" is removed and "cargo tank motor vehicle manufacturer's" is added in its place.

c. In paragraph (a)(3), in the third sentence, the word "tank" is removed and "cargo tank" is added in its place.

d. In paragraph (b), the word "tank" is removed and "cargo tank motor vehicle" is added each place it appears.

**§ 178.338-9 [Amended]**

63. In § 178.338-9, in paragraph (c)(1), in the fourth sentence, the reference "§ 173.33(d)(1)(ii)" is removed and "§ 173.318(g)(3)" is added in its place.

**§ 178.345-1 [Amended]**

64. In § 178.345-1, in paragraph (c), the following changes are made:

a. For the following definitions, the word "tank" is removed and "cargo tank" is added each place it appears: "External self-closing stop-valve", "Inspection pressure", "Internal self-closing stop-valve", "Loading/unloading outlet", "Loading/unloading stop-valve", "Outlet", "Outlet stop-valve", "Sacrificial Device", "Shell", "Sump", and "Vacuum tank".

b. For the following definitions, the wording "cargo tank" is removed and "cargo tank motor vehicle" is added each place it appears: "Extreme

*dynamic loading*” and “*Normal operating loading*”.

**§ 178.345-2 [Amended]**

65. In § 178.345-2, the following changes are made:

a. In paragraph (a)(1), the wording “ASTM A 622” is added in alphanumerical order.

b. In paragraph (c)(1), the word “tank” is removed and “cargo tank” is added in its place.

c. In paragraph (c)(2), the wording “tank wall” is removed and “cargo tank wall” is added in its place.

**§ 178.345-3 [Amended]**

66. In § 178.345-3, the following changes are made:

a. In paragraphs (a)(1) and (c)(1) introductory text, the word “tank” is removed and “cargo tank” is added each place it appears.

a-1. In paragraph (b) introductory text, in the second sentence, the wording “tank design” is removed and “cargo tank design” is added in its place.

b. In paragraphs (c)(1)(iii) (A), (B) introductory text and (C), and (c)(1)(iv) (A), (B) and (C), the wording “fully loaded cargo tank” is removed and “fully loaded cargo tank motor vehicle” is added each place it appears.

c. In paragraph (c)(2) introductory text, the word “tank” is removed and “cargo tank” is added in its place.

d. In paragraphs (c)(2)(iii) (A), (B) introductory text, (C) and (c)(2)(iv) (A), (B) and (C), the wording “fully loaded cargo tank” is removed and “fully loaded cargo tank motor vehicle” is added each place it appears.

e. In paragraph (f)(2), in the last sentence, the wording “tank shell” is revised to read “cargo tank shell”.

**§ 178.345-4 [Amended]**

67. In § 178.345-4, in paragraph (a), the wording “tank shell” is removed and “the cargo tank shell” is added in its place.

**§ 178.345-6 [Amended]**

68. In § 178.345-6, the following changes are made:

a. In paragraph (a), in the first sentence, the word “vehicle” is removed and “cargo tank motor vehicle” is added in its place.

b. In paragraph (a), in the first sentence, the wording “tank must have the tank secured by restraining devices to eliminate any motion between the tank and frame that may abrade the tank shell” is removed and “cargo tank must have the tank secured by restraining devices to eliminate any motion between the tank and frame that may

abrade the tank shell” is added in its place.

c. In paragraph (b), in the first sentence, the wording “in the tank” is removed and “in the cargo tank” is added in its place.

69. In § 178.345-7, the table in paragraph (d)(2) is revised to read as follows:

**§ 178.345-7 Circumferential reinforcements.**

\* \* \* \* \*  
(d) \* \* \*  
(2) \* \* \*

Number of circumferential ring stiffener-to-shell welds	J <sup>1</sup>	Shell section
1 .....	.....	20t
2 .....	Less than 20t ...	20t+J
2 .....	20t or more .....	40t

<sup>1</sup> where:  
t=Shell thickness, inches;  
J=Longitudinal distance between parallel circumferential ring stiffener-to-shell welds.

\* \* \* \* \*

**§ 178.345-7 [Amended]**

70. In addition, in § 178.345-7, the following changes are made:

a. In paragraphs (a) introductory text, (c) and (d)(2), the word “tank” is removed and “cargo tank” is added each place it appears.

b. In paragraph (d)(5), the wording “tank shell” is removed and “cargo tank shell” is added in its place.

**§ 178.345-8 [Amended]**

71. In § 178.345-8, the following changes are made:

a. In paragraph (a)(1) introductory text, in the second sentence, the wording “accident damage protection that are:” is removed and “accident damage protection devices that are:” is added in its place.

b. In paragraph (a)(1) introductory text, the words “non-circular tanks” is removed and “non-circular cargo tanks” is added each place it appears.

c. In paragraph (a)(3), in the second sentence, the wording “the tank wall” is removed and “the cargo tank wall” is added in its place.

d. In paragraph (a)(3), in the third sentence, the wording “from the tank operating at the MAWP may not result in a tank wall” is removed and “from the cargo tank operating at the MAWP may not result in a cargo tank wall” is added in its place.

e. In paragraph (a)(4), in the third and fourth sentences, the word “tank” is removed and “cargo tank” is added each place it appears.

f. In paragraph (b) introductory text, the word “tank” is removed and “cargo tank” is added in its place.

g. In paragraph (b) introductory text, the wording “non-circular tanks” is removed and “non-circular cargo tanks” is added in its place.

h. In paragraphs (b)(2), (d)(2) introductory text, (d)(2)(ii) and (e), the word “tank” is removed and “cargo tank” is added each place it appears.

i. In paragraph (c)(1), the wording “normal to the tank shell (perpendicular to the tank surface)” is removed and “normal to the cargo tank shell (perpendicular to the cargo tank surface)” is added in its place.

j. In paragraph (c)(2), the wording “top of the tank” is removed and “top of the cargo tank” is added in its place.

k. In paragraph (d) introductory text, in the first sentence, the wording “protect the tank” is removed and “protect the cargo tank” is added in its place.

l. In paragraph (d)(1), the wording “The rear-end tank” is removed and “The rear end cargo tank” is added in its place.

**§ 178.345-9 [Amended]**

72. In § 178.345-9, in paragraphs (e) and (h), the word “tank” is removed and “cargo tank” is added each place it appears.

**§ 178.345-10 [Amended]**

73. In § 178.345-10, the following changes are made:

a. In paragraph (a), in the second sentence, the wording “tank rupture” is removed and “cargo tank rupture” is added in its place.

b. In paragraph (c), in the second sentence, the word “tank” is removed and “cargo tank” is added each place it appears.

c. In paragraph (c), in the second sentence, the word “tanks” is removed and “cargo tanks” is added in its place.

d. In paragraph (e) introductory text, the word “tank” is removed and “cargo tank” is added each place it appears.

e. In paragraph (e)(1), the wording “exposed tank” is removed and “exposed cargo tank” is added in its place.

**§ 178.345-11 [Amended]**

74. In § 178.345-11, the following changes are made:

a. In paragraph (a), in the second sentence, the wording “Tank out-lets” is removed and “Cargo tank outlets” is added in its place.

b. In paragraphs (b) introductory text, and (d), the word “tank” is removed and “cargo tank” is added each place it appears.

c. In paragraph (b)(2), the wording "the tank need not" is removed and "the cargo tank need not" is added in its place.

**§ 178.345-12 [Amended]**

75. In § 178.345-12, in the first sentence, the wording "Each cargo tank, except a tank" is removed and "Each cargo tank, except a cargo tank" is added in its place.

76. In § 178.345-13, in paragraph (b) introductory text, the first two sentences are revised to read as follows:

**§ 178.345-13 Pressure and leakage tests.**

(b) \* \* \* Each cargo tank or cargo tank compartment must be tested hydrostatically or pneumatically. Each cargo tank of a multi-cargo tank motor vehicle must be tested with the adjacent cargo tanks empty and at atmospheric pressure. \* \* \*

**§ 178.345-13 [Amended]**

77. In addition, in § 178.345-13, the following changes are made:

a. In paragraph (a), the words "Each tank must be pressure and leak tested" is removed and "Each cargo tank must be pressure and leakage tested" is added in its place.

b. In paragraph (b)(1) and the fourth sentence of paragraph (b)(2), the word "tank" is removed and "cargo tank" is added each place it appears.

78. In § 178.345-14, paragraph (a) is revised to read as follows:

**§ 178.345-14 Marking.**

(a) *General.* The manufacturer shall certify that each cargo tank motor vehicle has been designed, constructed and tested in accordance with the applicable Specification DOT 406, DOT 407 or DOT 412 (§§ 178.345, 178.346, 178.347, 178.348) cargo tank requirements, and when applicable, with the ASME Code. The certification shall be accomplished by marking the cargo tank as prescribed in paragraphs (b) and (c) of this section, and by preparing the certificate prescribed in § 178.345-15. Metal plates prescribed by paragraphs (b), (c), (d) and (e) of this section, must be permanently attached to the cargo tank or its integral supporting structure, by brazing, welding or other suitable means. These plates must be affixed on the left side of the vehicle near the front of the cargo tank (or the frontmost cargo tank of a multi-cargo tank motor vehicle), in a place readily accessible for inspection. The plates must be permanently and plainly marked in English by stamping, embossing or other means in characters

at least 3/16 inch high. The information required by paragraphs (b) and (c) of this section may be combined on one specification plate.

\* \* \* \* \*

**§ 178.345-14 [Amended]**

79. In addition, in § 178.345-14, the following changes are made:

a. In paragraphs (b)(4) and (b)(5), the word "Tank" is removed and "Cargo tank" is added each place it appears.

b. In paragraph (d), the paragraph heading is revised to read: "*Multi-cargo tank motor vehicle.*"

c. In paragraph (d), in the first sentence, the wording "For a cargo tank motor vehicle" is removed and "For a multi-cargo tank motor vehicle" is added in its place.

d. In paragraph (d), in the first sentence, the wording "having one cargo tank or" is removed.

e. In paragraph (d), in the fourth sentence, the wording "insulation and the" is removed and "insulation. The" is added in its place.

**§ 178.345-15 [Amended]**

80. In § 178.345-15, the following changes are made:

a. In paragraph (b)(2), in the first sentence, the wording "ASME tank a tank manufacturer's" is removed and "ASME cargo tank a cargo tank manufacturer's" is added in its place.

b. In paragraph (d), the wording "tank fabrication" is removed and "cargo tank fabrication" is added in its place.

**PART 179—SPECIFICATIONS FOR TANK CARS**

81. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

**§ 179.103-5 [Amended]**

82. In § 179.103-5, paragraph (a)(1) is amended by removing the first two sentences.

**§ 179.300-7 [Amended]**

82a. In § 179.300-7, in the first sentence of paragraph (a), the phrase "having heads fusion welded to the tank shell" is removed.

**PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS**

83. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

84. In § 180.403, for the definition "*Modification*", a new sentence is

added at the end of the introductory text to read as follows:

**§ 180.403 Definitions.**

\* \* \* \* \*

*Modification* \* \* \* Excluded from this category are the following:

\* \* \* \* \*

**§ 180.407 [Amended]**

85. In § 180.407, the following changes are made:

a. In the paragraph (c) table, in the table title, the word "Retests" is removed and "Test" is added in its place.

b. In the paragraph (c) table, in the first column, in the fifth entry, the wording "Pressure Retest" is removed and "Pressure Test" is added in its place.

c. In paragraph (d)(2)(vi), the wording "parts 178 and 180" is removed and "parts 172, 178 and 180 of this subchapter" is added in its place.

d. In paragraph (f)(3), in the first sentence, the word "tank" is removed and the words "the cargo tank" are added in its place.

e. In paragraph (f)(3), in the second sentence, the reference "§ 180.407(i)." is removed and "paragraphs (i)(2), (i)(3), (i)(5) and (i)(6) of this section." is added in its place.

f. In paragraph (g)(1) (viii) and (ix), the word "tank" is removed and "cargo tank" is added each place it appears.

g. In paragraph (g)(1)(viii), in the second sentence, the reference "(g)(1)(iii)" is removed and "(g)(1)(iv)" is added in its place.

h. In paragraph (h)(1) introductory text, (h)(1)(i) and (h)(1)(ii), the wording "leak tested" is removed and "leakage tested" is added each place it appears.

**§ 180.413 [Amended]**

86. In § 180.413, in paragraph (e), the following changes are made:

a. In the first sentence, the wording "each tank during the time the tank" is removed and "each cargo tank during the time the cargo tank" is added in its place.

b. In the second sentence, the wording "during the period the tank" is removed and "during the period the cargo tank" is added in its place.

c. In the third sentence, the wording "cargo tank" is removed and "specification cargo tank" is added each place it appears.

**§ 180.415 [Amended]**

87. In § 180.415, in paragraph (b), the following changes are made:

a. In the fourth sentence, the wording “pressure retest” is removed and “pressure test” is added in its place.

b. In the fourth sentence, the wording “lining test” is removed and “lining inspection” is added in its place.

c. In the fifth sentence, the wording “pressure retest” is removed and “pressure test” is added in its place.

**§ 180.417 [Amended]**

88. In § 180.417, in paragraph (c)(2), the word “tank” is removed and “cargo tank” is added in its place.

Issued in Washington, DC, on September 18, 1996, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

*Deputy Administrator, Research and Special Programs Administration.*

[FR Doc. 96-24710 Filed 9-30-96; 8:45 am]

**BILLING CODE 4910-60-P**

# Federal Register

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Tuesday  
October 1, 1996

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## Part IV

# The President

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Proclamation 6923—Gold Star Mother's  
Day, 1996



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# Presidential Documents

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Title 3—

Proclamation 6923 of September 27, 1996

The President

Gold Star Mother's Day, 1996

By the President of the United States of America

## A Proclamation

Of all the many bonds between one human and another, the love of a mother for her children touches the deepest chords of passion and selfless devotion. A mother willingly gives her affection, her work, and her spirit to prepare her children to go forth into the world and make their own way. Few of us can appreciate the strength of this tie more keenly than a mother whose son or daughter has died while serving our country.

Every Gold Star Mother has lived through this tragedy. She has experienced firsthand the shock of having a child taken away abruptly, at the brink of achieving his or her promise for fulfillment; she has suffered the terrible realization that years of love, nurturing, and teaching have been lost in a seemingly random event; and, ultimately, she has faced the need to rededicate her life in a way that will give continued meaning to the precious memory of her child's existence on earth.

Instead of withdrawing into the privacy of their anguish, these courageous women channel their grief into constructive service, memorializing their children by living lives dedicated to helping others. Gold Star Mothers do this not for personal gain, but in the hope of making our world a better place.

Whether comforting a disabled veteran in a VA hospital, counseling the family of a recently fallen member of our Armed Forces, or working for a community volunteer group, America's Gold Star Mothers make a real difference to those in need. They also serve our national community by fostering and promoting patriotism and respect for our Nation, our flag, and our men and women in uniform. Their unselfish leadership helps strengthen communities and sets an example for people across our country.

As we honor America's Gold Star Mothers and observe this special day, we also pray for them and for their families, that they may find peace and reconciliation in the knowledge that their work keeps alive the noble spirit of their sons and daughters. Having lost their most precious gift—their children—they deserve no less than our eternal gratitude.

In recognition of the outstanding courage of our Gold Star Mothers, the Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895), has designated the last Sunday in September as "Gold Star Mother's Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim Sunday, September 29, 1996, as Gold Star Mother's Day. I call upon all government officials to display the United States flag on government buildings on this solemn day. I additionally urge the American people to display the flag and to hold appropriate meetings in their homes, places of worship, or other suitable places, as public expression of the sympathy and the respect that our Nation holds for its Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.

A handwritten signature in black ink that reads "William Clinton". The signature is written in a cursive style with a large, prominent initial "W".

[FR Doc. 96-25341  
Filed 9-30-96; 10:39 am]  
Billing code 3195-01-P

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## CFR ISSUANCES 1996

### January—July 1996 Editions and Projected October, 1996 Editions

This list sets out the CFR issuances for the January—July 1996 editions and projects the publication plans for the **October, 1996** quarter. A projected schedule that will include the **January, 1997** quarter will appear in the first **Federal Register** issue of January.

**For pricing information on available 1995–1996 volumes consult the CFR checklist which appears every Monday in the Federal Register.**

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

- Titles 1–16—January 1
- Titles 17–27—April 1
- Titles 28–41—July 1
- Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

#### Titles revised as of January 1, 1996:

Title	
<b>CFR Index</b>	200–End
<b>1–2 (Revised as of Feb. 1, 1996)</b>	<b>10 Parts:</b> 0–50 51–199
<b>3 (Compilation)</b>	200–399 400–499
<b>4</b>	500–End
<b>5 Parts:</b> 1–699 700–1199 1200–End	<b>11</b> <b>12 Parts:</b> 1–199 200–219 220–299 300–499 500–599 600–End
<b>6 [Reserved]</b>	
<b>7 Parts:</b> 0–26 27–45 46–51 52 53–209 210–299 300–399 400–699 700–899 900–999 1000–1199 1200–1499 1500–1899 1900–1939 1940–1949 1950–1999 2000–End	<b>13 (Revised as of Mar. 1, 1996)</b> <b>14 Parts:</b> 1–59 60–139 140–199 200–1199 1200–End <b>15 Parts:</b> 0–299 300–799 800–End <b>16 Parts:</b> 0–149 150–999 1000–End
<b>8</b>	
<b>9 Parts:</b> 1–199	

#### Titles revised as of April 1, 1996:

Title	
<b>17 Parts:</b> 1–199	200–239 240–End

**18 Parts:**  
1–149  
150–279  
280–399  
400–End

**19 Parts:**  
1–140  
141–199  
200–End

**20 Parts:**  
1–399  
400–499  
500–End

**21 Parts:**  
1–99  
100–169  
170–199  
200–299  
300–499  
500–599  
600–799  
800–1299  
1300–End

**22 Parts:**  
1–299  
300–End

**23**

**24 Parts:**  
0–199 (Revised May 1, 1996)

#### Titles revised as of July 1, 1996:

Title	
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<b>30 Parts:</b> 1–199 200–699 700–End	
<b>31 Parts:</b> 0–199 200–End	
<b>32 Parts:</b> 1–190 191–399 400–629 630–699 (Cover only) 700–799 800–End	
<b>33 Parts:</b> 1–124 125–199 200–End	

200–219 (Revised May 1, 1996)  
220–499 (Revised May 1, 1996)  
500–699 (Revised May 1, 1996)  
700–899 (Revised May 1, 1996)  
900–1699 (Revised May 1, 1996)  
1700–End (Revised May 1, 1996)

**25**

**26 Parts:**  
1 (§§ 1.0–1–1.60)  
1 (§§ 1.61–1.169)  
1 (§§ 1.170–1.300)  
1 (§§ 1.301–1.400)  
1 (§§ 1.401–1.440)  
1 (§§ 1.441–1.500)  
1 (§§ 1.501–1.640)  
1 (§§ 1.641–1.850)  
1 (§§ 1.851–1.907)  
1 (§§ 1.908–1.1000)  
1 (§§ 1.1001–1.1400)  
1 (§ 1.1401–End)  
2–29  
30–39  
40–49  
50–299  
300–499  
500–599 (Cover only)  
600–End

**27 Parts:**  
1–199  
200–End

**34 Parts:**  
1–299  
300–399  
400–End

**35**

**36 Parts:**  
1–199  
200–End

**37**

**38 Parts:**  
0–17  
18–End

**39**

**40 Parts:**  
1–51  
52  
53–59  
60  
61–71  
72–80  
81–85  
86  
87–135  
136–149  
150–189  
190–259  
260–299  
300–399  
400–424

425-699  
700-789  
790-End

**41 Parts:**  
Chs. 1-100  
Ch. 101  
Chs. 102-200  
Ch. 201-End

70-89  
90-139  
140-155  
156-165  
166-199  
200-499  
500-End

Ch. 2 (252-299)  
Chs. 3-6  
Chs. 7-14  
Ch. 15-28  
Ch. 29-End

**Projected October 1, 1996 editions:**

**Title**

**42 Parts:**  
1-399  
400-429  
430-End

**45 Parts:**  
1-199  
200-499  
500-1199  
1200-End

**43 Parts:**  
1-999  
1000-End

**46 Parts:**  
1-40  
41-69

**44**

**47 Parts:**  
0-19  
20-39  
40-69  
70-79  
80-End

**48 Parts:**  
Ch. 1 (1-51)  
Ch. 1 (52-99)  
Ch. 2 (201-251)

**49 Parts:**  
1-99  
100-185  
186-199  
200-399  
400-999  
1000-1199  
1200-End

**50 Parts:**  
1-199  
200-599  
600-End

## TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1996

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 1	October 16	October 31	November 15	December 2	December 30
October 2	October 17	November 1	November 18	December 2	December 31
October 3	October 18	November 4	November 18	December 2	January 2
October 4	October 21	November 4	November 18	December 3	January 2
October 7	October 22	November 6	November 21	December 6	January 6
October 8	October 23	November 7	November 22	December 9	January 6
October 9	October 24	November 8	November 25	December 9	January 7
October 10	October 25	November 12	November 25	December 9	January 8
October 11	October 28	November 12	November 25	December 10	January 9
October 15	October 30	November 14	November 29	December 16	January 13
October 16	October 31	November 15	December 2	December 16	January 14
October 17	November 1	November 18	December 2	December 16	January 15
October 18	November 4	November 18	December 2	December 17	January 16
October 21	November 5	November 20	December 5	December 20	January 21
October 22	November 6	November 21	December 6	December 23	January 21
October 23	November 7	November 22	December 9	December 23	January 21
October 24	November 8	November 25	December 9	December 23	January 22
October 25	November 12	November 25	December 9	December 24	January 23
October 28	November 12	November 27	December 12	December 27	January 27
October 29	November 13	November 29	December 13	December 30	January 27
October 30	November 14	November 29	December 16	December 30	January 28
October 31	November 15	December 2	December 16	December 30	January 29