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Tuesday
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Contents

Federal Register

Vol. 62, No. 174

Tuesday, September 9, 1997

Separate Parts In This Issue

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 62, No. 174
Tuesday, September 9, 1997

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–271–AD; Amendment 39–10120; AD 97–18–10]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) airplanes that requires a one-time inspection of the direct current (DC) power distribution system for reliability, and correction or repair, of any fuse holders and associated electrical wiring, if necessary. This amendment is prompted by a report indicating that a loose fuse holder caused the DC power distribution system to short circuit on one of the affected airplanes, which resulted in a burnt wire between circuit breaker panel CBP–2 and junction box JB7. The actions specified by this AD are intended to prevent such short circuiting, which could result in a burnt wire, smoke entering the cockpit area, and consequent passenger injury due to smoke inhalation.

DATES: Effective October 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Balram Rambrich, Aerospace Engineer, Systems and Equipment Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7507; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) airplanes was published in the **Federal Register** on June 4, 1997 (62 FR 30481). That action proposed to require a one-time inspection of the direct current (DC) power distribution system for reliability, and correction or repair, of any fuse holders and associated electrical wiring, if necessary.

No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of this rule as proposed.

Cost Impact

The FAA estimates that 41 Bombardier Model CL–600–2B19 (Regional Jet Series 100) airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $34,440, or $840 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–18–10 Bombardier, Inc. (Formerly Canadair): Amendment 39–10120. Docket 96–NM–271–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) airplanes, serial

numbers 7003 through 7105 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the direct current (DC) power distribution system from short circuiting, which could result in a burnt wire, smoke entering the cockpit area, and consequent passenger injury due to smoke inhalation, accomplish the following:

(a) Within 600 hours time-in-service after the effective date of this AD, perform a one-time inspection of the DC power distribution system for reliability in accordance with Canadair Regional Jet Alert Service Bulletin S.B. A601R–24–056, Revision 'A,' dated July 9, 1996. Prior to further flight, correct or repair any discrepant fuse holders and associated electrical wiring, in accordance with the service bulletin.

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

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

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

(d) The inspection shall be done in accordance with Canadair Regional Jet Alert Service Bulletin S.B. A601R–24–056, Revision 'A,' dated July 9, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 14, 1997.

Issued in Renton, Washington, on August 28, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–23465 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–221–AD; Amendment 39–10124; AD 97–19–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–145 series airplanes. This action requires repetitive visual inspections to detect cracks in the firewall of the auxiliary power unit (APU), and repair, if necessary. This AD also requires installation of a visco-elastic damper blanket on the firewall, which constitutes terminating action for the repetitive inspection requirements. This amendment is prompted by reports indicating that cracks were found in the firewall of the APU due to vibration of the firewall. The actions specified in this AD are intended to prevent such cracking, which could result in reduced structural integrity of the fuselage and empennage in the event that a fire penetrates through the firewall of the APU.

DATES: Effective September 24, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 24, 1997.

Comments for inclusion in the Rules Docket must be received on or before October 9, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–221–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Airframe and Propulsion Branch, ACE–117A, the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703–6083; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The Departamento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, recently notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–145 series airplanes. The CTA advises that it has received reports indicating that, during a routine inspection, cracks were found in the firewall of the auxiliary power unit (APU). In one incident, the crack was 24 inches in length. The cause of such cracking has been attributed to vibration of the firewall in the location where the recessed area of the shell is spot welded to the firewall. Cracking in the firewall of the APU, if not corrected, could result in reduced structural integrity of the fuselage and empennage in the event that a fire penetrates through the firewall of the APU.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–53–0004, dated July 28, 1997, which describes procedures for repetitive visual inspections to detect cracks in the firewall of the APU. The service bulletin also describes procedures for installation of a visco-elastic damper blanket on the firewall, which eliminates the need for the repetitive inspections. The DAC issued Brazilian airworthiness directive NPR/AD–97–145–02, dated July 30, 1997, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil 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 DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, 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 Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent cracking in the firewall of the APU, which could result in reduced structural integrity of the fuselage and empenage in the event that a fire penetrates through the firewall of the APU. This AD requires repetitive visual inspections to detect cracks in the firewall of the APU, and repair, if necessary. This AD also requires installation of a visco-elastic damper blanket on the firewall, which constitutes terminating action for the repetitive inspection requirements. The inspections and installation are required to be accomplished in accordance with the service bulletin described previously.

Differences Between the AD and the Relevant Service Information

Operators should note that, although the referenced service bulletin specifies that the manufacturer must be contacted for disposition of certain conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–221–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–19–04 EMPRESA BRASILEIRA DE AERONAUTICA S.A.: Amendment 39–10124. Docket 97–NM–221–AD.

Applicability: Model EMB–145 series airplanes, serial numbers 145004 through 145019 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking in the firewall of the auxiliary power unit (APU), which could result in reduced structural integrity of the fuselage and empennage in the event that a fire penetrates through the firewall of the APU, accomplish the following:

(a) Within 50 flight hours after the effective date of this AD, perform a visual inspection to detect cracks in the firewall of the APU, in accordance with EMBRAER Service Bulletin 145–53–0004, dated July 28, 1997.

(1) If no crack is detected, repeat the visual inspection thereafter at intervals not to exceed 100 flight hours.

(2) If any crack is detected, prior to operation of the APU, repair it in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

(b) Within 200 flight hours after the effective date of this AD, install the visco-elastic damper blanket on the firewall in accordance with EMBRAER Service Bulletin 145–53–0004, dated July 28, 1997. Accomplishment of the installation constitutes terminating action for the repetitive inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small 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, Atlanta ACO.

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

(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 inspection and installation shall be done in accordance with EMBRAER Service Bulletin 145–53–0004, dated July 28, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on September 24, 1997.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive NPR/AD–97–145–02, dated July 30, 1997.

Issued in Renton, Washington, on September 3, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–23860 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–164–AD; Amendment 39–10122; AD 97–19–02]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 airplanes. This action requires repetitive functional testing of the main entrance door, cleaning and lubricating of the ''speed'' lock and ''G'' lock systems, and repair, if necessary. This amendment is prompted by reports of flight crews and ground crews being unable to open the main entrance door. The actions specified in this AD are intended to prevent inability of the main entrance door to open, which could delay or impede passengers exiting the airplane, or rescue personnel from entering the airplane during an emergency.

DATES: Effective September 24, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 24, 1997.

Comments for inclusion in the Rules Docket must be received on or before October 9, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–164–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2148; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has received several reports indicating that flight crews and/or ground crews were unable to open the main entrance door from either the inside or outside of British Aerospace (Jetstream) Model 4101 airplanes. Investigation revealed excessive friction in the main entrance door ''speed'' lock and ''G'' lock systems due to impurities (dirt) at mechanical linkage points of movement in these locking systems. Additionally, excessive friction in the ''speed'' lock and ''G'' lock systems has been attributed to the use of a certain type of lubricant currently specified by the airplane manufacturer. Such excessive friction, if not corrected, could result in the main entrance door being ''stuck,'' and consequently, unable to be opened from the inside or the outside of the airplane. The FAA has reviewed the available information and has determined that the inability to open the main entrance door during an emergency may cause delay or impede passengers exiting the airplane, or rescue personnel from entering the airplane during an emergency.

Explanation of Relevant Service Information

Jetstream has issued Service Bulletin J41–52–058, dated July 14, 1997, which describes procedures for performing repetitive functional checks of the main entrance door, and cleaning and lubricating of ''speed'' lock and ''G'' lock systems.

Accomplishment of these actions will ensure that the ''speed'' lock and ''G'' lock systems will not prevent the main entrance door from being opened when the airplane is on the ground.

U.S. Type Certification of the Airplane

This airplane model is manufactured in the United Kingdom 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.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent excessive friction in the main entrance door ''speed'' lock and ''G'' lock systems, which could prohibit the door from being opened, and consequently delay or impede passengers when exiting the airplane, or rescue personnel from entering the airplane during an emergency. This AD

requires initial functional testing of the main entrance door and ''speed'' lock system, cleaning, and lubrication of the ''speed'' lock and ''G'' lock systems of the main entrance door, and repair, if necessary. This AD also requires follow-on repetitive cleaning, lubrication, and functional testing of the ''speed'' lock and ''G'' lock systems of the main entrance door. The initial functional test of the main entrance door is required to be accomplished in accordance with the Jetstream Model 4101 Airplane Maintenance Manual. Other actions are required to be accomplished in accordance with the service bulletin described previously.

Interim Action

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

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–164–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–19–02 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited, British Aerospace (Commercial Aircraft) Limited]: Amendment 39–10122. Docket 97–NM–164–AD.

Applicability: All Model Jetstream 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 inability of the main entrance door to open, which could delay or impede passengers exiting the airplane, or rescue personnel from entering the airplane during an emergency, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a functional test to verify proper operation of the main entrance door (including the ''G'' lock system) and the ''speed'' lock system of the main entrance door, in accordance with Section 52–10–05 of BAe Jetstream Series 4101 Maintenance Manual (MM).

(1) If the ''speed'' lock and the ''G'' lock function satisfactorily: Within 60 days after the effective date of the AD, perform the actions specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Clean (remove existing contaminents and lubricant) and re-lubricate (with a dry lubricant) the ''speed'' lock and main entrance door ''G'' lock systems in accordance with Jetstream Service Bulletin J41–52–058, dated July 14, 1997. And,

(ii) Following accomplishment of paragraph (a)(1)(i) of this AD, and prior to further flight, repeat the functional test specified in paragraph (a) of this AD.

(A) If the ''G'' lock and the ''speed'' lock function satisfactorily in the functional test required by paragraph (a)(1)(ii) of this AD, accomplish the requirements of paragraph (b) of this AD.

(B) If the ''G'' lock and the ''speed'' lock do not function satisfactorily in the functional test required by paragraph (a)(1)(ii) of this AD: Prior to further flight, repair the ''G'' lock and the ''speed'' lock in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) If either the ''speed'' lock and/or the ''G'' lock do not function correctly: Prior to further flight, perform the actions specified

in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Clean (remove existing contaminents and lubricant) and re-lubricate (with a dry lubricant) the main entrance door ''speed'' lock and ''G'' lock systems in accordance with Jetstream Service Bulletin J41–52–058, dated July 14, 1997. And,

(ii) Following accomplishment of paragraph (a)(2)(i) of this AD, and prior to further flight, repeat the functional test of the main entrance door (including the ''G'' lock system) and the ''speed'' lock system, in accordance with the MM.

(A) If the ''G'' lock and speed lock function satisfactorily in the functional test required by paragraph (a)(2) of this AD, accomplish the requirements of paragraph (b) of this AD.

(B) If the ''G'' lock and speed lock do not function satisfactorily in the functional tests required by paragraph (a)(2) of this AD: Prior to further flight, repair the ''G'' lock and speed lock in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(b) Perform the actions specified in paragraphs (b)(1) and (b)(2) of this AD within 1,500 hours time-in-service following accomplishment of the initial functional test of the main entrance door required by paragraph (a) of this AD. Repeat the actions specified in paragraphs (b)(1) and (b)(2) of this AD, thereafter, at intervals not to exceed 1,500 hours time-in-service.

(1) Clean (remove contaminents and dry lubricant) and re-lubricate (with dry lubricant) the main entrance door ''speed'' lock and ''G'' lock systems in accordance with Jetstream Service Bulletin J41–52–058, dated July 14, 1997.

(2) Following accomplishment of paragraph (b)(1) of this AD and prior to further flight, perform a functional test of the main entrance door (including the ''G'' lock system) and the ''speed'' lock system, in accordance with the MM. If the ''G'' lock or ''speed'' lock system do not perform satisfactorily: Prior to further flight, repair the ''G'' lock or ''speed'' lock system in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(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. 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) Certain actions shall be done in accordance with Jetstream Service Bulletin J41–52–058, dated July 14, 1997. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. 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 September 24, 1997.

Issued in Renton, Washington, on September 3, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–23861 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–168–AD; Amendment 39–10123; AD 97–19–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes Equipped With Manual

IPECO Captain and First Officer Seats

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, that currently requires an inspection to determine whether the bearings of the tracklock bracket assemblies of the pilot and co-pilot seats are secure, modification of loose bearings, and marking of the seat identification labels. This AD requires a visual inspection to determine whether the modification and marking of the crew seats were accomplished; and, if not, accomplishment of these actions, which constitutes terminating action for the requirements of this AD. This amendment is prompted by a report indicating that a first officer's crew seat on an in-service airplane failed to lock horizontally. The actions specified in this AD are intended to prevent the captain and first officer crew seats from sliding freely on the track, which could result in uncommanded movement of the seats and reduced controllability of the airplane.

DATES: Effective September 24, 1997.

The incorporation by reference of IPECO Service Bulletin A001–25–92, Issue 1, dated June 2, 1997, as listed in the regulations is approved by the Director of the Federal Register as of September 24, 1997.

The incorporation by reference of IPECO Service Bulletin A001–25–74, Issue 2, dated May 6, 1993, as listed in the regulations, was approved previously by the Director of the **Federal Register** as of August 24, 1993 (58 FR 42192, August 9, 1993).

Comments for inclusion in the Rules Docket must be received on or before November 10, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–168–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from IPECO, Inc., 3882 Del Amo Boulevard, suite 604, Torrance, California 90503. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Monica L. Nemecek, Aerospace Engineer, Airframe Branch, ANM–120S; FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2773; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On August 2, 1993, the FAA issued AD 93–15–08, amendment 39–8654 (58 FR 42192, August 9, 1993), applicable to certain Boeing Model 737 airplanes, to require an inspection to determine whether the bearings of the tracklock bracket assemblies of the pilot and co-pilot seats are secure, modification of loose bearings, and marking of the seat identification label. [A correction of the rule was published in the **Federal Register** on September 14, 1993 (58 FR 47986).] That action was prompted by reports of pilot seats failing to lock horizontally due to the tracklock pin bearing becoming detached from its housing and wedged in the mechanism. The actions required by that AD are intended to prevent the pilot and co-pilot seats from sliding freely on the track, which could lead to the inability of the pilots to control the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 93–15–08 R1, the FAA has received a report indicating that a first officer's crew seat on a Boeing Model 737 series airplane,

which had been inspected previously in accordance with IPECO Service Bulletin A001–25–74, Issue 2, dated May 6, 1993, failed to lock horizontally because the tracklock pin bearing of the tracklock bracket assembly detached from its housing and wedged in the tracklock mechanism. In addition, four reports were received of captain and first officer crew seats becoming loose after being inspected previously. Migration of the tracklock bearing from the tracklock bracket assemblies, if not corrected, could cause the crew seats to slide horizontally on the track during acceleration and takeoff of the airplane, which could result in uncommanded movement of the seats and reduced controllability of the airplane.

Explanation of Relevant Service Information

Since the issuance of the previous rule, the FAA has reviewed and approved IPECO Service Bulletin A001–25–92, Issue 1, dated June 2, 1997, which specifies procedures for a visual inspection of the seat identification label to determine whether the modification and marking of the captain and first officer crew seats were accomplished in accordance with the previously referenced IPECO service bulletin (A001–25–74); and, if not, procedures for such modification and marking to ensure that the seats are secure. Modification of the crew seats requires the installation of a bearing retaining pin in the tracklock bracket assemblies of the captain and first officer crew seats to ensure that these seats remain in a secure position during acceleration and takeoff of the airplane. Marking of the crew seats is accomplished by vibro etch or a similar method on the seat pan structure, beneath the pin cushion, or on the aft face of the seat base structure, following installation of the retaining pin.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 93–15–08 R1 to require a visual inspection to determine whether the modification and marking of crew seats have been accomplished; and, if not, accomplishment of such modification and marking to ensure that the seats are secure, which constitutes terminating action for the requirements of this AD. These actions are to be done in accordance with the IPECO service bulletins referenced previously.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–168–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8686 (58 FR 47986, September 14, 1993), and by adding a new airworthiness directive (AD), amendment 39–10123, to read as follows:

97–19–03 BOEING: Amendment 39–10123. Docket 97–NM–168–AD. Supersedes AD 93–15–08 R1, Amendment 39–8686.

Applicability: Model 737 series airplanes equipped with IPECO Model 093 captain and first officer crew seats, having seat serial numbers up to and including 21121; certificated in any category.

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

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the captain and first officer crew seats from sliding freely on the track, which could result in uncommanded movement of the seats and reduced controllability of the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a visual inspection of the seat identification labels of the captain and first officer crew seats to determine whether these seats were modified by installing a bearing retaining pin in the tracklock bracket assembly of the seats, and whether the seats were marked by an identification label, in accordance with IPECO Service Bulletin A001–25–74, Issue 2, dated May 6, 1993, or IPECO Service Bulletin A001–25–92, Issue 1, dated June 2, 1997.

(i) If the modification and marking of the crew seats were accomplished in accordance with service bulletin A001–25–74 or A001–25–92, no further action is required by this AD.

(ii) If the modification and marking were not accomplished in accordance with either service bulletin, within 90 days after the effective date of this AD, accomplish the modification (installation of a bearing retaining pin in the tracklock bracket assembly of the captain and first officer crew seats), and the marking of the seat identification label; in accordance with IPECO Service Bulletin A001–25–92, Issue 1, dated June 2, 1997.

(b) As of the effective date of this AD, no person shall install on any airplane a pilot/co-pilot (captain/first officer) crew seat that does not bear the marking ''A001–25–74'' or ''A001–25–92'' on the seat identification label.

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

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

(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 IPECO Service Bulletin A001–25–92, Issue 1, dated June 2, 1997; or IPECO Service Bulletin A001–25–74, Issue 2, dated May 6, 1993.

(1) The incorporation by reference of IPECO Service Bulletin A001–25–92, ssue 1, dated June 2, 1997, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of IPECO Service Bulletin A001–25–74, Issue 2, dated May 6, 1993, was approved previously by the Director of the Federal Register as of August 24, 1993 (58 FR 42192, August 9, 1993).

(3) Copies may be obtained from IPECO, Inc., 3882 Del Amo Boulevard, suite 604, Torrance, California 90503. 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 September 24, 1997.

Issued in Renton, Washington, on September 3, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–23862 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. No. 97–ASO–5]

Amendment to Class E Airspace; Titusville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Titusville, FL. Global Positioning System (GPS) Runway (RWY) 15 and RWY 33 Standard Instrument Approach Procedures (SIAPs) have been developed for the Arthur Dunn Air Park. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs. The operating status of the airport will change from Visual Flight Rules (VFR) to include Instrumental Flight Rules (IFR) operations concurrent with publication of the SIAPs

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5576.

SUPPLEMENTARY INFORMATION:

History

On April 14, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Titusville, FL (62 FR 18067). This action would provide adequate Class E airspace for IFR operations at the Arthur Dunn Air Park. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received objecting to the proposal. The United States Air Force objected to the proposed Class E airspace citing general safety concerns over parachute jumping activity and radar coverage in the vicinity of Arthur Dunn Air Park.

This FAA response action will enhance safety by lowering the floor of existing Class E airspace from 1200 feet AGL to 700 feet AGL within 6.3 miles of the Arthur Dunn Air Park to accommodate 2 GPS SIAPs which have been developed for the airport. The airspace modification as proposed is required in order to provide adequate controlled airspace for the GPS SIAPs into the Arthur Dunn Air Park.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies Class E airspace at Titusville, FL. Global Positioning System RWY 15 and RWY 33 SIAPs have been developed for the Arthur Dunn Air Park. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAPs.

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO FL E5 Titusville, FL [Revised]

Titusville, Space Coast Regional Airport, FL
(Lat. 28°30′50″ N, long. 80°47′58″ W)
NASA Shuttle Landing Facility
(Lat. 28°36′54″ N, long. 80°41′40″ W)
Arthur Dunn Air Park
(Lat. 28°37′21″ N, long. 80°50′11″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Space Coast Regional Airport, and within a 7.2-mile radius of NASA Shuttle Landing Facility and within a 6.3-mile radius of Arthur Dunn Air Park.

* * * * *

Issued in College Park, Georgia, on August 11, 1997.

Nancy B. Shelton,

Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–23734 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 33–7445]

Amendment of Rules Governing the Delegation of Authority to Regional Directors and the Director of the Division of Corporation Finance

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting revisions to its rules of general organization to eliminate outdated provisions that delegate authority to the Regional Directors and the Director of the Division of Corporation Finance.

DATES: The rule revisions are effective September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Elliot Staffin, Attorney-Advisor, Division of Corporation Finance, (202) 942–2829, U.S. Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') is eliminating the following ''delegated authority'' provisions in its rules of general organization:[1] Rule 30–6(a),[2] which delegates authority to its Regional Directors regarding Regulation S–B;[3] Rule 30–6(b),[4] which delegates authority to its Regional Directors regarding Regulation A;[5] Rule 30–6(c),[6] which delegates authority to its Regional Directors regarding Regulation F;[7] Rule 30–1(b),[8] which delegates authority to the Director of Corporation Finance regarding Regulation B;[9] and Rule 30–1(g)(2),[10] which grants the same authority to the Director of Corporation Finance as that delegated to each Regional Director under Rule 30–6(a) and (c).

I. DISCUSSION

A. Revision of Regional Director ''Delegation of Authority'' Rules

The Commission has delegated authority to its Regional Directors to perform several functions under the statutes that it administers. Rules 30–6(a), (b) and (c) govern the delegation of authority to Regional Directors to perform functions under the Securities Act of 1933 (''Securities Act'').[11] In particular, Rule 30–6(a) grants authority to each Regional Director to perform functions regarding Forms SB–1[12] and SB–2,[13] the registration statements for small business issuers, and related documents filed under Regulation S–B.

Rule 30–6(b) grants to each Regional Director the authority to perform certain functions under Regulation A. Regulation A provides a limited exemption from the registration requirements of the Securities Act for a securities offering by certain domestic and Canadian companies that meet the specific conditions of the exemption. Under Rule 30–6(b), each Regional Director possesses the same authority regarding Regulation A offering statements as that delegated to the Director of the Division of Corporation Finance under Rules 30–1(c)(2) and (3).[14] This authority includes issuing orders that qualify offering statements or that declare them withdrawn or abandoned.

This delegation of authority to Regional Directors regarding Regulations S–B and A documents was necessary because, until recently, a small business issuer conducting an initial public offering and a Regulation A issuer had the option of filing, respectively, its Regulation S–B registration statement and Form 1–A offering statement either at the Commission's Headquarters in Washington, D.C. or in the Regional or District Office for the region closest to the registrant's principal place of business. However, in December 1996, the Commission revised Forms SB–1, SB–2 and 1–A to eliminate the Regional Office filing option and to require these forms to be filed at the Commission's Headquarters in Washington, D.C.[15] These revisions were part of a broader Commission initiative to improve generally the regulatory conditions for small business by creating a new Headquarters operations unit that specializes in small company filings and addressing the concerns of small businesses. Since the Regional and District Offices no longer perform any role in administering Regulation S–B and Regulation A filings, the corresponding Regional Director ''delegation of authority'' provisions have ceased to serve a useful purpose. Accordingly, the Commission is rescinding Rule 30–6(a) and (b) in their entirety.

Rule 30–6(c) governs the delegation of authority to Regional Directors concerning Regulation F documents. Until recently, Regulation F provided a conditional limited exemption from Securities Act registration for assessments levied on assessable stock

[1] 17 CFR 200.10 through 200.30–18.
[2] 17 CFR 200.30–6(a).
[3] 17 CFR 228.10 through 228.702.
[4] 17 CFR 200.30–6(b).
[5] 17 CFR 230.251 through 230.263.
[6] 17 CFR 200.30–6(c).
[7] 17 CFR 230.651 through 230.656, rescinded in Release No. 33–7300 (May 31, 1996) [61 FR 30397].
[8] 17 CFR 200.30–1(b).
[9] 17 CFR 230.300 through 230.346, rescinded in Release No. 33–7300.
[10] 17 CFR 200.30–1(g)(2).
[11] 15 U.S.C. 77a through 77aa.
[12] 17 CFR 239.9.
[13] 17 CFR 239.10.
[14] 17 CFR 200.30–1(c)(2) and (3).
[15] Release No. 33–7373 (December 16, 1996) [61 FR 67200].

and for resales of forfeited assessable stock. However, in May 1996, the Commission rescinded Regulation F in its entirety and accompanying Form 1–F after determining that the availability of other exemptions, such as the limited offering exemptions from registration set forth in Regulation D[16] or the private placement exemption under Securities Act Section 4(2),[17] have rendered the Regulation F exemption obsolete.[18] Since Regulation F no longer exists, the corresponding Regional Director ''delegation of authority'' provision regarding Regulation F has become unnecessary as well. Therefore, the Commission is rescinding Rule 30–6(c) in its entirety.

B. Revision of Rules Governing Delegation of Authority To Director of Corporation Finance

Rule 30–1 governs the Commission's delegation of authority to the Director of the Division of Corporation Finance (''Director'').[19] Rule 30–1(b) concerns the Director's delegated authority regarding Regulation B documents. Until recently, Regulation B provided a conditional limited exemption from Securities Act registration for offerings of ''fractional undivided interests'' in oil or gas rights of up to $250,000 per offering.[20] However, the Commission rescinded Regulation B and all accompanying forms and schedules in May 1996 for reasons substantially similar to those justifying the rescinding of Regulation F.[21] Since Regulation B no longer exists, the corresponding Director ''delegation of authority'' provision has become obsolete. Therefore, the Commission is rescinding Rule 30–1(b) in its entirety.

Rule 30–1(g)(2) grants to the Director the same authority as that delegated to each Regional Director under Rule 30–6(a) and (c). As previously explained, these latter provisions govern the delegation of authority to Regional Directors concerning Regulation S–B and Regulation F documents. Since the Commission is today rescinding Rule 30–6(a) and (c), it is rescinding Rule 30–1(g)(2) as well. The Director will continue to have authority to administer the Regulation S–B registration regimen under the Commission's rule of organization that delegates authority to the Director to perform functions regarding the registration of securities under the Securities Act.[22]

II. Effective Date

These revisions are effective on September 9, 1997.

III. Certain Findings

Because the revisions to the Director and Regional Director ''delegation of authority'' rules relate solely to agency organization, procedure, or practice, publication for notice and comment is not required under the Administrative Procedure Act.[23] Therefore, the requirements of the Regulatory Flexibility Act[24] are inapplicable.[25]

These ''delegation of authority'' rule revisions are effective upon publication in the **Federal Register**. The Commission finds that there is good cause to dispense with the 30 day delay between publication and effectiveness normally required by the Administrative Procedure Act.[26] Because the revisions relate solely to agency organization, procedure, or practice, there will be no hardship imposed on filers by their immediate implementation. Rather, the public will indirectly benefit by their immediate implementation since the primary purpose of the revisions is to conform the Commission's ''delegation of authority'' rules of organization with previously adopted revisions to Securities Act regulations, which it has already determined to be of benefit to the public. Furthermore, by eliminating organizational or procedural rules that have become obsolete, the ''delegation of authority'' revisions will reduce confusion and promote simplicity and efficiency in the Commission's regulatory framework. Balancing these benefits against the possible confusion and harm to filers and investors of leaving intact obsolete organizational or procedural rules, the Commission finds good cause for making these rules immediately effective.

These ''delegation of authority'' revisions fail to fall within the scope of the Paperwork Reduction Act of 1995[27] because they do not constitute a substantive or material change to a collection of information.

Under 5 U.S.C. 804, these rule revisions are exempt from the definition of the term ''rule'' for purposes of Chapter 8, entitled ''Congressional Review of Agency Rulemaking,'' since they constitute rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.[28]

IV. Cost-Benefit Analysis

Because these revisions relate to organizational or procedural rules, which will substantially impact the Commission rather than any filer or investor, a traditional cost-benefit analysis appears unnecessary. As previously mentioned, the revisions will indirectly benefit filers and investors by eliminating the possibility of confusion caused by leaving intact obsolete organizational or procedural rules. There do not appear to be any significant costs to the public as a result of enacting these revisions.

V. Statutory Basis

The Commission is adopting these ''delegated authority'' rule revisions pursuant to Section 19(a) of the Securities Act.[29]

List of Subjects in 17 CFR Part 200

Authority delegations (Government agencies), Organization and functions (Government agencies).

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart A—Organization and Program Management

1. The authority citation for part 200, Subpart A continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–1 is amended by removing paragraphs (b) and (g)(2); redesignating paragraphs (c) through (f) as paragraphs (b) through (e), paragraph (g)(3) as paragraph (g)(2) and paragraphs (g) through (l) as paragraphs (f) through (k).

3. Section 200.30–6 is amended by removing paragraphs (a), (b) and (c) and redesignating paragraphs (d) through (h) as paragraphs (a) through (e).

Dated: September 3, 1997.

[16] 17 CFR 230.501 through 230.508.
[17] 15 U.S.C. 77d(2).
[18] Release No. 33–7300 [61 FR at 30398].
[19] 17 CFR 200.30–1.
[20] Former 17 CFR 230.302(a).
[21] Release No. 33–7300 [61 FR at 30398].
[22] Rule 30–1(a).
[23] 5 U.S.C. 553(b).
[24] 5 U.S.C. 601 through 612.
[25] 5 U.S.C. 603(a).
[26] 5 U.S.C. 553(d).
[27] 44 U.S.C. 3501 through 3520.
[28] 5 U.S.C. 804(3)(C).
[29] 15 U.S.C. 77s(a).

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–23830 Filed 9–8–97; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 179–0051; FRL–5890–7]

Withdrawal of Direct Final Rule for Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule for the approval of revisions to the California State Implementation Plan. EPA published the direct final rule on August 4, 1997 at 62 FR 41865, approving revisions to rules from the Bay Area Air Quality Management District (BAAQMD). As stated in that **Federal Register** document, if adverse or critical comments were received by September 3, 1997, the effective date would be delayed and notice would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action in the near future. EPA will not institute a second comment period on this document.

DATES: The direct final rule published at 62 FR 41865 is withdrawn as of September 9, 1997.

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

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the August 4, 1997 **Federal Register**, and in the short informational notice located in the proposed rule section of the August 4, 1997 **Federal Register**.

List of Subjects in 40 CFR Part 52

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

Dated: August 27, 1997.

John Wise,

Acting Regional Administrator.

[FR Doc. 97–23834 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54, 64, and 69

[CC Docket Nos. 96–45; 97–21; FCC 97–292]

Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Order released August 15, 1997 directs NECA to assume the duties of USAC pertaining to the distribution, receipt, and processing of the Universal Service Worksheet until such time as USAC is prepared to begin its operations and assume these duties. The Order also authorizes NECA to perform certain ministerial functions on behalf of the Schools and Libraries and Rural Health Care Corporation to the extent that the performance of those functions is necessary to meet the January 1, 1998 starting date established by the Commission for implementing the universal service support mechanisms set forth in 47 U.S.C. § 254. Additionally, the Order authorizes NECA, in its capacity as the Administrator of the TRS Fund, to make available to USAC, to NECA, to the extent that it is acting on behalf of USAC, and to the entity selected to be the permanent universal service Administrator, certain TRS Fund information consisting of the names, addresses, contact persons, type of business, and other non-financial, identifying information relating to TRS Fund contributors. Finally, the Order instructs entities that currently are unable, without substantial difficulty, to distinguish their intrastate, interstate, or international revenues or are unable to provide specific, line-by-line revenue totals for certain categories of revenues, to provide good faith estimates of such revenues in the Universal Service Worksheet that must be completed by September 1, 1997.

DATES EFFECTIVE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Valerie Yates, Legal Counsel, Common Carrier Bureau, (202) 418–1500 or Sheryl Todd, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration and Second Report and Order adopted and released on August 15, 1997. The full text is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, D.C. Pursuant to the Telecommunications Act of 1996, the Commission released a Notice of Proposed Rulemaking and Order Establishing a Joint Board, Federal-State Joint Board on Universal Service, CC Docket No. 96–45, on March 8, 1996 (61 FR 10499 (March 14, 1996)), a Recommended Decision on November 8, 1996 (61 FR 63778 (December 2, 1996)), a Public Notice seeking comment on rules to implement §§ 254 and 214(e) of the Communications Act of 1934, as amended, relating to universal service on November 18, 1996 (61 FR 63778 (December 2, 1996)), a Notice of Proposed Rulemaking in Changes to the Board of Directors of the National Exchange Carrier Association, Inc. in CC Docket No. 97–21, on January 10, 1997 (62 FR 2636 (January 17, 1997)), a Report and Order in Federal-State Joint Board on Universal Service, CC Docket No. 96–45, on May 8, 1997 (62 FR 32862 (June 17, 1997)), and a Report and Order and Second Order on Reconsideration in Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service, CC Docket Nos. 97–21 and 96–45, on July 18, 1997 (62 FR 41294 (August 1, 1997)).

Summary of Report and Order

I. Universal Service Implementation Issues

A. Authorization for NECA to Perform Functions Relating to Distribution and Processing of the Universal Service Worksheet on Behalf of USAC

We direct NECA to assume the duties assigned to USAC, as set forth in the NECA Order, relating to the distribution, receipt, and processing of the Universal Service Worksheet until USAC is prepared to assume these duties. In making this determination, we reconsider on our own motion our decision in the NECA Order immediately to assign these duties to USAC. In order to ensure timely distribution of the Universal Service Worksheet, we conclude that it is critical that we authorize NECA to begin distributing the Worksheet immediately to potential contributors so that entities

have sufficient time to complete and submit the Worksheet by the September 1, 1997 deadline.

We also agree with NECA that USAC's ability to meet the January 1, 1998 target implementation deadline may be jeopardized unless NECA begins work immediately on establishing the systems that are necessary to process the revenue information provided on the Universal Service Worksheet and on processing the Worksheet information that is received, until the USAC Board of Directors is in place and is prepared to assume these responsibilities. It is our expectation, however, that, as soon as possible following its establishment, the USAC Board of Directors will provide direction to NECA with respect to any developmental work already begun by NECA and, when it is prepared to do so, will assume responsibility for these functions.

B. Authorization for NECA to Perform Certain Functions on Behalf of Schools and Libraries Corporation and Rural Health Care Corporation

We authorize NECA to perform certain ministerial functions on behalf of the Schools and Libraries and Rural Health Care Corporations to the extent that the performance of those functions is necessary to meet the January 1, 1998 deadline. For example, we anticipate that NECA will begin developmental work relating to the creation of websites for the posting of applications submitted on behalf of schools, libraries, and rural health care providers. We also anticipate that NECA will begin assigning identification numbers to eligible schools, libraries, and rural health care providers and taking steps to create a database containing this information. In making these determinations, we reconsider on our own motion our decision in the NECA Order immediately to assign these duties to the Schools and Libraries and Rural Health Care Corporations. It is our expectation, however, that, as soon as possible following their establishment, the Schools and Libraries and Rural Health Care Corporation Boards of Directors will provide direction to NECA with respect to any developmental work already begun by NECA and, when they are prepared to do so, will assume responsibility for these functions.

C. Mechanism for Recovery of Administrative Expenses Incurred by NECA

We also establish a mechanism by which NECA will receive reimbursement for administrative expenses associated with its performance of the incorporation and other start-up functions that have been assigned to it. We conclude that NECA should be entitled to recover from the new universal service support mechanisms in 1998 all reasonable administrative costs, including interest on funds advanced for start-up activities, that NECA incurs in 1997 in performing the duties assigned to it pursuant to this Order and the NECA Order. We direct NECA to keep a separate accounting of all implementation expenses that it incurs in performing the incorporation and other start-up functions that we have directed it to perform on behalf of USAC and the Schools and Libraries and Rural Health Care Corporations.

D. Use of TRS Fund Carrier Identification Information Data by the Universal Service Administrator

We also authorize NECA, in its capacity as the Administrator of the TRS Fund, to make available to USAC, to NECA to the extent that it is acting on behalf of USAC, and to the entity selected to be the permanent universal service Administrator, certain TRS Fund information consisting of the names, addresses, contact persons, type of business, and other non-financial, identifying information relating to TRS Fund contributors. Such information shall be used by these entities solely for the purpose of identifying contributors to the universal service support mechanisms and for the related purpose of identifying entities engaged in certain types of business.

As a separate matter, we propose to amend § 64.604(c)(4)(iii)(I) of the Commission's rules specifically to permit the use of TRS Fund revenue data by USAC or NECA, to the extent that it is acting on behalf of USAC, and the permanent universal service Administrator, for purposes of verifying revenue information reported on the Universal Service Worksheet. We seek comment on this proposal in a Further Notice of Proposed Rulemaking, as described below.

E. Other Implementation Issues

In the Universal Service and NECA Orders, the Commission adopted detailed rules governing the implementation and operation of the new universal service support mechanisms. As in the case of any new program, implementation of the support mechanisms will require the administering corporations to exercise judgment and discretion in interpreting the governing rules. USAC, the Schools and Libraries Corporation, or the Rural Health Care Corporation may encounter complex issues that require expeditious resolution in order to avoid undue prejudice to individual applicants for support or in order to prevent delayed implementation of the universal service program generally, but with respect to which our rules do not provide specific guidance. We anticipate that USAC and the Corporations will exercise sound judgment and discretion in such circumstances, in a manner that is consistent with the Commission's overall policies and rules governing the universal service programs. Of course, acknowledging the need for such discretion in no way diminishes our commitment to the impartial allocation of funds to individual applicants by entities administering the universal service support mechanisms.

II. Reporting End-User Telecommunications Revenue Data and Other Revenue Data on the Universal Service Worksheet

We recognize that some contributors to the universal service support mechanisms may not be able, without substantial difficulty, to derive from their existing books of account the revenue information required by the Worksheet. Furthermore, we recognize that some non-common carrier contributors to the universal service support mechanisms will face similar difficulties identifying their revenues by the specific line-by-line categories listed on the Worksheet. In light of the Worksheet's September 1, 1997 due date, however, we must provide immediate guidance to these contributors. Therefore, on an interim basis, until such time as the Commission takes action on the pending petitions for reconsideration, contributors that cannot derive interstate revenues from their books of account or cannot derive the line-by-line revenue breakdowns from their books of account may provide on the Worksheet good faith estimates of these figures. Contributors may derive their estimates using a method that they, in good faith, believe will yield a reasonably accurate result. Contributors must document how they calculated their estimates and make such information available to the Commission or Administrator upon request.

We conclude for good cause that compliance with the notice and public comment provisions of the APA is impracticable and is not required at this time with respect to our interim decision to permit contributors to make good faith estimates of their end-user telecommunications and other revenues as described above for purposes of

completing the Universal Service Worksheet. In order to facilitate the timely filing of Universal Service Worksheets and implementation of the universal service support mechanisms, and because the action we take represents an interim solution to a problem that will be addressed more comprehensively in a forthcoming order on reconsideration of the Universal Service Order, in CC Docket No. 96–45, we find that compliance with the notice and comment provisions of the APA is impracticable at this time.

III. Procedural Matters

Effective Date

We find that the conclusions adopted herein should become effective immediately upon release of the Order.

IV. Ordering Clauses

Accordingly, it is ordered, pursuant to sections 1–4, 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, and 254 that the Order on Reconsideration of the Report and Order and Second Order on Reconsideration in CC Docket Nos. 97–21 and 96–45, FCC 97–253, is adopted.

It is further ordered, pursuant to sections 1–4, 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151–154, and 254 that the Second Report and Order in CC Docket No. 96–45 is adopted.

It is further ordered that the conclusions adopted in this order shall become effective immediately upon release of this Order.

List of Subjects

47 CFR Part 54

Universal Service.

47 CFR Part 64

Communications common carriers.

47 CFR Part 69

Communications common carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–23829 Filed 9–8–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 68

[CC Docket Nos. 96–128 and 91–35; DA 97–1793]

Pay Telephone Equipment Grandfathering

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: The Federal Communications Commission (Commission) amends its rules concerning the connection of terminal equipment to the telephone network. The amendments allow certain terminal equipment presently connected to a central-office-implemented payphone to remain connected without registration. Registration is required, however, if such equipment is modified.

EFFECTIVE DATE: October 5, 1997

ADDRESSES: This document may be viewed at the Federal Communications Commission, Reference Center, Room 239, 1919 M Street NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Technical Information: William Von Alven, 202–418–2342.

Legal Information: Alan Thomas, 202–418–2338.

SUPPLEMENTARY INFORMATION: The adopted rules are part of the Commission's efforts to ensure that competition among payphone providers exists by enabling independent payphone providers to use central-office-implemented coin pay telephones as well as instrument-implemented payphones. The adopted rules provide that terminal equipment, including premises wiring, that is directly connected to a central-office-implemented telephone on or before October 8, 1997, does not have to be registered, unless subsequently modified. Modifications are any changes that affect the Part-68 related characteristics of that equipment at the network interface. Additionally, new installations of terminal equipment, including premises wiring, may occur until April 8, 1999, without registration of any central-office-implemented telephone equipment involved, provided that the terminal equipment is of a type directly connected to a central-office-implemented telephone as of October 8, 1997.

List of Subjects in 47 CFR Part 68

Communications common carriers, Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 68 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for Part 68 continues to read:

Authority: 47 U.S.C. 154, 155.

2. Section 68.2 is amended by adding a new paragraph (l) before the concluding paragraph to read as follows:

§ 68.2 Scope.

* * * * *

(l) *Grandfathered central office implemented payphone equipment.* (1) Terminal equipment, including its premises wiring, that is directly connected to a central-office-implemented telephone on or before October 8, 1997, may remain for service life without registration, unless subsequently modified. Service life means that life of the equipment until retired from service. Modification means changes to the equipment that affect the Part 68-related characteristics of that equipment at the network interface.

(2) New installation of terminal equipment, including its premises wiring, may occur until April 8, 1999, without registration of any central-office-implemented telephone equipment involved, provided that the terminal equipment is of a type directly connected to a central-office-implemented telephone as of October 8, 1997. This terminal equipment may remain connected and be reconnected to a central-office-implemented telephone.

* * * * *

[FR Doc. 97–23528 Filed 9–8–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual

classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant *to Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment, 4 FCC Rcd 2413 (1989), and the Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, 202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted August 20, 1997, and released August 29, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street., NW, Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 250C3 and adding Channel 250C1 at Tuba City.

3. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 245C2 and adding Channel 245A at Steamboat Springs.

4. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 224C2 and adding Channel 224A at Hilo.

5. Section 73.202(b), the Table of FM Allotments under Maine, is amended by removing Channel 269A and adding Channel 270C2 at Presque Isle.

6. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 251C3 and adding Channel 251C2 at Glen Arbor.

7. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 292C2 and adding Channel 292C at Kalispell.

8. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 240C3 and adding Channel 240C2 at Livingston.

9. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 237A and adding Channel 237C3 at Hoquiam.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–23826 Filed 9–8–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25 and 32

RIN 1018–AE18

1997–98 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds additional national wildlife refuges to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities; and amends certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting and sport fishing.

DATES: This rule is effective September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, (703) 358–2397.

SUPPLEMENTARY INFORMATION: Refuge hunting and fishing programs are reviewed annually to determine whether additional refuges should be added or whether individual refuge regulations governing existing programs should be modified, deleted or have additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications ensuring continued compatibility of hunting and fishing with the purposes for which individual refuges, and the National Wildlife Refuge System (System) were established.

The Fish and Wildlife Service (Service) has determined uses in this final rule are compatible with the purposes for which these refuges were established. The Service further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound fish and wildlife management, helps implement Executive Orders 12996 (Management and Public Use of the National Wildlife Refuge System) and 12962 (Recreational Fisheries) and is otherwise in the public interest by providing additional recreational opportunities at national wildlife refuges. Sufficient funds will be available within the refuge budgets to operate the hunting and sport fishing programs.

The Service generally closes national wildlife refuges to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action also must be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound fish and wildlife management, and otherwise must be in the public interest.

50 CFR parts 25 and 32 contain administrative provisions and other provisions governing hunting and fishing on national wildlife refuges. Hunting and fishing are regulated on refuges to:

- Ensure compatibility with refuge and System purposes;
- Properly manage the fish and wildlife resource;
- Protect other refuge values; and
- Ensure refuge user safety.

On many refuges, the Service policy of adopting State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled ''Statutory Authority.'' The Service issues refuge-specific hunting and fishing regulations when opening a national wildlife refuge to either migratory game bird hunting, upland game hunting, big game hunting or sport fishing. These regulations list the wildlife species that may be hunted or are subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. Previously issued refuge-specific regulations for hunting and fishing are contained in 50 CFR part 32. Many of the amendments to these sections are

promulgated to standardize and clarify the existing language of these regulations.

With the passage of Public Law 102–402, the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 (Act), the Service will establish a refuge over what was previously a Department of Defense (Army) military installation, but only following toxic substances cleanup.

Public Law 102–402 specifies that the Service shall manage the area as if it were a unit of the National Wildlife Refuge System during cleanup activities on the Rocky Mountain Arsenal (Arsenal). The Service amends these regulations to establish regulatory authority for these lands, before establishment as a refuge and inclusion in the System, in accordance with Public Law 102–402. These regulations will provide appropriate authority and jurisdiction to conduct necessary management actions, including law enforcement, at the Arsenal.

In the July 21, 1997, issue of the **Federal Register** (62 FR 38959–38969) the Service published a proposed rulemaking identifying the refuges, their proposed hunting and/or fishing programs and invited public comment. The Service received the following comments based on the proposed rule:

The Animal Protection Institute, a national animal advocacy organization with more than 75,000 members, submitted the following comments: Refuges were established by Theodore Roosevelt in 1903 to protect wildlife and their habitats. As sanctuaries for rare, threatened and endangered species, the System provides some of the last undisturbed habitat for recovery of endangered species. Hunting is incompatible with these goals, as it is both disruptive and poses a danger to non-target wildlife. The System harbors 168 threatened or endangered species, although 60 percent of refuges support activities harmful to wildlife, according to surveys conducted by the Service and the General Accounting Office.

The comments went on to state: The majority of people who visit refuges do so to observe wildlife and enjoy nature. According to the Service, of the 30 million people who visited refuges last year, 21 million visited for wildlife observation and ''just to experience nature,'' while only 1.4 million visited to hunt. Clearly, non-consumptive users of the System far outweigh consumptive users. Hunters already have access to millions of acres of public lands outside the refuges for their activities. Hikers, bird watchers, campers and photographers should not have to fear the dangers of a stray bullet as they enjoy our public lands or witness the maiming of the very wildlife they have come to see. The Service should manage the System to carry out its stated mission—to protect wildlife and wildlife habitat and to offer people an opportunity to enjoy nature and disallow hunting on all refuges as the practice runs contrary to these goals.

The Service received over 2,300 signed resolutions and fourteen additional letters with similar concerns as those expressed by the Animal Protection Institute, and one individual letter in support of hunting on refuges.

The Service reviewed the above comments regarding a proposed closure to hunting, trapping and/or fishing on refuges. Throughout its history, the System has experienced misconceptions about the purpose, mission, statutory authorities and appropriate public uses. The Service considers annually a wide range of alternatives at each refuge while trying to improve upon consumptive use programs with a minimum impact to bird watchers, photographers, sportsmen, and general refuge users.

In accordance with Executive Order 12996 (Management and Public Use of the National Wildlife Refuge System), the conservation mission and first obligation of the System is to preserve a national network of lands and waters for the conservation and management of fish, wildlife, and plant resources of the United States for the benefit of present and future generations. However, the Service recognizes wildlife-dependent recreational activities, when compatible with the purposes for which a refuge was established, as priority general public uses within the System. In particular, the Service especially recognizes compatible hunting, fishing, wildlife observation, photography, and environmental education and interpretation.

Hunting and fishing on refuges is specifically authorized by the National Wildlife Refuge System Administration Act and is an acceptable, traditional form of wildlife-dependent recreation that is used as a management tool to manipulate wildlife population levels. We conduct recreational hunting and fishing today within limits purposefully developed to ensure the long-term welfare and status of several animal populations. Harvests on refuges constitute a very small part of the overall harvest of animals in the United States. In the case of waterfowl, the annual refuge harvest is about 2–5 percent of the national total harvest. Sport harvest management has achieved a high degree of scientific rigor and people throughout the world regard the Refuge System as a leader in scientific harvest management.

Refuges provide free or low cost hunting opportunity to hunters unable to afford the escalating costs to hunt on private lands. Hunters alone, have bought more than $400 million in Federal ''Duck Stamps'' since 1934, sufficient to purchase nearly one-third of all refuges outside Alaska—some 4 million acres. Refuges also serve as a focal point for sportsmen education and the development of ethical behavior.

The Service also received a request on the behalf of The Fund for Animals to extend the comment period on the proposal to permit bison hunting on the National Elk Refuge. The Service has agreed to extend the comment period to September 19, 1997 on that particular issue and has deleted that amendment from these regulations.

This rule is effective upon publication. The Service has determined that any further delay in implementing these refuge-specific hunting and sport fishing regulations would not be in the public interest in that it would hinder the effective planning and administration of the hunting and fishing programs. The Service received public comment on these proposals during the 30-day comment period. An additional 30 day delay would jeopardize holding the hunting and/or fishing programs this year, or shorten their duration and thereby lessen the management effectiveness of this regulation. Therefore, the Service finds good cause to make this rule effective upon publication (5 U.S.C. 553(d)(3)).

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the System for any purpose, including but not limited to, hunting, fishing and public recreation, accommodations and access, when he determines that uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act (RRA) authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The NWRSAA and the RRA also authorize the Secretary to issue regulations to

carry out the purposes of the Acts and regulate uses.

The Service develops hunting and sport fishing plans for each existing refuge before opening it to hunting or fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purposes for which the refuge was established. Initial compliance with the NWRSAA and the RRA has been ensured for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at the time of acquisition. This has ensured that the determinations required by these acts have been made before the addition of refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. Continued compliance is ensured by the development of long-term hunting and sport fishing plans and by annual review of hunting and sport fishing programs and regulations.

In preparation for these openings, the following documents are included in the refuge's ''openings package'' for Regional review and approval from the Washington Office: an interim hunting and fishing management plan; an environmental action memorandum and categorical exclusion certification; a Section 7 determination pursuant to the Endangered Species Act, that these openings will have no effect, or are not likely to have an adverse effect, on listed species or critical habitats; a letter of concurrence from the affected State; interim compatibility determination; and refuge-specific regulations to administer the hunting and/or fishing programs. Upon review of these documents, the Service, acting for the Secretary, has determined that the opening of these National Wildlife Refuges to hunting and fishing is compatible with the principles of sound fish and wildlife management and otherwise will be in the public interest.

The following refuges establish new hunting and/or fishing openings: Rocky Mountain Arsenal, Colorado; Ten Thousand Islands National Wildlife Refuge, Florida; Black Bayou Lake National Wildlife Refuge, Louisiana; Fort Niobrara National Wildlife Refuge, Nebraska; and Balcones Canyonlands National Wildlife Refuge, Texas. The remaining regulations represent revisions to existing refuge specific regulations.

In accordance with the NWRSAA and the RRA, the Service has determined that these openings are compatible and consistent with the primary purposes for which the refuge was established. The Service also has determined that funds are available to administer the program.

Paperwork Reduction Act

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Economic Effect

Service review has revealed that this rulemaking will increase hunter and angler visitation to the surrounding area of the refuges before, during or after the recreational uses, compared to the refuge being closed to these recreational uses.

These refuges generally are located away from large metropolitan areas. Businesses in the area of the refuges consist primarily of small family-owned stores, restaurants, gas stations and other small commercial enterprises. In addition, there are several small, commercial recreational fishing and hunting camps and marinas in the general areas. This final rule will have a positive effect on such entities; however, the amount of revenue generated is not large.

Many area residents enjoy a rural lifestyle that includes frequent recreational use of the abundant natural resources of the area. A high percentage of the households enjoy hunting, fishing, and boating in area wetlands, rivers and lakes. Refuge lands generally were not available for general public use before government acquisition; however, they were fished and hunted upon by friends and relatives of the landowners, and some were under commercial hunting and fishing leases. Many nearby residents also participate in other forms of non-consumptive outdoor recreation, such as biking, hiking, camping, birdwatching, canoeing, and other outdoor sports.

Economic impacts of refuge fishing and hunting programs on local communities are calculated from average expenditures in the ''1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation''. In 1996, 39 million U.S. residents 16 years old and older hunted and/or fished. More specifically, 35.2 million fished and 14 million hunted. Those who both fished and hunted account for the 10.2 million overage. Nationwide expenditures by sportsmen totaled $72 billion. Trip-related expenditures for food, lodging, and transportation were $14 billion or 19.4 percent of all fishing and hunting expenditures; equipment expenditures amounted to $44.2 billion, or 61.4 percent of the total; other expenditures such as those for magazines, membership dues, contributions, land leasing, ownership, licenses, stamps, tags, and permits accounted for $13.8 billion, or 19.2 percent of all expenditures. Overall, anglers spent an average of $41 per day. For each day of hunting, migratory bird hunters spent an average of $33, upland game hunters an average of $20, and big game hunters averaged spending $40.

At these 72 National Wildlife Refuges included in this final regulation, 776,000 anglers are estimated to spend $31.8 million annually in pursuit of their sport, while approximately 380,000 hunters will spend $12.5 million annually hunting on the refuges. While many of these anglers and hunters already make such expenditures before the refuge opening, some of these additional expenditures directly are due to the land now being open to the general public.

This rulemaking will have a small but positive impact on local economies by increasing visitation and expenditures in the surrounding area of the refuges. The Service has determined that this rulemaking would not have a significant effect on a substantial number of small entities in the area, such as businesses, organizations and governmental jurisdictions, under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*). This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866.

Unfunded Mandates

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities.

Civil Justice Reform

The Department has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Environmental Considerations

The Service ensures compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) when developing hunting and sport fishing plans, and the determinations required by NEPA are made before the addition of refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. The changes in hunting and fishing herein were reviewed with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and found to either have no affect on or are not likely to adversely affect listed species or critical habitat. The amendment of refuge-specific hunting

and fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The Service exclusion found at 516 DM 6, App. 1.4B(5) is employed here as these amendments are considered ''[m]inor changes in the amounts or types of public use on FWS or State-managed lands, in accordance with regulations, management plans, and procedures.'' These refuge-specific hunting and fishing regulations simply qualify or otherwise define a hunting or fishing activity, for purposes of resource management. These documents are on file in Service offices and may be viewed by contacting the primary author noted below. Individual refuge headquarters also retain information regarding hunting and fishing permits and the conditions that apply to refuge hunts, sport fishing activities, and maps of their respective areas. You may also obtain information from the regional offices at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas. Assistant Regional Director—Refuges and Wildlife U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; Telephone (404) 679–7152.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8550.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.

Region 7—Alaska. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545.

Primary Author: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this rulemaking document.

List of Subjects

50 CFR Part 25

Administrative practice and procedure, Concessions, Reporting and recordkeeping requirements, Safety, Wildlife refuges.

50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, the Service amends Title 50, Chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i, 3901 *et seq.;* and Pub. L. 102–402, 106 Stat. 1961.

2. Amend § 25.11 by revising paragraph (a) to read as follows:

§ 25.11 Purpose of regulations.

(a) The regulations in this subchapter govern general administration of units of the National Wildlife Refuge System, public notice of changes in U.S. Fish and Wildlife Service policy regarding Refuge System units, issuance of permits required on Refuge System units and other administrative aspects involving the management of various units of the National Wildlife Refuge System. The regulations in this subchapter apply to areas of land and water held by the United States in fee title and to property interests in such land and water in less than fee, including but not limited to easements. For areas held in less than fee, the regulations in this subchapter apply only to the extent that the property interest held by the United States may be affected. The regulations in this subchapter also apply to and govern those areas of the Rocky Mountain Arsenal over which management responsibility has been transferred to the U.S. Fish and Wildlife Service under the Rocky Mountain Arsenal Act of 1992 (Pub. L. 102–402, 106 Stat. 1961), before their establishment as a refuge and inclusion in the National Wildlife Refuge System.

* * * * *

PART 32—[AMENDED]

3. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

4. Amend § 32.7 by removing the listing of ''Kesterson National Wildlife Refuge'' from the State of California; by adding the alphabetical listings of ''Rocky Mountain Arsenal'' to the State of Colorado, ''Ten Thousand Islands National Wildlife Refuge'' to the State of Florida, ''Black Bayou Lake National Wildlife Refuge'' to the State of Louisiana, ''Fort Niobrara National Wildlife Refuge'' to the State of Nebraska, ''Balcones Canyonlands National Wildlife Refuge'' to the State of Texas, ''Leopold Wetland Management District'' to the State of Wisconsin; and by revising the listing of ''Wauby National Wildlife Refuge'' under the State of South Dakota to read ''Waubay National Wildlife Refuge''.

5. Amend § 32.20 *Alabama* by revising paragraphs B. and D. of Eufaula National Wildlife Refuge to read as follows:

§ 32.20 Alabama.

* * * * *

Eufaula National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunters may hunt rabbit and squirrel on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

D. Sport Fishing. Anglers may fish, frog and trap turtles on designated areas of the refuge subject to State fishing regulations and the following conditions:

1. Fishing, frogging and turtle trapping open year-round in all waters contiguous with the Walter F. George Reservoir. Bank fishing permitted during daylight hours only.

2. Fishing, including bow fishing, permitted in impounded refuge waters from March 1 through October 31, during daylight hours.

3. Creel, possession, and size limit for Walter F. George Reservoir apply to all impounded refuge waters.

* * * * *

6. Amend § 32.22 *Arizona* by revising paragraphs A.4., A.6., A.9. and A.13., by removing paragraph B.3., redesignating paragraphs B.4., B.5. and B.6. as paragraphs B.3., B.4., B.5. respectively, and revising them, by revising paragraph D.1. and removing paragraph D.2. of Cibola National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

* * * * *

Cibola National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

4. Hunters must pay a hunt fee in a portion of the refuge. Consult refuge hunting leaflet for location.

* * * * *

6. Hunting in a portion of farm unit 2 closes at 12 p.m. each day. Consult refuge hunting leaflet for location.

* * * * *

9. Waterfowl hunting requires the use of decoys on farm unit 2. Daily removal of decoys from the refuge required.

* * * * *

13. The Hart Mine Marsh Area opens to hunting only between 10 a.m. and 3 p.m. daily, during goose season.

B. Upland Game Hunting. * * *

3. Hunters may hunt cottontail rabbit from September 1 through the last day of the respective State's quail season.

4. During the Arizona waterfowl season, hunters may not hunt quail and rabbit in Farm Unit 2 until 12 p.m. each day.

5. Hunters may not hunt within 50 yards of any road or levee.

* * * * *

D. Sport Fishing. * * *

1. Anglers may fish and frog in Cibola Lake only from March 15 through Labor Day.

* * * * *

7. Amend § 32.23 *Arkansas* by adding paragraph D.3. of Holla Bend National Wildlife Refuge to read as follows:

§ 32.23 Arkansas.

* * * * *

Holla Bend National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

3. Anglers may bowfish only from August 1 through August 31 subject to State bowfishing regulations. Only bowfishing equipment permitted. Anglers may not use broad heads, field points, or metal arrows.

* * * * *

8. Amend § 32.24 *California* by removing Kesterson National Wildlife Refuge; by revising paragraphs A.1., A.2., A.3., A.4., and by adding paragraphs A.6., A.7. and A.8. of San Luis National Wildlife Refuge to read as follows:

§ 32.24 California.

* * * * *

San Luis National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Hunters may use only portable blinds and temporary blinds constructed of natural materials in the free-roam hunting area.

2. Hunters must remove all portable blinds, decoys, and other personal equipment from the refuge following each day's hunt.

3. Hunters may snipe hunt only within the free-roam portion of the San Luis unit's waterfowl hunting area. Snipe hunters may only possess and use nontoxic shot.

4. In areas where the refuge limits hunter numbers through a daily permit process, hunters may not possess more than 25 shells while in the field.

* * * * *

6. Hunters may not transport loaded firearms. This includes walking or bicycling between parking areas and spaced blind areas, or while traveling in a boat under power.

7. Refuge restricts hunters, in the spaced blind area, to their original assigned blind except when they are placing decoys, traveling to and from the parking area, retrieving downed birds, or when shooting to retrieve crippled birds.

8. Access to Salt Slough Unit free-roam hunting area is by boat only with a maximum speed limit of 5 mph. Prohibited boats include air-thrust and/or inboard water-thrust types.

* * * * *

9. Amend § 32.25 *Colorado* by removing and reserving the text of paragraph D. of Alamosa National Wildlife Refuge; by revising paragraph D of Arapaho National Wildlife Refuge; by revising paragraphs A., B., C., and D. of Browns Park National Wildlife Refuge; by adding the alphabetical listing of Rocky Mountain Arsenal to read as follows:

§ 32.25 Colorado.

* * * * *

Alamosa National Wildlife Refuge

* * * * *

D. Sport Fishing. [Reserved]

Arapaho National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may fish in designated areas of the refuge subject to the following conditions:

1. Anglers may not fish between June 1 and July 31 each year.

2. Anglers may fish only during daylight hours.

Browns Park National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt geese, ducks, coots, and mourning doves only in designated areas of the refuge.

B. Upland Game Hunting. Hunters may hunt cottontail rabbits only in designated areas of the refuge.

C. Big Game Hunting. Hunters may hunt mule deer and elk only in designated areas of the refuge.

D. Sport Fishing. Anglers may fish only in designated areas of the refuge.

* * * * *

Rocky Mountain Arsenal

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. Anglers may fish only in designated areas of the refuge subject to the following conditions:

1. Refuge fishing permit required.

2. Fishing permitted only from sunrise to sunset from April 15 through October 15 annually.

3. Catch and release only fishing.

4. Additional refuge regulations listed in refuge fishing regulations leaflet and fishing permits.

10. Amend § 32.28 *Florida* by revising paragraph D. of Cedar Keys National Wildlife; by revising paragraph D. of J.N. ''Ding'' Darling National Wildlife Refuge; by revising paragraph D. of Lower Suwannee National Wildlife Refuge; by revising paragraph A. of St. Marks National Wildlife Refuge; and by adding the alphabetical listing of Ten Thousand Islands National Wildlife Refuge to read as follows:

§ 32.28 Florida.

* * * * *

Cedar Keys National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may fish in salt water year round in accordance with State regulations subject to the following condition:

1. A 300 foot buffer zone beginning at mean high tide line and extending into the waters around Seahorse Key will be closed to all public entry from March 1 through June 30.

* * * * *

J. N. ''Ding'' Darling National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may fish and crab on designated areas of the refuge subject to the following conditions:

1. Fishing permitted in refuge waters except in areas designated as ''closed to public entry,'' and the Mangrove Head Pond, Tower Pond, and Tarpon Bay Slough at the Bailey Tract.

2. Crabbing permitted in refuge waters except in areas designated as ''closed to public entry.''

3. Anglers may not take horseshoe crabs, stone crabs, or spider crabs.

4. Anglers may not take blue crabs for commercial purposes.

5. Anglers may take blue crabs along the Wildlife Drive only with the use of dip nets. Anglers may not use lines, traps, or bait on or within 150 feet of the Wildlife Drive.

6. Anglers may use baited lines and traps within refuge waters if such devises are continuously attended/monitored and removed at the end of each day. Attended/monitored means that all devices used in the capture of blue crabs must be within the immediate view of the sport crabber.

7. Daily limit of blue crabs is 20 per person of which no more that 10 shall be females.

* * * * *

Lower Suwannee National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may fish in accordance with State regulations subject to the following conditions:

1. Anglers may take game and nongame fish only with pole and line or rod and reel.

2. Anglers may not take turtles and frogs.

3. Anglers may not use boats in refuge ponds. Boats may not be left on the refuge overnight.

* * * * *

St. Marks National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks and coots in designated areas of the refuge subject to the following condition: Permits required.

* * * * *

Ten Thousand Islands National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks and coots in designated areas of the refuge subject to the following condition: Permits required.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

11. Amend § 32.29 Georgia by revising paragraph D.1. of Blackbeard Island National Wildlife Refuge; by revising paragraphs D.1. and D.3. of Harris Neck National Wildlife Refuge; and by revising paragraph C. of Piedmont National Wildlife Refuge to read as follows:

§ 32.29 Georgia.

* * * * *

Blackbeard Island National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Anglers may fish in freshwater year-round from sunrise to sunset, except during managed deer hunts.

* * * * *

Harris Neck National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Anglers may fish in freshwater year-round from sunrise to sunset, except during managed deer hunts.

* * * * *

3. Anglers may use the Barbour River public boat ramp as public access year-round from 4:00 a.m. to 12:00 p.m.(midnight), daily. However, anglers may not use the Barbour River public boat ramp as access from 12:00 p.m.(midnight) to 4:00 a.m., daily.

* * * * *

Piedmont National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunters may hunt white-tailed deer and turkey on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

12. Amend § 32.30 *Hawaii* by revising paragraph C. of Hakalau Forest National Wildlife Refuge to read as follows:

§ 32.30 Hawaii.

* * * * *

Hakalau Forest National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunters may hunt feral pigs and feral cattle on designated areas of the refuge subject to the following condition:

1. Hunters must have reservations or permits to access the refuge from Keanakolu Road.

* * * * *

13. Amend § 32.32 *Illinois* by revising paragraphs A. and B., by revising the introductory text of paragraph C.,by revising paragraph C. 3, by adding paragraph C.5., by revising the introductory text of paragraph D. and paragraphs D.1., D.2., D.3., D.4. and D.5. of Crab Orchard National Wildlife Refuge; by revising paragraphs A.1., A.2., A.3. and the introductory text of paragraph B. of Cypress Creek National Wildlife Refuge; by adding paragraphs A.1., A.2., C.1., and D.4. of Emiquon National Wildlife Refuge to read as follows:

§ 32.32 Illinois.

* * * * *

Crab Orchard National Wildlife Refuge

* * * * *

A. Hunting of Migratory Birds. Hunters may hunt waterfowl on designated areas of the refuge in accordance with posted regulations and subject to the following conditions.

1. Hunters may hunt waterfowl, by daily permit drawing, on the controlled areas of Grassy Point, Carterville, and Greenbriar land areas, plus Orchard, Sawmill, Turkey, and Grassy islands, from one-half hour before sunrise to posted closing times each day during the goose season. Hunters may hunt waterfowl in these areas, including the lake shoreline, only from existing refuge blinds during the goose season.

2. Waterfowl hunters outside the controlled goose hunting areas may use only portable or temporary blinds. Blinds must be a minimum of 200 yards apart and removed or dismantled at the end of each day's hunt.

3. Goose hunters outside the controlled goose hunting area on Crab Orchard Lake must hunt from a blind that is on shore or anchored a minimum of 200 yards away from any shoreline.

4. Hunters may possess and use only nontoxic shot while hunting migratory game bird species.

B. Upland Game Hunting. Hunters may hunt upland game on designated areas of the refuge in accordance with posted regulations and subject to the following conditions:

1. Upland game hunting prohibited in the controlled goose hunting areas during the goose hunting season, except furbearer hunting permitted from sunset to sunrise.

2. Hunters may not use rifles or handguns with ammunition larger than .22 caliber rim fire, except they may use black powder firearms up to and including .40 caliber.

3. Hunters may possess and use only nontoxic shot while hunting all permitted species except wild turkey. Hunters may possess and use lead shot for hunting wild turkey.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge in accordance with posted regulations and subject to the following conditions:

* * * * *

3. Hunters may not hunt deer in the controlled goose hunting areas during the goose hunting season.

* * * * *

5. Permitted hunters may use center fire ammunition for handgun deer hunting during the handgun deer season.

D. Sport Fishing. Anglers may fish on designated areas of the refuge in accordance with posted regulations and subject to the following conditions:

1. Crab Orchard Lake—west of Wolf Creek Road—Anglers may fish from boats all year. Anglers must remove trot-lines/jugs from sunrise until sunset from Memorial Day through Labor Day; east of Wolf Creek Road, and anglers may fish from boats March 15 through September 30. Anglers may fish all year at the Wolf Creek and Route 148 causeway areas. Anglers must check and remove fish from all jugs and trot lines daily. It is illegal to use stakes to anchor any trot-lines; they must be tagged with angler's name and address. Anglers may use all noncommercial fishing methods except they may not use underwater breathing apparatus. Anglers may not use jugs or trot-lines with any flotation device that has previously contained any petroleum-based materials or toxic substances. Anglers must attach a buoyed device that is visible on the water's surface to all trot-lines.

2. A–41, Bluegill, Blue Heron, Managers, Honkers, and Visitors Ponds: Anglers may fish only from sunrise to sunset March 15 through September 30. Anglers may not use boats or flotation devices.

3. Anglers may not submerge any pole or similar object to take or locate any fish.

4. Organizers of all fishing events must possess a refuge-issued permit.

5. Anglers may not fish within 250 yards of an occupied waterfowl hunting blind.

* * * * *

Cypress Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Site specific regulations apply to dove hunting on sunflower fields.

2. Duck hunters may not hunt on the Bellrose Waterfowl Reserve.

3. Only goose hunters allowed in Bellrose Waterfowl Reserve following the closure of the regular duck hunting season. Special site regulations apply.

* * * * *

B. Upland Game Hunting. Hunters may hunt bob-white quail, rabbit, squirrel, raccoon, opossum, coyote, red fox, grey fox and turkey (spring) on designated areas of the refuge subject to the following conditions:

* * * * *

Emiquon National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Only temporary structures or blinds constructed of native materials are permitted.

2. Hunters must remove boats, decoys, and portable blinds at the end of each day's hunt.

* * * * *

C. Big Game Hunting. * * *

1. Hunters must remove hunting stands at the end of each day's hunt.

D. Sport Fishing. * * *

* * * * *

4. Anglers may not sportfish in areas open to hunting during hunting seasons.

* * * * *

14. Amend § 32.35 *Kansas* by removing paragraph C.2., and by revising paragraph D. of Flint Hills National Wildlife Refuge; by revising paragraph D., of Kirwin National Wildlife Refuge; and by revising paragraph D., of Quivira National Wildlife Refuge to read as follows:

* * * * *

§ 32.35 Kansas.

* * * * *

Flint Hills National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may sportfish on designated portions of the refuge subject to State regulations and any refuge specific regulations as listed in the refuge brochure.

Kirwin National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may sportfish on designated areas of the refuge subject to the following conditions:

1. Anglers may fish in accordance with the Kirwin National Wildlife Refuge Visitor's Map and Guide.

2. Anglers may not use motorized vehicles on the ice.

Quivira National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may sportfish on designated portions of the refuge subject to State regulations and any refuge specific regulations as listed in the refuge brochure.

15. Amend § 32.37 *Louisiana* by adding the alphabetical listing of Black Bayou Lake National Wildlife Refuge; by revising paragraph D.3., of Catahoula National Wildlife Refuge; by revising paragraphs A., B., and C. of D'Arbonne National Wildlife Refuge; and by revising the introductory text of paragraphs A., B., and C. of Upper Ouachita National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Black Bayou Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. Anglers may fish on designated areas of the refuge subject to the following conditions:

1. Anglers may fish from sunrise to sunset.

2. Anglers may not leave boats or other personal equipment on the refuge overnight. Anglers may launch boats only at designated sites. Anglers may not use boat motors greater that 50 horsepower.

3. Anglers may not use trotlines, limb lines, yo-yos, traps or nets.

4. Anglers may not take frogs, turtles and mollusks.

* * * * *

Catahoula National Wildlife Refuge

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D. Sport Fishing. * * *

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3. Cowpen Bayou and the HWY 28 borrow pits open to fishing all year.

* * * * *

D'Arbonne National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks, coots, and woodcock on designated areas of the refuge subject to the following condition: Permits required.

B. Upland Game Hunting. Hunters may hunt quail, squirrel, rabbit, raccoon and opossum on designated areas of the refuge subject to the following condition: Permits required.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

Upper Ouachita National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks, coots, and woodcock on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

B. Upland Game Hunting. Hunters may hunt quail, squirrel, rabbit, raccoon and opossum on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

16. Amend § 32.42 *Minnesota* by revising paragraphs A., B., and adding paragraph C.4. of Minnesota Valley National Wildlife Refuge; by revising paragraphs A., B., C., and D. of Morris Wetland Management District; by removing paragraph C.3. and redesignating paragraphs C.4. and C.5. as paragraphs C.3. and C.4., respectively, and revising them of Rydell National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

* * * * *

Minnesota Valley National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt geese, ducks, and coots on designated areas of the refuge. Permits are required for special hunts.

B. Upland Game Hunting. Hunters may hunt upland game, except for furbearers and crows, on designated areas of the refuge consistent with state regulations, subject to the following conditions:

1. Hunters may only use shotguns and bows and arrows in designated areas.

2. Hunters may only use or possess non-toxic shot.

C. Big Game Hunting. * * *

* * * * *

4. Hunters may not use or possess single shot projectiles (shotgun slugs, or bullets) on the Soberg Waterfowl Production Area.

* * * * *

Morris Wetland Management District

A. Hunting of Migratory Game Birds. Hunting of migratory game birds is permitted throughout the district subject to the following condition:

1. Hunters may not hunt on designated portions of the Edwards-Long Lake Waterfowl Production Area in Stevens County.

B. Upland Game Hunting. Upland game hunting is permitted throughout the district subject to the following condition:

1. Hunters may not hunt on designated portions of the Edwards-Long Lake Waterfowl Production Area in Stevens County.

C. Big Game Hunting. Big game hunting is permitted throughout the district subject to the following condition:

1. Hunters may not hunt on designated portions of the Edwards-Long Lake Waterfowl Production Area in Stevens County.

D. Sport Fishing. Sport fishing is permitted throughout the district subject to the following condition:

1. Anglers may not fish on designated portions of the Edwards-Long Lake Waterfowl Production Area in Stevens County.

* * * * *

Rydell National Wildlife Refuge

* * * * *

C. *Big Game Hunting.* * * *

* * * * *

3. Hunters may not construct or use permanent blinds, permanent platforms, or permanent ladders. Hunters may use portable stands, but must remove them from the refuge at the end of each day's hunt.

4. Hunters who harvest deer in the Special Permit Area must take their deer to the refuge check station.

* * * * *

17. Amend § 32.43 *Mississippi* by revising paragraphs A., B., C., and D., of Noxubee National Wildlife Refuge; by revising paragraph A. of St. Catherine Creek National Wildlife Refuge; by revising paragraphs A., B., and C. of Tallahatchie National Wildlife Refuge; and by revising paragraph A. of Yazoo National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

* * * * *

Noxubee National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt waterfowl, coots, and woodcock on designated areas of the refuge subject to the following condition: Permits required.

B. Upland Game Hunting. Hunters may hunt quail, squirrel, rabbit, beaver, raccoon and opossum on designated areas of the refuge subject to the following condition: Permits required.

C. Big Game Hunting. Hunters may hunt white-tailed deer and turkey on designated areas of the refuge subject to the following condition: Permits required.

D. Sport Fishing. Anglers may fish on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

St. Catherine Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks, geese and coots on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

Tallahatchie National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt mourning doves, migratory waterfowl, coots, snipe and woodcock on designated areas of the refuge subject to the following condition: Permits required.

B. Upland Game Hunting. Hunters may hunt quail, squirrel, rabbit, beaver, raccoon and opossum on designated areas of the refuge subject to the following condition: Permits required.

C. Big Game Hunting. Hunters may hunt deer and turkey on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

Yazoo National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt mourning doves and waterfowl on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

18. Amend § 32.45 *Montana* by revising paragraphs A., B., and D., of Charles M. Russell National Wildlife Refuge; by revising paragraph B. of Hailstone National Wildlife Refuge; by removing and reserving the text of paragraphs A., B., and C. of Halfbreed Lake National Wildlife Refuge; by revising paragraph C. of Lake Mason National Wildlife Refuge; by revising paragraph D. of Swan River National Wildlife Refuge; by revising paragraph B. of UL Bend National Wildlife Refuge; and by revising paragraph D. of War Horse National Wildlife Refuge to read as follows:

§ 32.45 Montana.

* * * * *

Charles M. Russell National Wildlife Refuge

A. Hunting of Migratory Game Birds. Refuge open to hunting of migratory game birds in accordance with state law.

B. Upland Game Hunting. Hunting of upland game birds, turkey and coyote is permitted on designated areas of the refuge subject to the following condition:

1. Coyote hunting allowed from the first day of antelope rifle season through March 1 annually.

* * * * *

D. Sport fishing. Refuge open to sport fishing in accordance with state law, and as specifically designated in refuge publications.

* * * * *

Hailstone National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunters may hunt upland game birds on designated areas of the refuge subject to the following conditions:

1. Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

Halfbreed Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

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Lake Mason National Wildlife Refuge

* * * * *

C. Big Game Hunting. Refuge open to big game hunting in accordance with state law.

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Swan River National Wildlife Refuge

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D. Sport Fishing. Refuge open to sport fishing in accordance with state law, and as specifically designated in refuge publications.

UL Bend National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Refuge is open to upland game hunting in accordance with state laws, regulations and subject to the following condition:

1. Coyote hunting allowed from the first day of antelope rifle season through March 1 annually.

* * * * *

War Horse National Wildlife Refuge

* * * * *

D. Sport Fishing. Refuge open to sport fishing in accordance with state law, and as specifically designated in refuge publications.

19. Amend § 32.46 *Nebraska* by revising paragraph C. of Crescent Lake National Wildlife Refuge; by adding alphabetically Fort Niobrara National Wildlife Refuge; by revising paragraph D. of Valentine National Wildlife Refuge to read as follows:

§ 32.46 Nebraska.

* * * * *

Crescent Lake National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunters may hunt white-tailed deer and mule deer on designated areas of the refuge pursuant to State law.

* * * * *

Fort Niobrara National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. Anglers may fish on designated portions of the refuge subject to state regulations and any specific regulations as listed in refuge publications.

Valentine National Wildlife Refuge

* * * * *

D. Sport Fishing. Anglers may fish on designated portions of the refuge subject to state regulations and any specific regulations as listed in refuge publications.

20. Amend § 32.47 *Nevada* by revising paragraphs D.1. D.2., and removing paragraph D.3., of Sheldon National Wildlife Refuge to read as follows:

* * * * *

§ 32.47 Nevada.

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Sheldon National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Anglers may only bank fish, fish by wading, use nonmotorized boats, float tubes and similar floatation devices in Big Springs Reservoir, Dufurrena Ponds, and Catnip Reservoir. Anglers may not fish from motorized boats.

2. Only individuals 12 years of age or under, or 65 years of age or older, or individuals who are disabled are permitted to fish in McGee Pond.

* * * * *

21. Amend § 32.49 *New Jersey* by revising paragraphs A., C., and D. of Wallkill River National Wildlife Refuge to read as follows:

§ 32.49 New Jersey.

* * * * *

Wallkill River National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds on designated areas of the refuge subject to the following conditions:

1. Hunters must be in possession of signed refuge hunting permits at all times while hunting on the refuge.

2. Refuge hunting regulations, as listed in the hunting leaflet for Wallkill River National Wildlife Refuge, will be in effect.

3. Shotgun hunters may use or possess only nontoxic shot while hunting migratory game birds.

* * * * *

C. Big Game Hunting. Hunters may hunt white-tailed deer and wild turkeys on designated areas of the refuge subject to the following conditions:

1. Hunters must sign and be in possession of refuge hunting permits at all times while hunting on the refuge.

2. Refuge hunting regulations, as listed in the hunting leaflet for Wallkill River National Wildlife Refuge, will be in effect.

D. Sport Fishing. Anglers may sportfish on designated areas of the refuge subject to the following conditions:

1. Anglers may fish from canoes or cartop boats on the Wallkill River.

2. Anglers must park in designated parking areas if accessing the Wallkill River through refuge land.

3. Anglers may not take frogs and/or turtles.

4. Anglers may fish from sunrise to sunset.

22. Amend § 32.55 *Oklahoma* by revising paragraph B. of Deep Fork National Wildlife Refuge; by revising paragraphs A., B., and C. of Little River National Wildlife Refuge; by removing paragraph B.3. of Optima National Wildlife Refuge; by revising the introductory text of paragraph B., by adding paragraph B.4., by removing paragraphs C.3.and C.4., and redesignating paragraph C.5. as paragraph C.3. of Tishomingo National Wildlife Refuge; by removing paragraph B.2., by revising paragraphs D.1., D.2., by removing paragraph D.4., and redesignating paragraph D.5. as paragraph D.4. of Washita National Wildlife Refuge; and by removing paragraph D.4., and redesignating paragraphs D.5. and D.6. as paragraphs D.4. and D.5. of Wichita Mountains National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Deep Fork National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunters may hunt rabbits and squirrels on portions of the refuge in accordance with state hunting regulations subject to the following exceptions and conditions:

1. Hunters may hunt squirrels on portions of Deep Fork National Wildlife Refuge during the state season except it is closed during the first half of archery deer season.

2. Hunters may hunt rabbits on portions of Deep Fork National Wildlife Refuge during the state season except it is closed from the beginning of the archery deer season until after rifle deer season.

3. Hunters may only use shotguns with non-toxic shot.

4. The refuge leaflet designates all hunting and parking areas.

* * * * *

Little River National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt waterfowl (ducks) on designated areas of the refuge subject to the following conditions:

1. Prohibited off-road vehicle use.

2. Hunters may not build permanent blinds.

3. Hunters may hunt only from one-half hour before sunrise until noon each day.

B. Upland Game Hunting. Hunters may hunt squirrel, rabbit, turkey and raccoon on designated areas of the refuge subject to the following conditions:

1. Turkey hunters must obtain permits and pay fees.

2. Prohibited off-road vehicle use.

3. Hunters may hunt raccoons only during designated refuge seasons.

4. Shotgun hunters may not possess or use lead shot.

C. Big Game Hunting. Hunters may hunt deer on designated areas of the refuge subject to the following conditions:

1. Hunters must obtain permits and pay fees.

2. Prohibited off-road vehicle use.

* * * * *

Tishomingo National Wildlife Refuge

* * * * *

B. Upland Game Hunting. Hunters may hunt quail, squirrel, turkey and rabbits on the Tishomingo Wildlife Management Unit of the refuge subject to the following conditions:

* * * * *

4. Turkey hunters may only hunt during the statewide spring shotgun season and during the fall archery season.

* * * * *

Washita National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Anglers may fish and frog only from March 15 through October 14 on the Washita River and Foss Reservoir. Anglers may bank fish from the Lakeview Recreation Area to the Pitts Creek Recreation Area all year.

2. Access to fishing and frogging is permitted only from the McClure, Riverside, Turkey Flat, Owl Cove, Pitts Creek and Lakeview Recreation Areas and by boat from Foss Reservoir.

* * * * *

23. Amend § 32.56 *Oregon* by adding paragraph A.6. of Cold Springs National Wildlife Refuge; by revising paragraphs A.2., B.1., B.2., B.3., and D.1. of Malheur National Wildlife Refuge; by adding paragraph A.7. of McKay Creek National Wildlife Refuge; by adding paragraph A.6. and revising paragraph C. of Umatilla National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

* * * * *

Cold Springs National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

6. Snipe hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

Malheur National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

2. Hunters shall possess and use, while in the field, only nontoxic shot.

B. Upland Game Hunting. * * *

1. Hunters may hunt pheasant, quail, partridge, and rabbit from the third Saturday in November to the end of the pheasant season in designated areas of the Blitzen Valley east of Highway 205, and on designated areas open to waterfowl hunting.

2. Hunters may hunt all upland game species during authorized State seasons on the refuge area west of Highway 205 and south of Foster Flat Road.

3. Hunters shall possess and use, while in the field, only nontoxic shot when hunting on designated areas east of Highway 205.

* * * * *

D. Sport Fishing. * * *

1. Anglers may fish year-round in the Blitzen River, East Canal, and Mud Creek upstream from and including Bridge Creek. Anglers may fish in Krumbo Reservoir during the State season from the fourth Saturday in April to the end of October.

* * * * *

McKay Creek National Wildlife Refuge

A. Hunting of Migratory Game Birds.

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* * * * *

7. Snipe hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

* * * * *

6. Snipe hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

C. Big Game Hunting. Hunters may hunt deer on designated areas of the refuge subject to the following condition:

1. Hunting by permit only.

* * * * *

24. Amend § 32.57 *Pennsylvania* by adding paragraph A.3., by revising the introductory text of paragraph B., by revising paragraphs B.3.and B.5., and by revising paragraphs C.1., C.2., and C.3. of Erie National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

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Erie National Wildlife Refuge

A. Hunting of Migratory Game Birds.

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* * * * *

3. No dog training.

B. Upland Game Hunting. Hunters may hunt grouse, squirrel, rabbit, woodchuck, pheasant, quail, raccoon, fox, skunk, opossum and coyote on designated areas of the refuge subject to the following conditions:

* * * * *

3. Upland game hunters must wear on head, chest and back, a minimum of 400 square inches of blaze orange material.

* * * * *

5. Dog trainers must obtain permits.

C. Big Game Hunting. * * *

1. Hunters may hunt only from September 1 through February 28 except for spring turkey season.

2. Hunters must remove blinds, platforms, scaffolds, and/or tree stands from the refuge daily.

3. All deer hunters must wear on head, chest and back, a minimum of 400 square inches of blaze orange material during antlered, anterless and muzzleloader seasons.

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25. Amend § 32.61 *South Dakota* by revising paragraph D. of Waubay National Wildlife Refuge to read as follows:

§ 32.61 South Dakota.

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Waubay National Wildlife Refuge

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D. Sport Fishing. Anglers may fish on the refuge in accordance with state law,

and as specifically designated in refuge publications.

26. Amend § 32.62 *Tennessee* by revising paragraphs A., and D.2., and adding paragraph D.3. of Chickasaw National Wildlife Refuge; by revising paragraphs A. and D. of Lower Hatchie National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

* * * * *

Chickasaw National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks, coots, mourning doves, woodcock, and snipe on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

*D. Sport Fishing.** * *

* * * * *

2. Anglers may fish only from sunrise to sunset.

3. Anglers may not frog or turtle on the refuge.

* * * * *

Lower Hatchie National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks, coots, mourning doves, woodcock, and snipe on designated areas of the refuge subject to the following condition: Permits required.

* * * * *

D. Sport Fishing. Anglers may fish on designated areas of the refuge and Sunk Lake Public Use Natural Area subject to the following conditions:

1. Only with pole and line or rod and reel.

2. Only from sunrise to sunset.

3. Anglers may not frog or turtle.

4. Anglers may not fish in the sanctuary areas or Sunk Lake Public Use Natural Area from November 15 through March 15 annually.

* * * * *

27. Amend § 32.63 *Texas* by revising paragraphs A.1., A.2., A.4., removing paragraph A.6 and redesignating paragraph A.7. as paragraph A.6. of Anahuac National Wildlife Refuge; by adding alphabetically the listing of Balcones Canyonlands National Wildlife Refuge; by revising paragraphs B.2., B.3, and C. of Hagerman National Wildlife Refuge; by revising paragraphs A.1., A.2., A.6. and adding paragraph A.7. of McFaddin National Wildlife Refuge; and by revising paragraphs A.1.,A.2., A.5., and adding paragraph A.6. of Texas Point National Wildlife Refuge to read as follows:

§ 32.63 Texas.

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Anahuac National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Permits and payment of a fee required to hunt on portions of the refuge.

2. Hunters may hunt only on designated days of the week and on designated areas during the general waterfowl hunting season. Hunters may hunt on designated areas during all days of the September teal season. Notice of hunting days and maps depicting areas open to hunting are issued annually in the refuge hunting brochure.

* * * * *

4. Hunters must use and be in possession of Federally-approved non-toxic shot only.

* * * * *

Balcones Canyonlands National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. Hunters may hunt turkey on designated areas of the refuge subject to the following conditions:

1. Hunting will take place in December and/or January.

2. Hunters must check in and out of a hunt area.

3. Hunters may use only bows and arrows or shotguns and rifles.

4. Hunters shall be at least 12 years of age. Hunters between the ages of 12 and 17 (inclusive) must hunt under the supervision of an adult 21 years of age or older.

5. Bag limit must be in accordance with annual state regulations.

6. Hunters must visibly wear 400 square inches of hunter orange above the waist. Wearing a hunter orange hat or cap mandatory.

7. Hunters must obtain a refuge permit and pay a hunt fee.

C. Big Game Hunting. Hunters may hunt white-tailed deer and feral hogs on designated areas of the refuge subject to the following conditions:

1. Hunting will take place in December and/or January.

2. Hunters must check in and out of a hunt area.

3. Hunters may use only bows and arrows, or shotguns and rifles.

4. Hunters shall be at least 12 years of age. Hunters between the ages of 12 and 17 (inclusive) must hunt under the supervision of an adult 21 years of age or older.

5. Bag limit must be in accordance with annual state regulations.

6. Hunters must visibly wear 400 square inches of hunter orange above the waist. Wearing a hunter orange hat or cap mandatory.

7. Hunters must obtain a refuge permit and pay a hunt fee.

D. Sport Fishing. [Reserved]

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Hagerman National Wildlife Refuge

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B. Upland Game Hunting. * * *

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2. Only shotguns permitted.

3. No shot larger than No. 4 shot may be brought onto the area.

* * * * *

C. Big Game Hunting. Hunters may hunt white-tailed deer and feral hogs on designated areas of the refuge subject to the following conditions:

1. Hunters may archery hunt as listed in the refuge hunt information sheet. Hunters must obtain a refuge permit and pay a hunt fee.

2. Firearms hunting utilizing shotguns, 20 gauge or larger, loaded with rifled slug, permitted during a special youth hunt as listed in the refuge hunt information sheet. Permits required.

* * * * *

McFaddin National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Hunters must obtain a refuge permit and pay a hunt fee to hunt on portions of the refuge.

2. Hunters may hunt only on designated days of the week and on designated areas during the general waterfowl hunting season. Hunters may hunt on designated areas during all days of the September teal season. Notice of hunting days and maps depicting areas open to hunting issued annually in the refuge hunting brochure.

* * * * *

6. Hunters must use and be in possession of Federally-approved non-toxic shot only.

7. Hunters may use airboats in accordance with guidelines issued in the refuge hunting brochure.

* * * * *

Texas Point National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Hunters may hunt only on designated days of the week and on designated areas during the general waterfowl hunting season and the September teal season. Notice of hunting days and maps depicting areas open to hunting are issued annually in the refuge hunting brochure.

2. Hunting permitted until noon.

* * * * *

5. Hunters must use and be in possession of Federally-approved nontoxic shot only.

6. Hunters may use airboats in accordance with guidelines issued in the refuge hunting brochure.

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28. Amend § 32.64 *Utah* by revising paragraph D. of Ouray National Wildlife Refuge to read as follows:

§ 32.64 Utah.

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Ouray National Wildlife Refuge

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D. Sport Fishing. The refuge is open to sport fishing in accordance with state law, and as specifically designated in refuge publications.

29. Amend § 32.66 *Virginia* by revising paragraph C.6. and adding paragraph C.7. of Great Dismal Swamp National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

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Great Dismal Swamp National Wildlife Refuge

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C. Big Game Hunting. * * *

* * * * *

6. Hunters may not possess a loaded firearm (ammunition in the chamber, magazine, or clip), or loaded bow on or within 50 feet of a refuge road, including roads closed to vehicles.

7. Hunters may not shoot onto or across a refuge road, including roads closed to vehicles.

* * * * *

30. Amend § 32.67 *Washington* by revising paragraphs A.1., A.3. A.4., A.5., A.6. and removing paragraph A.7. of McNary National Wildlife Refuge; and by adding paragraph A.5., and revising paragraph B.1. of Toppenish National Wildlife Refuge; by adding paragraph A.6., by removing and reserving the text of paragraph C. of Umatilla National Wildlife Refuge to read as follows:

§ 32.67 Washington.

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McNary National Wildlife Refuge

A. Hunting of Migratory Game Birds.

* * *

1. Hunting is by permit only on the McNary Division.

* * * * *

3. Snipe hunters shall possess and use, while in the field, only nontoxic shot.

4. Hunters may not possess more than 25 shells while in the field.

5. On the first Saturday in December, only youth aged 10–17 and an accompanying adult aged 18 or over may hunt.

6. The furthest downstream island (Columbia River mile 341–343) in the Hanford Islands Division closed to hunting.

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Toppenish National Wildlife Refuge

A. Hunting of Migratory Game Birds.

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5. Snipe hunters will possess and use, while in the field, only nontoxic shot.

B. Upland Game Hunting. * * *

1. Hunters may not hunt upland game birds until noon of each hunt day.

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Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds.

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6. Snipe hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

C. Big Game Hunting. [Reserved]

* * * * *

31. Amend § 32.69 *Wisconsin* by adding the alphabetical listing of Leopold Wetland Management District to read as follows:

§ 32.69 Wisconsin.

* * * * *

Leopold Wetland Management District

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds throughout the District except that hunters may not hunt on designated portions of the Blue-wing Waterfowl Production Area in Ozaukee County or the Wilcox Waterfowl Production Area in Waushara County.

B. Upland Game Hunting. Hunters may hunt upland game throughout the district except that hunters may not hunt on designated portions of the Blue-wing Waterfowl Production Area in Ozaukee County or the Wilcox Waterfowl Production Area in Waushara County.

C. Big Game Hunting. Hunters may hunt big game throughout the District except that hunters may not hunt on designated portions of the Blue-wing Waterfowl Production Area in Ozaukee County or the Wilcox Waterfowl Production Area in Waushara County.

D. Sport Fishing. [Reserved]

* * * * *

32. Amend § 32.70 *Wyoming* by revising paragraph D. of National Elk Refuge; and by revising paragraphs A., C., and D. of Seedskadee National Wildlife Refuge to read as follows:

§ 32.70 Wyoming.

* * * * *

National Elk Refuge

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D. Sport Fishing. Anglers may sport fish on the refuge in accordance with state law, as specifically designated in refuge publications.

* * * * *

Seedskadee National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds only on designated areas of the refuge.

* * * * *

C. Big Game Hunting. Hunters may hunt pronghorn antelope, mule deer and moose only on designated areas of the refuge.

D. Sport Fishing. Anglers may sportfish on the refuge only in accordance with State law, and as specifically designated in refuge publications.

Dated: August 29, 1997.

Donald Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–23730 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–55–U

Proposed Rules

Federal Register
Vol. 62, No. 174
Tuesday, September 9, 1997

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1962, 1965 and 1980

RIN 0560–AE92

Subordination of Direct Loan Basic Security to Secure a Guaranteed Line of Credit

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

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) proposes to revise its regulations regarding loan security servicing to allow the Agency to enhance the use of subordinations to move direct farm credit program borrowers to the private sector. The first change is to allow subordinations of direct loan basic chattel and real estate security if necessary to secure a guaranteed operating line of credit. This action is intended to encourage the making of guaranteed lines of credit as opposed to direct annual operating loans or subordinations. Secondly, this rule also proposes to revise FCP regulations to allow subordination of Agency loan security so another lender may refinance a borrower's debt. This change is needed because recent legislation places restrictions on the uses of direct loans for refinancing. The proposal is intended to allow the Agency to transfer a portion of a direct loan borrower's government debt to commercial credit.

DATES: Comments on the proposed rule, comments on alternatives to this proposal, and the information collection requirements of this rule must be received on or before November 10, 1997 to be assured consideration.

ADDRESSES: Send comments on, and alternatives to, the proposed rule to: Director, Farm Credit Programs Loan Servicing and Property Management Division (LSPMD), Farm Service Agency (FSA), U.S. Department of Agriculture (USDA), room 5449-S, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20013–0523. Comments on the information collection requirements of this proposed rule must be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act section of this preamble or sent to the Department address listed after the OMB address.

FOR FURTHER INFORMATION CONTACT: Craig Nehls, Branch Chief, USDA, FSA, Farm Credit Programs Loan Servicing Division, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20013–0523, telephone (202) 720–1984.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been reviewed under E.O. 12866 and has been determined to be a significant regulatory action and has been reviewed by OMB.

Executive Order 12372

1. For the reasons set forth in the Notice related to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), Farm Ownership Loans, Farm Operating Loans and Emergency Loans are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to and has met the provisions of E.O. 12372.

Federal Assistance Program

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

It is the determination of the issuing agency that this action is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, and 7 CFR part 1940 subpart G, an Environmental Impact Statement is not required.

Executive Order 12988

This proposed rule has been reviewed in accordance with E.O. 12988, Civil Justice Reform. In accordance with this rule; (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule: and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601—602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule does not involve a new or expanded program and new provisions included in this rule will not impact a substantial number of small entities to a greater extent than large entities. Although it is the intent of this rule to move direct loans to guaranteed loans, participation is voluntary and requires no action on the part of small entities. Thus, large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures of $100 million or more in any 1 year for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

The rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the

requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

The amendments to 7 CFR parts 1962, 1965 and 1980 set forth in this proposed rule require no revisions to the information collection requirements that were previously approved by OMB under the provisions of 44 U.S.C. chapter 35. Comments regarding the following issues should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Craig Nehls, Branch Chief, USDA, FSA, Farm Credit Programs Loan Servicing Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20013–0523: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Title: 7 CFR 1980-B, Farmer Program Loans.

OMB Control Number: 0560–0155.

Expiration Date: March 31, 1998.

Type of Request: Request for Comments.

Abstract: The information collected under OMB Control Number 0560–0155, as identified above, is needed in order for FSA to effectively administer the regulation relating to the subordination of direct loan security to secure a guaranteed loan line of credit. The information is collected by the loan official in consultation with the lender. The basic objective of the guaranteed loan program is to provide credit to applicants who are unable to obtain credit from lending institutions without a guarantee. The reporting requirements imposed on the public by the regulations set out in 7 CFR part 1980–B are necessary to administer the guaranteed loan program in accordance with statutory requirements listed above and are consistent with commonly performed lending practices. Collection of information after loans are made is necessary to protect the Government's financial interest.

This rule—to allow for subordinations of direct loan security to secure a guaranteed line of credit—is expected to result in the substitution of guaranteed loans in several cases where direct Operating Loans (OL) or subordinations are being used to fund annual farm operating needs. This is expected to result in a slight increase in the number of guaranteed lines of credit, a decrease in the number of OL's and an increase in the number of subordinations. The respective requirements of subordinations and OL loans will not change. The Agency has determined that the currently approved information collection requirements contain sufficient estimates to absorb this proposed change since the first part of this rule will affect the current burden of these regulations by only 0.3 percent, if at all. Therefore, no request for revision is being made. Subordinations of direct loan security (subordinations) are governed by 7 CFR 1962.30 and 1965.12. Guaranteed Operating loans (OL) are governed by 7 CFR 1980.175.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .71 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 23,150.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 193,343.

Title: 7 CFR 1962–A, has no information collection requirements and does not have an OMB Control Number.

Title: 7 CFR 1965–A, Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases.

OMB Control Number: 0560–0158.

Expiration Date: April 30, 1998.

Type of Request: Revision and Extension of a Currently Approved Information Collection.

Abstract: The information collected under OMB Control Number 0560–0158, as identified above, is collected by the loan servicing official in consultation with the borrower, another creditor, or other appropriate individuals from whom information is necessary. The information is used in order to process subordination request and effectively administer program policies and procedures in a way that maximize benefits to borrowers and maintains the Government's financial interest.

Section 331 of the Consolidated Farm and Rural Development Act, as amended, authorizes the Secretary of Agriculture to grant releases from personal liability where security property is transferred to approved applicants who, under agreement, assume the outstanding secured indebtedness. That section also authorizes the Secretary of Agriculture to grant partial releases and subordinations of mortgages subject to certain conditions and to consent to leases of security and transfers of security property. FSA county offices must collect information from borrowers requesting subordinations in order to assure that the program is carried out in accordance with the applicable laws and authorities.

The 1996 Act modified the authorized loan purposes for direct Farm Ownership Loans (FO) by eliminating the refinancing of existing indebtedness as well as placing a limit on the number of times a direct Farm Operating Loan (OL) may be used for refinancing. This has unintentionally restricted the Agency's ability to subordinate security since 7 CFR 1965.12 allows subordination for ''authorized loan purposes.'' This causes problems in cases where subordinations are necessary for graduating direct loan borrowers to commercial credit. Graduation to commercial credit is one of the Agency's basic goals. The second part of this rule—to allow for subordinations for refinancing debt—is intended to allow the Agency to meet the need for refinancing created by the Federal Agriculture Improvement Act of 1996 (1996 Act). It will have no effect on currently approved information collection requirements. The public reporting burden under the requirements of the regulation are shown in the following estimates:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .64 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 29,516.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18,971.

Discussion of Proposed Rule

These changes involve the Farm Credit Programs (FCP) loans of FSA formerly administered by the Farmers Home Administration (FmHA) as Farmer Programs loans.

Section 1980.108 (a)(iii) of Title 7 of the Code of Federal Regulations states that when a borrower is involved with both a direct and guaranteed loan with the Agency, the Agency may subordinate its lien position *only* on crops, feeder livestock or livestock products in order to secure a guaranteed loan and in other limited cases. FCP loan servicing regulations (7 CFR part 1962, subpart A and part 1965, subpart A), provide conditions for the subordination of Agency lien position on basic chattel and real estate security to another lender without mention of when the Agency will be providing the lender a guarantee on the loan to be made.

This proposed rule will allow FSA to grant a subordination of basic chattel and real estate security in connection with a guaranteed line of credit. Such subordinations will be subject to the applicable requirements of 7 CFR 1962.30 and 1965.12 as referenced in 7 CFR 1980.108 in addition to conditions specific to granting a subordination in conjunction with a guaranteed loan. The Agency currently offers subordinations of basic chattel and real estate security under 7 CFR 1980.108 (a)(1)(iii) up to an amount necessary to collateralize a crop loan or a guarantee of up to 90 percent of principal and accrued interest on an operating loan. However, some commercial lenders and Congressional representatives have expressed concerns that this policy is too restrictive in areas where commercial lenders do not normally make loans to farm producers secured only by crops, or livestock products. Real estate and basic chattel security is desired. The Agency does not feel that this is a widespread problem. Furthermore, since the Government will be assuming nearly all of the risk for these combination subordination and guaranteed loans, conditions are proposed to ensure that these loans are made only in those areas that can document problems with credit availability. In addition, the loans will only be made where the Agency will have an extra 25 percent in security value to cover its loan after the subordination to protect the Government from an undue risk of loss.

This rule is also proposing revisions to FCP loan servicing regulations to allow subordination of Agency loan security so another lender may refinance a borrower's debt. This is necessary as a result of a recent modification to Agency loan eligibility criteria made by the 1996 Act. Section 602 of the 1996 Act does not include refinancing as an authorized loan purpose for direct Farm Ownership loans (FO). Section 312 of the 1996 Act also places a limit on the number of times a direct Farm Operating loan (OL) may be used for refinancing. This has unintentionally restricted the Agency's ability to subordinate security since 7 CFR 1962.30 and 1965.12 allow a subordination only for ''authorized loan purposes.'' This language is not required by statute. The legislation has also caused problems in cases where a subordination is necessary for graduations of direct loan borrowers to commercial credit on some of their loans. Graduation is one of the Agency's basic goals.

To address these problems, the Agency proposes to allow subordinations for loans to refinance a borrower's debts. Subordinations for such purposes are not in conflict with the language or the intent of the 1996 Act. The 1996 Act did not restrict the use of guaranteed FO's and OL's for refinancing purposes, so it is clear that Congress did not intend to prohibit all refinancing.

The Agency also proposes to revise the provision concerning the relationship between direct and guaranteed loans in 7 CFR 1980.108 to delete the requirement limiting combined direct and guaranteed to $650,000 when an Economic Emergency loan is involved. This requirement of the Emergency Agricultural Credit Adjustment Act of 1978 was repealed by §1851 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624).

This rule also removes administrative provisions from some of the affected sections, leaving only regulatory actions which impact the public in the **Federal Register**. Matters involving internal operating procedures and requirements will be contained in the Agency's instructions and handbooks. This streamlining makes the regulation more concise and easier to read and understand. Handbooks and instructions are available to the public upon request from an FSA office. Daily management of existing programs will not be affected by these administrative deletions.

Also, this rule makes minor wording changes, redesignates some numbered paragraphs and revises references to ''FmHA'' to reference ''FSA'' or ''Agency.''

Accordingly, it is proposed that 7 CFR chapter XVIII be amended as follows:

List of Subjects

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas

7 CFR Part 1965

Real Property—Foreclosure, Loan programs—Agriculture, Rural areas

7 CFR Part 1980

General—Agriculture, Loan programs—Agriculture, EM

PART 1962—PERSONAL PROPERTY

1. The authority citation for part 1962 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—Servicing and Liquidation of Chattel Security

2. Section 1962.30 is revised to read as follows:

§ 1962.30 Subordination and waiver of liens on chattel security.

(a) *Purposes.* Subject to the limitations set out in paragraph (b) of this section, the Agency chattel liens may be subordinated to a lien of another creditor in any of the following situations:

(1) The prior lien will soon mature or has matured and the prior lienholder desires to extend or renew the obligation, or the obligation can be refinanced. The relative lien position of the Agency must be maintained.

(2) The subordination will permit another creditor to refinance other debt or lend for an authorized direct loan purpose.

(3) The subordination is necessary to obtain crop insurance. The creditor to whom a subordination is given must consent in writing to payment of the insurance premiums from the crop or insurance proceeds. When a subordination is executed to enable the borrower to obtain crop insurance on Agency security, the borrower will assign the insurance proceeds to the Agency or name the Agency in the loss-payable clause of the policy.

(b) *Conditions.* Agency chattel liens may be subordinated to a lien of another creditor if all of the following conditions are met:

(1) The lien to be subordinated is on crops, livestock increase, feeder livestock, and other normal income security. If the lien is on basic chattel security, the Agency will subordinate only to the extent necessary to provide the lender with the security it requires to make the loan.

(2) The subordination is limited to a specific amount.

(3) Only one subordination to one creditor may be outstanding at any one time in connection with the same security.

(4) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or State law. ''Borrower'' for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. ''Controlled substance'' is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the 4 succeeding crop years. Applicants must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime.

(5) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to subpart G of part 1940 of this chapter.

(6) Subordinations will not be granted to another USDA agency.

(c) *Subordination to make a guaranteed loan.* Notwithstanding the requirements of this section subordinations on chattel security to make a guaranteed loan will be approved in accordance with § 1980.108 of subpart B of part 1980 of this chapter.

(d) *Forms.* Subordinations will be executed on Agency forms available in any FSA office or on another form approved by the Agency.

PART 1965—REAL PROPERTY

3. The authority citation for 7 CFR part 1965 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989 and 42 U.S.C. 1480.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

4. Section 1965.12 is revised to read as follows:

§ 1965.12 Subordination of an Agency mortgage.

(a) A subordination may be granted if all of the following conditions are met:

(1) The subordination is to refinance debt or for any other authorized loan purpose.

(2) The Agency debt cannot be refinanced without a subordination.

(3) The subordination will further the purposes for which the Agency loans were originally made.

(4) Any cooperative stock required in connection with the loan secured by the subordinated security will be assigned to the Agency.

(5) If the unpaid principal and accrued interest balance of the Agency loan exceeds the value of the loan security, a subordination may be granted only if the value of the security will be increased by at least the amount of the advances to be made.

(6) The Agency loan is still adequately secured after the subordination.

(7) The borrower can document the ability to repay the total amount due under subordination and pay all other debt payments scheduled for the subject operating cycle.

(8) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to part 1940, subpart G of this chapter.

(9) When a non-farm tract secures a single family housing (SFH) loan, the other lender's funds will only be used for the same purposes and with the same limitations that would be applicable if a SFH loan were made.

(10) When the subordination will be used to acquire land, the FSA county committee has made a favorable recommendation.

(11) Any planned development performed in a manner directed by the creditor and agreed to by the Agency which reasonably attains the objectives of part 1924, subpart A of this chapter.

(12) Funds to be used to develop or to acquire land will be deposited in a supervised bank account that is subject to signature by the Agency and the borrower or in a similar arrangement to ensure that funds will be spent for the planned purposes.

(13) In cases of land purchase or exchange of property, the Agency will obtain a valid mortgage on the acquired land. Title clearance and loan closing will be required as for an initial or subsequent FO loan, as appropriate.

(14) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or State law. ''Borrower'' for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. ''Controlled substance'' is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the four succeeding crop years. Applicants must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime.

(b) *Subordination on real estate owned by an entity member.* When the borrower is an entity and the Agency has taken real estate as additional security on property owned by an entity member, a subordination for any authorized Farm Credit Programs loan purpose may be approved when it is needed for the entity member to finance a separate operation. The subordination, however, may be approved only if it does not cause the unpaid principal and accrued interest balance of the Agency loan to exceed the value of the loan security or otherwise adversely affect the security.

(c) *Request for subordination.* A borrower must complete an application provided by the Agency to receive consideration for a subordination.

(d) *Notice of foreclosure.* The lienholder requesting the subordination will agree to give notice of foreclosure as required by the Agency.

(e) *Reamortizing existing Agency debts.* The Agency may consent to a reamortization of an existing Agency debt, other than an SFH debt, when a subordination is granted to the debt of another lender. The reamortization will be allowed only when the borrower cannot reasonably be expected to meet all currently scheduled installments when due and the conditions of part 1951, subpart S, of this chapter are met.

(g) *Subordination to make a guaranteed loan.* Notwithstanding the requirements of this section, subordinations of liens on real estate security to make a guaranteed loan will be in accordance with § 1980.108 of this chapter.

PART 1980—GENERAL

5. The authority citation for 7 CFR part 1980 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989 and 42 U.S.C. 1480.

Subpart B—Farmer Programs Loans

6. Section 1980.108 is amended to add paragraphs (a)(1)(v) and (vi) and to revise paragraphs (a)(1)(iii) and (d) to read as follows:

§1980.108 General provisions.

(a) ***

(1) ***

(v) The Agency may subordinate its security interest on a direct loan when a guaranteed loan is involved in any of the following circumstances:

(A) To permit a guaranteed lender to advance funds and perfect a security interest in crops, feeder livestock, or

livestock products, (milk, eggs, wool, etc.).

(B) When the lender requesting the guarantee needs the subordination of the Agency's lien position to maintain its lien position when servicing or restructuring.

(C) When the lender requesting the guarantee is refinancing the debt of another lender and the Agency's position on real estate security will not be adversely affected.

(vi) The Agency may subordinate its security interest in chattels and real estate, or both to permit a Contract of Guarantee—Line of Credit to be advanced for annual operating needs in accordance with §1980.175 (c)(2) only when the following conditions are met:

(A) The value of the total security for the direct loan or loans exceeds the total unpaid balance of the direct loan that it secures by at least 25 percent of the amount of the proposed line of credit after the subordination.

(B) The applicant cannot obtain sufficient credit through a conventional guaranteed loan.

(C) The subordination is limited to a specific amount.

(D) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to part 1940, subpart G of this chapter.

(E) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or State law. ''Borrower'' for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. ''Controlled substance'' is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the 4 succeeding crop years. Applicants must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime.

(F) No subordination will exist in favor of another creditor on the same security.

(G) The subordination is not in favor of another USDA agency.

(H) Any stock required in connection with the loan secured by the subordinated security will be assigned to the Agency.

(I) The borrower can document the ability to repay the total amount due under subordination and pay all other debt payments scheduled for the subject operating cycle.

(J) The borrower will complete an application provided by the Agency to receive consideration for a subordination, and

(K) The lienholder requesting the subordination will agree to give notice of foreclosure as required by the Agency.

* * * * *

(d) *Relationship between Agency loans, direct and guaranteed.* A guaranteed FO or OL loan may be made to an insured borrower with the same type of direct loan provided:

(1) The outstanding combined direct and guaranteed FO or OL principal balance owned by the loan applicant or owed by anyone who will sign the note as cosigner may not exceed the authorized guaranteed loan limit for that type of loan.

(2) Chattel and real estate collateral must be separate and identifiable so as to be discernible from the collateral pledged to the Agency for a direct loan. Different lien positions on real estate are considered separate and identifiable collateral.

7. Section 1980.175 is amended to add paragraph (h)(3) as follows:

§1980.175 Operating Loans.

* * * * *

(h) *Special security requirements.* (1) * * *

(3) Subject to the requirements of this section, the Agency may approve a Contract of Guarantee for a line of credit to be secured by basic chattel or real estate security in which the Agency has subordinated its lien position in accordance with § 1980.108.

* * * * *

Signed in Washington, DC, on September 2, 1997.

Dallas Smith,

Acting Under Secretary for Farm and Foreign Agricultural Services.

Jill Long Thompson,

Under Secretary for Rural Development.

[FR Doc. 97–23750 Filed 9–8–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 911

[Docket No. 970725178–7178–01]

Policies and Procedures Regarding Use of the NOAA Space-Based Data Collection Systems

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) proposes regulations revising its policies and procedures for authorizing the use of its space-based Data Collection Systems which operate on NOAA's Geostationary Operational Environmental Satellites (GOES) and Polar-orbiting Operational Environmental Satellites (POES). These proposed regulations revise the current policy on the use of the GOES Data Collection System (DCS), and formalize a new policy for the use of the Argos Data Collection and Location System (Argos DCS) which flies on the POES. The regulations are intended to harmonize, as much as practicable, the system use policies for the two systems which in the past have been disparate. The fundamental principle underlying these regulations is that the Government will not allow its space-based data collection systems to be used where there are commercial services available that fulfill users' requirements.

DATES: Comments must be received by November 10, 1997.

ADDRESSES: Comments should be sent to Mr. Dane Clark, NOAA National Environmental Satellite, Data, and Information Service, Direct Services Division (E/SP3), 4700 Silver Hill Road, Stop 9909, Room 0158, Washington, D.C. 20233–9909.

FOR FURTHER INFORMATION CONTACT: Dane Clark at (301) 457–5678, e-mail: satinfo@nesdis.noaa.gov or Kira Alvarez at (301) 713–0053, e-mail: Kira.Alvarez@noaa.gov.

SUPPLEMENTARY INFORMATION: NOAA operates environmental data collection systems on its GOES and on its POES.

The GOES DCS consists of: U.S. Government instruments on NOAA geostationary satellites; user Data Collection Platforms (DCP); data receipt and data dissemination systems. With the exception of the DCP, which are managed by the individual users, the GOES DCS is managed by NOAA. The

data collection system on the POES is provided through a cooperative program with the Centre National d'Etudes Spatiales (CNES), the French national space agency. This system, which is known as the Argos Data Collection and Location System (Argos DCS), is managed by NOAA and CNES jointly and consists of: Instruments provided by CNES, which are flown aboard NOAA polar-orbiting satellites; user platform transmitter terminals; and global data receipt and data processing centers. Argos instruments are also scheduled to fly on Japanese and European polar-orbiting satellites.

Both the GOES DCS and the Argos DCS are operated to support environmental applications, e.g., meteorology, oceanography, hydrology, ecology, and remote sensing of Earth resources. In addition, the Argos DCS currently supports applications related to protection of the environment, e.g., hazardous material tracking, fishing vessel tracking for treaty enforcement, animal tracking, and oil and gas pipeline monitoring to prevent leakage. Presently, the majority of users of these systems are government agencies and researchers and, in fact, much of the data collected by both the GOES DCS and the Argos DCS are provided to the World Meteorological Organization via the Global Telecommunications System for inclusion in the World Weather Watch Program.

The GOES DCS was established in 1974 to obtain data from remote locations which were required for the effective management of programs by the NOAA. Given that the capacity of this system could more than provide for all of NOAA's requirements, NOAA, through its regulations, currently in effect, made the excess capacity of the GOES DCS available to non-NOAA users (46 F.R. 48634, as amended at 51 F.R. 3465). These non-NOAA users include Federal and state agencies or local governments, as well as private persons and firms and foreign government agencies whose use of the system supports a program of a U.S. agency.

While no similar regulations were published concerning the Argos DCS, in March 1992, NOAA made a small portion, i.e., less than five percent of system capacity, available for non-environmental use. This policy was announced in the *Commerce Business Daily* on March 2, 1992, and was consistent with the *U.S. Commercial Space Guidelines of 1991* which encouraged government agencies to promote commercial entities' access to excess U.S. space-based assets in order to facilitate the growth of the emerging U.S. commercial space industry. This policy of allowing the non-environmental use of up to five percent of the system's capacity successfully allowed commercial developers of space-based data collection systems to access an operational space-based system to help develop, but not implement, their nascent services.

In 1996, NOAA recognized that a commercial industry was starting to emerge in the area of data collection and location services (e.g., Mobile Space Services). Guided by the U.S. Government's long-standing policy against competing with the private sector, NOAA in October 1996 (61 Fed. Reg. 52775) announced that it would no longer promote the use of the Argos DCS for commercial non-environmental applications.

NOAA, moreover, has been eager to explore new opportunities for meeting mission requirements that are presented by the development of private space-based data collection systems. To explore these opportunities, NOAA initiated a dialogue between users of the systems and both public and private sector service providers by hosting a public meeting in December 1996. This meeting brought together more than 100 individuals representing current and planned space-based data collection service providers and users to present, discuss and document pertinent information necessary to reevaluate and reexamine government practice and policy.

As demonstrated at the public meeting, there are operational and soon-to-be operational commercial data collection systems. However, the government users of the current NOAA-provided systems require a demonstrated operational capability from the private sector service providers before contemplating a change away from these government-provided systems. Based on the presentations, both oral and written, made at the public meeting, the commercial providers are currently unable to provide such a capability to the vast majority of government users. Consequently, there is still a need for the government to provide a data collection system for government use until such a time as the government's requirements can be met by the commercial sector. However, given the evolving state of the commercial industry, government users must take into account the progress and development of these commercial systems. As a result, any new system use policy should be focused on meeting the requirements of the government users, while also encouraging them to canvass the commercial marketplace on a periodic basis.

The participants expressed interest in the issuance of new consolidated regulations that clarify the system use policies for the Argos DCS and the GOES DCS. The participants indicated that new regulations establishing a clear set of criteria for allowing access to the government systems would accord them the predictability and transparency necessary to make rational business decisions.

Major Revisions

These proposed regulations would revise the existing regulations to include the Argos DCS under the regulatory regime that previously only governed the GOES DCS. To the greatest extent possible, the proposed regulations would treat the two systems the same. However, due to the distinct nature of each system and its uses, it was not possible to harmonize every aspect of system regulation. In particular, the system priorities are separate and distinct for the two systems. Also, the authorized users and uses are different. For both systems an important prerequisite in reviewing applications for use is that there be no commercial space-based services available which meet the users' requirements in terms of satellite coverage, accuracy, data throughput, platform power consumption, size and weight, service continuity and reliability, platform compatibility and, in the case of government agencies, cost-effectiveness.

The GOES DCS can only be used for environmental purposes while the Argos DCS can be used for environmental and some very limited non-environmental purposes. The non-environmental use of the Argos system is primarily authorized for government users, for such applications as humanitarian cargo tracking, or for national security purposes. Non-governmental use of the Argos system would be curtailed, and a prerequisite that there be a government interest in the collection of the data would be added. This prerequisite is similar, but not the same, as the current GOES sponsorship requirement. In addition to government users only non-profit users may be allowed to use the Argos DCS for non-environmental uses, except in cases where there is a significant possibility of the loss of life. However, at no time will non-environmental use of the Argos DCS exceed five percent of the system's total use. This is a reduction from current practice which allows up to five percent of the system's capacity to be used for non-

environmental data collection. Tying the upper limit for non-environmental use of the system to a percentage of actual system use rather than 'system capacity' substantially reduces the allowance for such use of the system. The term of system use agreements would has be shortened: For use of the GOES system, the term would be reduced from 10 years to 5 years; for use of the Argos System, the term would be reduced from a maximum of 5 years to a maximum of 3 years. This would be done to ensure that users will periodically canvass the marketplace to determine whether commercial services have developed the capabilities to meet their requirements. The chart in Annex 1 to this proposed regulation maps out the system use policy for the Argos DCS and has been included to help users understand these regulations.

Another major revision to the existing regulations is that the former complicated proprietary information section would be eliminated. Protection of proprietary information would be in accordance with the Freedom of Information Act 5 U.S.C. § 552, and the Departmental procedures for compliance with that statute (*see* 15 CFR 4). The existing provisions were promulgated in 1981 when the GOES DCS was first opened up to private users. At the time, it was anticipated that these private users might be transmitting proprietary data to which they would not want their competitors to have access. However, these procedures were rarely used. NOAA believes that adequate protection for proprietary information is contained in the Freedom of Information Act.

As a result of revising the GOES DCS regulations to encompass use of the Argos DCS, a definition section was added for the purpose of clarity. This section defines most of the relevant terms used in the regulations, such as government user, non-profit user, platform user, and government interest.

Classification

A. Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

This proposed rule establishes a process intended to promote the development of the industry while at the same time minimizing, as much as practicable, any adverse impact on any entity, large or small, which may seek to operate data collection platforms. Accordingly, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act of 1980 (44 U.S.C. 35)

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The proposed rule revises collection-of-information requirements that were previously approved by the OMB under control number 0648–0157. Public reporting burden for these collections of information is estimated to average 72 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to Dane Clark, NOAA, National Environmental Satellite, Data, and Information Service, Direct Services Division (E/SP3), 4700 Silver Hill Road, Stop 9909, Room 0158, Washington, D.C. 20223–9909 and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attention: NOAA Desk Officer). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

C. National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Publication of the proposed regulations does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

List of Subjects in 15 CFR Part 911

Scientific equipment, Space transportation and exploration.

Dated: September 3, 1997.

Robert S. Winokur,

Assistant Administrator.

Accordingly, for the reasons set forth above Part 911 of Title 15 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 911—POLICIES AND PROCEDURES CONCERNING USE OF THE NOAA SPACE-BASED DATA COLLECTION SYSTEMS

Sec.

Authority: 15 U.S.C. 313, 49 U.S.C. 44720; 15 U.S.C. 1525; 7 U.S.C. 450b; 5 U.S.C. 552.

§ 911.1 Purpose.

These regulations set forth the procedural, informational and technical requirements to use the NOAA Data Collection Systems. In addition, they establish the criteria NOAA will employ when making determinations as to whether to authorize the use of its space-based data collection systems. The regulations are intended to facilitate the collection of environmental data as well as other such data which the Government is interested in collecting, while at the same time not disadvantaging the development of the commercial space-based services in this sector. Obtaining a system use agreement to operate data collection platforms pursuant to these regulations does not affect related licensing requirements of other Federal agencies such as the Federal Communications Commission.

§ 911.2 Scope.

(a) These regulations apply to any person subject to the jurisdiction or control of the United States who operates or proposes to operate data collection platforms to be used with the NOAA data collection systems either directly or through an affiliate or subsidiary. For the purposes of these regulations a person is subject to the jurisdiction or control of the United States if such person is:

(1) An individual who is a United States citizen; or

(2) A corporation, partnership, association, or other entity organized or existing under the laws of any state, territory, or possession of the United States.

(b) These regulations apply to all existing GOES and Argos DCS users as well as all future applications for DCS use.

§ 911.3 Definitions.

For purposes of this part:

Approving authority means NOAA for the GOES DCS; and it means the Argos Participating Agencies, via the Argos Operations Committee, for the Argos DCS.

Argos DCS means the system which collects data from fixed and moving platforms and provides platform location data. This system consists of platforms, the Argos French instrument on POES (and planned to fly on-board the ADEOS II Japanese spacecraft and the EUMETSAT METOP spacecraft); a ground processing system; and telemetry ground stations.

Argos participating agencies are a combination of joint effort between NOAA; the Centre National d'Etudes Spatiales (CNES) of France; the National Space Development Agency (NASDA) of Japan; and the European Organization for the Exploitation of Meteorological Satellites (EUMETSAT).

Assistant Administrator means the Assistant Administrator for Satellite and Information Services or his/her designee.

Environmental data means environmental measurement data for the purpose of using of the GOES DCS; and it means environmental measurement and environmental protection data for the purpose of using the Argos DCS.

Environmental measurement data means data that relate to the characteristics of the Earth and its natural phenomena by helping to better understand, evaluate, or monitor its natural resources.

Environmental protection data means data that relate to the characteristics of the Earth and its environment (including its ecosystems and the species which inhabit them) by helping to protect against any unreasonable adverse effects thereto.

Episodic use means the use of the system for short events where the possibility of loss of life is high.

Experimental use means the use of the GOES DCS by equipment manufacturers for the purposes of testing and assessing new equipment that is to be used in conjunction with the GOES DCS.

Government interest means relating to the mission of a U.S. Federal agency or the mission of one of the Argos participating agencies, or also, in the case of the GOES DCS, a state or local government.

Government user means agencies of Federal, state, or local governments or any of those agencies' contractors or grantees, so long as the contractor is using the data collected by the NOAA DCS to fulfill its contractual obligations to the Government agency or in the case of a grantee that these data are being used in accordance with the statement of work for the award.

NOAA data collection systems means the GOES and Argos space-based data collection systems.

Non-profit user means a not-for-profit academic, research, or other non-governmental organization which is using these data for education and/or scientific, non-commercial purposes.

Operational use means the use of data in a situation where the utility of the data is significantly reduced if not collected or delivered in a specific time window. This includes situations where extensive preparation work is in place and a delay in acquisition of data would jeopardize the project.

User means the entity and/or organization which owns or operates user platforms for the purpose of collecting and transmitting data through the NOAA DCS.

User platform means devices, designed in accordance with the specifications delineated and approved by the Approving Authority, used for the *in-situ* collection and subsequent transmission of data via the NOAA data collection systems. Those devices which are used in conjunction with the GOES DCS are referred to as DCP and those which are used in conjunction with the Argos DCS are referred to as Platform Transmitter Terminals (PTT). For purposes of these regulations, the terms ''user platform,'' ''DCP'' and ''PTT'' are interchangeable.

User requirement means the requirement expressed and explained in the System Use Agreement.

§ 911.4 Use of the NOAA Data Collection Systems.

(a) Use of the NOAA Data Collection Systems will only be authorized in accordance with the conditions and requirements set forth in paragraphs (b), (c), (d), (e), and (f) of this section.

(b) NOAA Data Collection Systems will only be authorized where there are no commercial services available that meet the user's requirements.

(c) (1) Except as provided in paragraphs (2), (3) and (4) of this section, NOAA DCS shall only be used for the collection of environmental data.

(2) Except as provided in paragraph (c)(3) of this section, non-environmental use of the Argos DCS is only authorized for government use and non-profit users where there is a government interest. Non-environmental use of the system shall not exceed five percent of the system's total use.

(3) Episodic, non-environmental use of the Argos DCS may also be authorized in specific instances when there is a significant possibility for loss of life. Such use shall be closely monitored.

(4) Experimental use of the GOES DCS is only authorized for manufacturers of GOES DCS compatible equipment, such as platforms, that require access to the system in order to test and assess the compatibility of their new products.

(d) Non-governmental use of the NOAA DCS will only be authorized where there is a government interest in the collection and/or receipt of the data.

(e) Because of capacity limitations on the GOES DCS, system applicants will be admitted to use the GOES system in accordance with the following priority:

(1) NOAA programs or users whose data are required for implementation of NOAA programs, as determined by the Assistant Administrator, will be accorded first priority.

(2) Users whose data are desired to support NOAA programs will be accorded second priority.

(3) Users whose data and/or use of the GOES DCS will further a program of an agency or department of the U.S. Government, other than NOAA, will be accorded third priority.

(4) Users whose data are required by a state or local government of the United States will be accorded fourth priority.

(5) Experimental users of the system will be accorded fifth priority.

(6) No other usage will be authorized for the GOES DCS.

(f) In the event that Argos DCS capacity limitations require that priority determinations be made, priority will be given to those platforms that provide environmental data of broad international interest, especially of an operational nature, and to those requiring the unique capabilities of the Argos DCS, such as platform location or polar coverage.

§ 911.5 NOAA Data Collection Systems Use Agreements.

(a) In order to use a NOAA DCS, each user must have an agreement with the approving authority for that system.

(b) These agreements will address, but will not be limited to, the following matters:

(1) The period of time the agreement is valid and procedures for its termination,

(2) The authorized use(s), and its priorities for use,

(3) The extent of the availability of commercial services which meet the user's requirements and the reasons for choosing the Government system,

(4) Any applicable government interest in the data,

(5) Required equipment standards,

(6) Standards of operation,

(7) Conformance with applicable ITU and FCC agreements and regulations,

(8) Reporting time and frequencies,

(9) data formats,

(10) Data delivery systems and schedules, and

(11) User-borne costs.

(c) The Director, Office of Satellite Data Processing and Distribution for the National Environmental Satellite, Data, and Information Service shall evaluate user requests and conclude agreements for use of the NOAA Data Collection systems.

(d) (1) Agreements for the collection via the Argos DCS of environmental data by government agencies or non-profit institutions shall be valid for 3 years from the date of initial *in-situ* deployment of the platforms, and may be renewed.

(2) Agreements for the collection of environmental data via the Argos DCS by for-profit users shall be valid for 1 year from the date of initial *in-situ* deployment of the platforms, and may be renewed annually thereafter but only for so long as there exists a governmental interest in the receipt of these data.

(3) Agreements for the collection of non-environmental data via the Argos DCS by government agencies or nonprofit institutions shall be valid for 1 year from the date of initial *in-situ* deployment of the platforms and may be renewed annually.

(4) Agreements for episodic collection of non-environmental data via the Argos DCS under 911.4(c)(3) shall be of short, finite duration not to exceed 1 year without exception, and usually shall not exceed 6 months. These agreements shall be closely monitored and shall not be renewed.

(e) (1) Agreements for the collection of data by the GOES DCS shall be valid for 5 years from the date of initial *in-situ* deployment, and may be renewed.

(2) Agreements for the experimental use of the GOES DCS by equipment manufacturers shall be valid for 2 years from the date of initial *in-situ* deployment, and may be renewed.

§ 911.6 Treatment of Data.

(a) All NOAA DCS users must agree to permit NOAA and other agencies of the U.S. Government the full, open and timely use of all data collected from their platforms. Any proprietary data will be protected in accordance with applicable laws.

§ 911.7 Continuation of the NOAA Data Collection Systems.

(a) NOAA expects to continue to operate satellite-based data collection systems on its geostationary and polar-orbiting satellites, subject to the availability of future appropriations.

(b) As use of the system in support of NOAA programs increases, it eventually may be necessary to further restrict system usage by other users. If such restrictions on use become necessary, or in the event that NOAA discontinues operation of GOES and/or POES, NOAA will provide, to the maximum extent practicable, advance notice to the affected users.

(c) NOAA will not be responsible for any losses resulting from the nonavailability of the NOAA DCS.

§ 911.8 Technical Requirements.

(a) All platform operators of the NOAA DCS must use a data collection platform radio set whose technical and design characteristics conform to applicable specifications and regulations.

(b) All platform operators are responsible for all costs associated with the procurement and operation of the platforms, and for the acquisition of data from those platforms either directly from the satellite or from the applicable data processing center.

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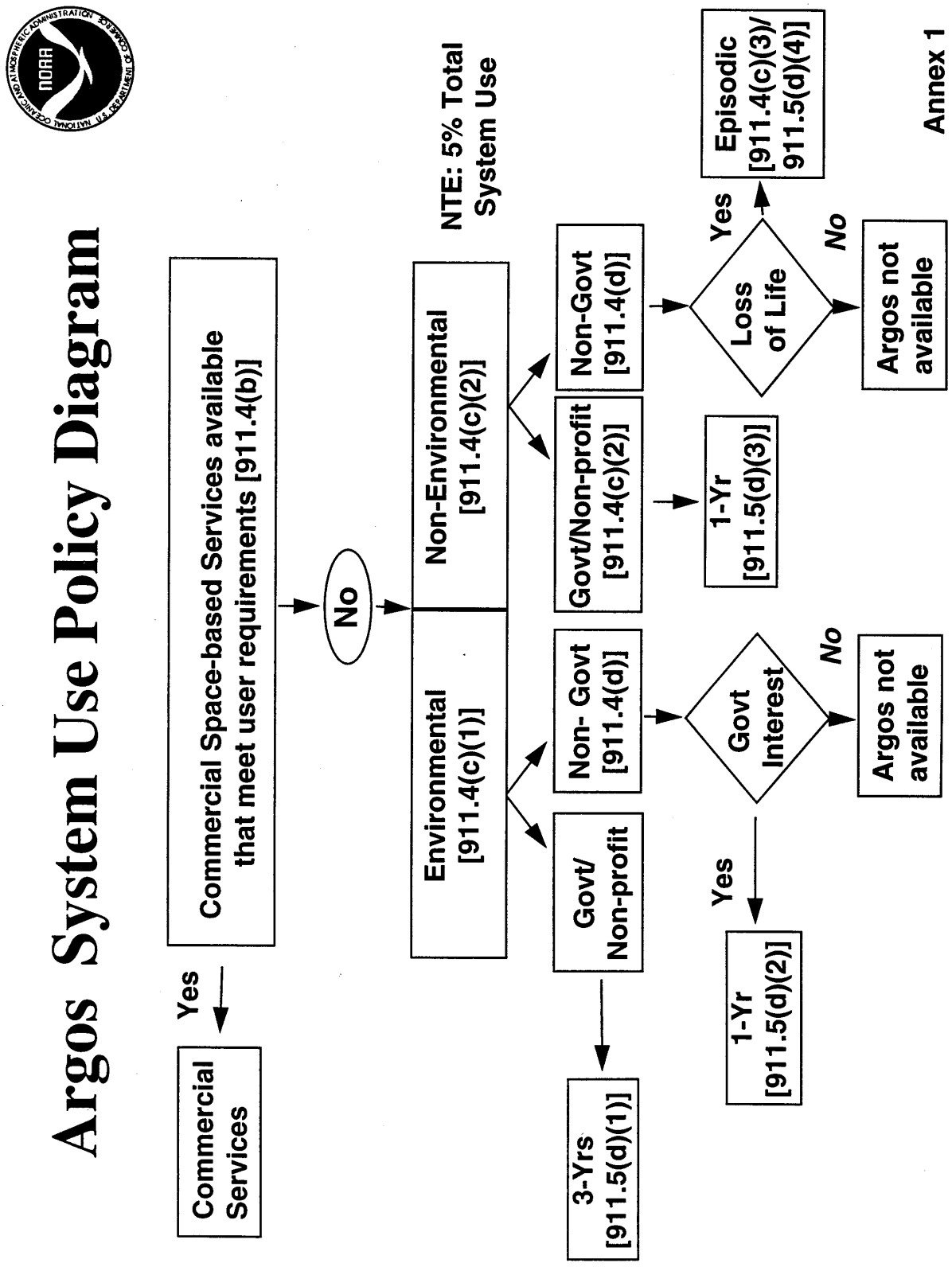
Appendix A to Part 911—Argos System Use Policy Diagram



[FR Doc. 97–23727 Filed 9–8–97; 8:45 am]
BILLING CODE 3510–08–C

POSTAL SERVICE

39 CFR part 20

International Surface Air Lift Service; Proposed Changes

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to change the postage rates and conditions of service for International Surface Air Lift Service (ISAL). In addition to adjusting rates, the Postal Service proposes to establish a minimum weight for direct country sacks, establish separate direct shipment rates, implement new sortation requirements, and impose a maximum on the amount of unsorted mail contained in an ISAL mailing. There will no longer be a restricted number of acceptance offices. ISAL mailings may be deposited at any post office where bulk mail is accepted.

DATES: Comments on the proposed changes must be received on or before October 9, 1997.

ADDRESSES: Written comments should be directed to the Manager, International Pricing, Costing, and Classification, Room 370–IBU, International Business Unit, U.S. Postal Service, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, in the International Business Unit, 10th Floor, 901 D Street SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert E. Michelson, (202) 268–5731.

SUPPLEMENTARY INFORMATION: International Surface Air Lift (ISAL) is a bulk mailing service for international shipment of publications, advertising mail, catalogs, directories, books, other printed matter, and small packets. The service is available to approximately 125 countries. To use ISAL, a mailer must send at least 50 pounds of these items at one time, presorted by country of destination. Identical piece mailings are not required to qualify. Postage for ISAL is calculated according to a rate structure including both per-piece and per-pound elements with destination countries separated into four rate groups. A discount is given to ISAL mail tendered at the Dropship ISAL Service Centers (Dropship ISC) (formerly called gateway airport mail facilities) at New York (JFK), San Francisco, Chicago, and Miami, or when direct shipment (750 pounds or more to a single destination) can be arranged from the acceptance city. An additional discount is available for M-bags (printed matter to a single addressee).

The Postal Service reviewed the current ISAL service and is making changes to ISAL preparation requirements that will reduce operating costs. The Postal Service also proposes rate discounts based on the place of mailing, the availability of transportation, and the volume of mail. The Postal Service believes these changes make the service available to more users at more convenient locations and still will cover the cost of providing the service with a reasonable contribution to institutional costs. The Postal Service proposed the change to ISAL as described below.

Minimum Weight

Currently there is no required minimum amount of mail per sack prepared by the mailer. The mailer merely places the mail for a particular country in a mail sack and labels the sack to that country. This has resulted in an unacceptable number of sacks containing small amounts of mail. In some cases the sack itself weighed more than the mail in the sack. This resulted in an excessive number of sacks, higher transportation costs, and complaints from other postal administrations. Therefore, the Postal Service proposes a minimum weight of 11 pounds (5 kilograms) for direct country sacks prepared by mailers. When there is less than 11 pounds but 10 or more pieces (a package) the mailer will prepare this mail in a mixed country package rate group sack. This mail will be entitled to the ISAL rate as if it had been placed in the direct country sack. Generally, when there are less than 10 pieces to a country, this mail will be prepared in ''residual'' sacks by rate group. Residual mail cannot exceed 10%, by weight, of the rest of the mailing.

Acceptance Cities

Since the inception of ISAL, the Postal Service has limited the number of cities where ISAL mailings could be deposited. This was intended to reduce the cost of maintaining an extensive transportation network, but many customers not located near an acceptance point could not use ISAL. The Postal Service proposes a Full Service rate that will be available from all post offices where bulk mail is accepted and will make ISAL accessible to all customers. Mailers may still mail at the lower Dropship ISC Rate by tendering their mail to a Dropship ISC.

Volume Discount

The Postal Service proposes discounts based on the amount of postage spent by a mailer in the preceding postal fiscal year. For example, a mailer spending $2 million or more for ISAL during postal fiscal year 1996 (September 16, 1995—September 13, 1996) will receive a 5 percent discount on ISAL mailings made during the next fiscal year, 1997 (September 14, 1996—September 12, 1997). Mailers spending over $5 million receive a 10 percent discount and a 15% discount for over $10 million. These discounts apply to Full Service, Direct Shipment, and Dropship ISC Rates. The discount is calculated on the mailing statement.

Direct Shipment Rates

Direct Shipment rates are still available for mailers tendering 750 pounds or more to one country at any office from which the Postal Service can obtain direct transportation to the destination country. However, a new rate schedule has been developed for this service to reflect current costs.

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment at the above address.

The Postal Service proposes to amend part 246 of the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, Incorporation by reference, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408.

2. The International Mail Manual will be amended to incorporate part 246, International Surface Air Lift Service as follows:

246 International Surface Air Lift (ISAL) Service

246.1 Definition

International Surface Air Lift (ISAL) is a bulk mailing system that provides fast, economical international delivery of publications, advertising mail, catalogs, directories, books, other printed matter, and small packets. The cost is lower than airmail and the service is faster than surface mail. ISAL shipments are flown to the foreign destinations and entered into that country's surface or non-priority mail system for delivery.

246.2 Qualifying Mail and Minimum Quantity Requirements

Only printed matter as defined in 241 and small packets as defined in 260 that meet all applicable mailing standards may be sent in this service. There is a minimum volume requirement of 50 pounds per mailing except for the Direct Shipment option, which requires a minimum 750 pounds to a single country destination. Small packets may not be enclosed in M-bags and do not qualify for the Full Service, Direct Shipment, or Dropship ISC M-bag Rates. Mail is prepared as (1) direct country sacks when there are 11 pounds or more to a single country or required country separation; (2) mixed country package sacks when there are 10 or more pieces to a single country, but less than 11 pounds; and (3) residual mail when there is less than 10 pieces to a single country. Residual mail not exceeding 10%, by weight, of the mail presented in direct country sacks and mixed country package sacks qualifies for the appropriate ISAL rate (Full Service, Direct Shipment, or Dropship ISC).

246.3 Service Options

246.31 Availability

ISAL service is available to the foreign countries listed in exhibit 246.71 from all post offices where bulk mail is accepted and from the Dropship ISCs listed in 246.32.

246.32 Dropship ISAL International Service Centers

ISAL deposited at the following Dropship ISAL International Services Centers qualify for the Dropship ISC rates shown in 246.71:

AMC JFK BUILDING 250, JFK INTERNATIONAL AIRPORT, JAMAICA NY 11430–9998
SAN FRANCISCO P&DC, 1300 EVANS AVE, SAN FRANCISCO CA 94188
AMC SAN FRANCISCO*, BLDG 660 RD 6, SAN FRANCISCO CA 94158–9998
MIAMI P&DC, 2200 NORTHWEST 72 AVE, MIAMI FL 33152
AMC MIAMI*, MIAMI INTERNATIONAL AIRPORT, MIAMI FL 33159–9998
CHICAGO O'HARE DROPSHIP ISAL SERVICE CENTER, INTERNATIONAL PROCESSING CENTER ANNEX, 3333 N MOUNT PROSPECT RD, FRANKLIN PARK IL 60131.

* Plant verified mail is taken directly to these facilities by the mailer.

246.4 Special Services

The special services described in Chapter 3 are not available for items sent by ISAL.

246.5 Customs Documentation

See 244.6 and 264.5 for the requirements for customs forms.

246.6 Permits

Mailers depositing mail at a Dropship ISC must maintain an advance deposit account at that city if postage is paid by advance deposit account.

246.7 Postage

246.71 Rates

Rate group	Per piece	Full service per lb.		Direct shipment per lb.		Dropship ISC per lb.	
		Regular	M-bag*	Regular	M-bag*	Regular	M-bag*
1	$.25	$3.10	$2.50	$2.35	$1.75	$2.10	$1.50
2	.10	4.10	2.70	3.35	1.95	3.10	1.70
3	.10	3.95	3.00	3.20	2.25	2.95	2.00
4	.10	6.25	4.25	5.50	3.50	5.25	3.25

* Small packets may not be mailed at these rates.

See exhibit 246.71 for network countries and individual rates.

246.711 Full Service Rates

ISAL mailings presented at any post office which accepts bulk mail, other than a Dropship ISC listed in 246.32, and not eligible for the direct shipment rate are paid at the Full Service rates. Postage for regular ISAL is paid on a per piece and a per pound basis. M-bags are subject to the M-bag pound rate only. Small packets are ineligible for the M-bag rates and may not be included in M-bags.

246.712 Direct Shipment Rates

Mailers are eligible for the direct shipment rates from the acceptance post office (except Dropship ISCs) when the Postal Service is able to arrange direct transportation from the origin office to the destination country. To qualify, mailers must present a minimum of 750 pounds to each destination country. Mailers must contact the post office of mailing at least 14 days before the first desired mailing date. A postal employee must complete PS Form 3655 and fax it to the distribution network office (DNO) to obtain a contract for transportation. If the DNO cannot arrange direct transportation, the direct shipment rate does not apply. The Postal Service may cancel direct shipment rates and service when direct transportation is no longer available.

246.713 Dropship ISC Rates

ISAL mailings transported by the mailer to the Dropship ISC's listed in 246.32 are eligible for the Dropship ISC rate.

246.714 Volume Discount

Mailers who spend $2 million or more on ISAL in the preceding postal fiscal year may receive discounts off the rates shown in 246.71, as follows:

a. $2 million to $5 million: 5% discount

b. over $5 million to $10 million: 10% discount

c. over $10 million: 15% discount

Mailers entitled to these discounts must place the full per piece rate on each piece of mail if payment is by postage meter or mailer-precanceled stamps. The discount is calculated on the statement of mailing.

EXHIBIT 246.71.—INTERNATIONAL SURFACE AIR LIFT SERVICE NETWORK COUNTRIES AND RATES

Country	City	Code	Rate group
Albania	Tirana	TIA	1
Algeria	Algiers	ALG	4
Angola	Luanda	LAD	4
Argentina	Buenos Aires	BUE	2

EXHIBIT 246.71.—INTERNATIONAL SURFACE AIR LIFT SERVICE NETWORK COUNTRIES AND RATES—Continued

Country	City	Code	Rate group
Aruba	Oranjestad	AUA	2
Australia	Sydney	SYD	3
Austria	Vienna	VIE	1
Bahrain	Bahrain	BAH	4
Bangladesh	Dhaka	DAC	4
Belgium	Brussels	BRU	1
Belize	Belize City	BZE	2
Benin	Cotonou	COO	4
Bolivia	La Paz	LPB	2
Brazil	Rio de Janeiro	RIO	2
Bulgaria	Sofia	SOF	1
Burkina Faso	Ouagadougou	OUA	4
Burundi [1]	Bujumbara	BJM	4
Cameroon	Douala	DLA	4
Central African Republic	Bangui	BGF	4
Chile	Santiago	SCL	2
China	Beijing (Peking)	PEK	3
Colombia	Bogota	BOG	2
Congo, Dem. Rep. of	Kinshasa	FIH	4
Congo, Rep. of [1]	Brazzaville	BZV	4
Costa Rica	San Jose	SJO	2
Côte d'Ivoire (Ivory)	Abidjan	ABJ	4
Cuba	Havana	HAV	2
Czech Republic	Prague	PRG	1
Denmark	Copenhagen	CPH	1
Dominican Republic	Santo Domingo	SDQ	2
Ecuador	Guayaquil	GYE	2
Egypt	Cairo	CAI	4
El Salvador	San Salvador	SAL	2
Ethiopia	Addis Ababa	ADD	4
Fiji	Nadi	NAN	3
Finland	Helsinki	HEL	1
France	Paris	PAR	1
French Guiana	Cayenne	CAY	2
Gabon	Libreville	LBV	4
Germany	Frankfurt	FRA	1
Ghana	Accra	ACC	4
Great Britain	London	LON	1
Greece	Athens	ATH	1
Guatemala	Guatemala City	GUA	2
Guyana	Georgetown	GEO	2
Haiti	Port-au-Prince	PAP	2
Honduras	Tegucigalpa	TGU	2
Hong Kong	Hong Kong	HKG	3
Hungary	Budapest	BUD	1
Iceland	Reykjavik	REK	1
India	Mumbai	BOM	4
Indonesia	Jakarta	JKT	3
Iran	Tehran	THR	4
Ireland	Dublin	DUB	1
Israel	Tel Aviv	TLV	4
Italy	Rome	ROM	1
Jamaica	Kingston	KIN	2
Japan [2]	Tokyo	TYO	3
Japan [2]	Osaka	OSA	3
Jordan	Amman	AMM	4
Kenya	Nairobi	NBO	4
Korea, Rep. of (South)	Seoul	SEL	3
Kuwait	Kuwait City	KWI	4
Lebanon	Beirut	BEY	4
Liechtenstein	Basel	BSL	1
Luxembourg	Luxembourg	LUX	1
Madagascar	Antananariva	TNR	4
Malaysia	Kuala Lumpur	KUL	3
Mali	Bamako	BKO	4
Mauritania	Nouakchott	NKC	4
Mauritius	Port Louis	MRU	4
Mexico	Mexico City	MEX	2
Morocco	Casablanca	CAS	4
Mozambique	Maputo	MPM	4
Netherlands	Amsterdam	AMS	1
Netherlands Antilles	Curacao	CUR	2

EXHIBIT 246.71.—INTERNATIONAL SURFACE AIR LIFT SERVICE NETWORK COUNTRIES AND RATES—Continued

Country	City	Code	Rate group
New Zealand	Auckland	AKL	3
Nicaragua	Managua	MGA	2
Niger	Niamey	NIM	4
Nigeria	Lagos	LOS	4
Norway	Oslo	OSL	1
Oman	Muscat	MCT	4
Pakistan	Karachi	KHI	4
Panama	Panama City	PTY	2
Papua New Guinea	Port Moresby	POM	3
Paraguay	Asuncion	ASU	2
Peru	Lima	LIM	2
Philippines	Manila	MNL	3
Poland	Warsaw	WAW	1
Portugal	Lisbon	LIS	1
Qatar	Doha	DOH	4
Reunion Island	St Denis	RUN	4
Romania	Bucharest	BUH	1
Russia	Moscow	MOW	1
San Marino	Rome	ROM	1
Saudi Arabia	Dhahran	DHA	4
Senegal	Dakar	DKR	4
Serbia-Montenegro [1]	Belgrade	BEG	1
Sierra Leone [1]	Freetown	FNA	4
Singapore	Singapore	SIN	3
Somalia [1]	Mogadishu	MEQ	4
South Africa	Johannesburg	JNB	4
Spain [3]	Madrid	MAD	1
Sri Lanka	Colombo	CMB	4
Sudan	Khartoum	KRT	4
Suriname	Paramaribo	PBM	2
Sweden	Stockholm	STO	1
Switzerland	Basel	BSL	1
Syria	Damascus	DAM	4
Taiwan	Taipei	TPE	3
Tanzania	Dar es Salaam	DAR	4
Thailand	Bangkok	BKK	3
Togo	Lome	LFW	4
Trinidad and Tobago	Port of Spain	POS	2
Tunisia	Tunis	TUN	4
Turkey	Istanbul	IST	1
Uganda	Kampala	KLA	4
United Arab Emirates	Dubai	DXB	4
Uruguay	Montevideo	MVD	2
Venezuela	Caracas	CCS	2
Yemen	Sanaa	SAH	4
Zambia	Ndola	NLA	4
Zimbabwe	Harare	HRE	4

Notes:
[1] Service currently suspended.
[2] To expedite service, Japan Post has requested that ISAL shipments to Japan be separated by two destination delivery zones as follow: Osaka (OSA) for postal codes 52–79, 91, and Tokyo (TYO) for all other postal codes.
[3] Including the Canary Islands.

246.72 Payment Methods

246.721 Postage Meter, Permit Imprint, or Precanceled Stamps

Postage must be paid by postage meter, permit imprint, or mailer-precanceled stamps. Postage is computed on PS Form 3650, Statement of Mailing—International Surface Air Lift. PS Form 3650 is required for all ISAL mailings.

246.722 Piece Rate

The applicable per piece postage must be affixed to each piece (except M-bags, see 246.723) by meter or mailer-precanceled stamps, unless postage is paid by permit imprint. Mailers may use a permit imprint only with identical weight pieces unless authorized under the postage mailing systems in DMM P710, P720, or P730. Any of the permit imprints for printed matter shown in exhibit 152.3 are acceptable.

246.723 Pound Rate

Postage for the pound rate portion must be paid either by meter stamp(s) attached to the finance copy of the mailing statement or from the mailer's advance deposit account.

246.8 Weight and Size Limits

Any item sent by ISAL must conform to the weight and size limits for the types of printed matter described in 243 or for small packets in 263.

246.9 Preparation Requirements

246.91 Addressing

See 122.

246.92 Marking

Items must be endorsed with the appropriate markings as shown in 244.2 for printed matter and in 264.2 for small packets. For publishers' periodicals

(Periodicals Mail), the imprint authorized under 244.211c(2) or 244.211c(3) may be used in place of the ''PRINTED MATTER—'' PERIODICALS'' endorsement. Individual items paid by meter postage or mailer-precanceled stamps must be endorsed ''International Surface Air Lift'' or ''ISAL.''

246.93 Sealing and Packaging

Printed matter must be prepared to protect the contents and permit easy inspection. If not contained in envelopes or wrappers, folded items must have the open edges secured by tape, tabs, or wafer seals of sufficient quantity and strength to keep the items from opening during postal handling.

246.94 Makeup Requirements for ISAL

246.941 Packaging

All ISAL mail must be prepared in packages within sacks as appropriate. Packages and sacks must be prepared and labeled as described below. All mail pieces in a package must be ''faced'' in the same direction (i.e., arranged so that the addresses read in the same direction, with an address visible on the top piece). Pieces that cannot be bundled because of their physical characteristics may be placed loose in the sack.

Packages of letter-size mail should be no thicker than approximately a handful of mail (4 to 6 inches). Packages of flat-size mail may be thicker than 6 inches but should not weigh more than 20 pounds. Each package must be securely tied. Placing rubber bands around the length and then the girth is the preferred method of securing packages of letter-size mail. Plastic strapping placed around the length and then the girth is the preferred method of securing packages of flat-size mail.

a. Direct Country Packages. When there are 10 or more pieces to the same country, such pieces must be prepared as a direct country package. If there are less than 11 pounds of mail to the same country, then the direct country package must be labeled with a facing slip showing the destination country or country separation. The facing slip must be placed on the address side of the top piece of each package in such a manner that it will not become separated from the package. (The pressure-sensitive labels and optional endorsement lines used domestically for presort mail are prohibited for International Surface Airlift Mail.)

b. Residual Packages. If there is not enough mail to prepare a direct country package (less than 10 pieces), the mail is considered residual mail. When there are less than 10 pieces to the same country, then such pieces should be combined in packages with other mail for countries within the same rate group that similarly have fewer than 10 pieces. Such mixed country packages must be labeled with a facing slip marked ''Residual—Rate Group _____''. The designated rate group (1,2,3, or 4) must be inserted as appropriate. The facing slip must be placed on the address side of the top piece of each package in such a manner that it will not become separated from the package. The pressure-sensitive labels and optional endorsement lines used domestically for presort mail are prohibited for International Surface Airlift Mail.

Exception: When there are fewer than 10 pieces to the same country which combined weigh more than 11 pounds, the pieces should be packaged together as a direct country package and placed in a direct country sack. This mail is not considered ''residual.'' Pieces that cannot be bundled because of their physical characteristics may be placed loose in the sack.

Sacking.

Once packages of ISAL mail are prepared, the packages are then placed into one of three types of designated sacks as follows:

a. Direct Country Sack. Prepare a direct country sack if there are at least 11 pounds of mail to the same country. The mail must be packaged and enclosed in a gray plastic ISAL sack and labeled to the country with Tag 155, Surface Airlift Mail. The maximum weight of a direct country sack must not exceed 66 pounds.

b. Mixed Country Package Sack. Prepare a mixed country package sack for direct country packages where there is less than 11 pounds of mail to the same country. The mail must be packaged as direct country packages, identified with a facing slip showing the destination country or country separation, and enclosed in a green pouch appropriately labeled to the dropship ISAL service center. Tag 155, Surface Airlift Mail, must also be attached to the sack. Prepare a mixed country package sack for each of the respective rate groups for which there is a direct country package and label as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

c. Residual Sack. Prepare a residual sack for those packages of mail that contain less than 10 pieces to any one country (residual packages). The mail must be packaged as residual packages, appropriately identified with a facing slip, and enclosed in a green pouch appropriately labeled to the dropship ISAL service center. Tag 155, Surface Airlift Mail, must also be attached to the sack. You must prepare a residual sack for each of the respective rate groups for which there is a residual package and label it as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

246.943 Sack Labeling

a. Direct Country Sack. For a direct country sack, use a gray plastic ISAL sack. Use Tag 155, Surface Airlift Mail, to label each sack with the destination country's name. Mailers must complete four blocks on Tag 155:

1. To (Pour) Block: enter the name of the ISAL country foreign exchange office, its three-letter exchange office code, and the country's name. See Exhibit A for the name of the foreign exchange office and its three-letter exchange office code. As an example, for Japan, this block will be one of two options, as follows:

Osaka OAS Japan (for postal codes 52–79 and 91)
Tokyo TYO Japan (for all other postal codes)

2. Customer Permit No. Block: Enter your 10-digit ISAL permit or customer identification number.

3. Kg. Block: Enter the combined weight of the sack and its contents in kilograms (1 pound = 0.4536 kilogram).

4. Date Block: Enter date as shown on PS Form 3650, Statement of Mailing—International Surface Air Lift.

After completing the above items on Tag 155, attach it to the neck of the sack.

b. Mixed Country Package Sack. For a mixed country package sack, use a domestic green nylon pouch and label it to the appropriate dropship ISAL service center as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

Labels are prepared as follows:

Content:

Line 1: Dropship ISAL Service Center
Line 2: ISAL DRX
Line 3: Mailer, Mailer Location

Example:

AMC KENNEDY—JFK 003
ISAL DRX
ABC COMPANY, NEW YORK, NY

For the mixed country package sack label, use Content Identification Number (CIN) 753.

In addition, use Tag 155, Surface Airlift Mail, to label each sack with the

appropriate dropship ISAL service center. Mailers must complete four blocks on Tag 155:

To (Pour) Block: enter the name of the dropship ISAL service center and rate group:

AMC Kennedy—JFK 003
Rate Group 1

AMC Miami 33159
Rate Group 2

AMC San Francisco 941
Rate Group 3

AMC Kennedy—JFK 003
Rate Group 4

2. Customer Permit No. Block: Enter your 10-digit ISAL permit or customer identification number.

3. Kg. Block: Enter the combined weight of the sack and its contents in kilograms (1 pound = 0.4536 kilogram).

4. Date Block: Enter date as shown on PS Form 3650, Statement of Mailing—International Surface Air Lift.

After completing the above items on Tag 155, attach it to the sack.

Residual Sack. For a residual sack, use a domestic green nylon pouch and label it to the appropriate dropship ISAL service center as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

Labels are prepared as follows:

Content:

Line 1: Dropship ISAL Service Center
Line 2: ISAL WKG
Line 3: Mailer, Mailer Location

Example:

AMC KENNEDY—JFK 003
ISAL WKG
ABC COMPANY, NEW YORK, NY

For the residual sack label, use Content Identification Number (CIN) 754.

In addition, use Tag 155, *Surface Airlift Mail*, to label each sack with the appropriate dropship ISAL service center. Mailers must complete three blocks on Tag 155:

To (Pour) Block: enter the name of the dropship ISAL service center and rate group:

AMC Kennedy—JFK 003
Rate Group 1

AMC Miami 33159
Rate Group 2

AMC San Francisco 941
Rate Group 3

AMC Kennedy—JFK 003
Rate Group 4

2. Customer Permit No. Block: Enter your 10-digit ISAL permit or customer identification number.

3. Kg. Block: Enter the combined weight of the sack and its contents in kilograms (1 pound = 0.4536 kilogram).

4. Date Block: Enter date as shown on PS Form 3650, Statement of Mailing—International Surface Air Lift.

After completing the above items on Tag 155, attach it to the sack.

246.944 Sack Separation

When presenting an ISAL shipment to the Postal Service, the mailer must physically separate the sacks of mail by type (direct, mixed, residual) and rate group (1, 2, 3, 4) at time of mailing.

246.945 Direct Sacks to One Addressee (M-bags) for ISAL

M-bags may be sent in the ISAL service to all ISAL destination countries. Weight, makeup, sacking, and sorting requirements must conform to part 245. Tag 158 must show the complete address of the addressee and the sender and be attached securely to the neck of each sack in addition to Tag 155. M-bags may not contain small packets.

246.95 Mailer Notification

Mailers who wish to mail shipments that weigh over 750 pounds but who are not eligible for direct shipment rates must notify the ISAL coordinator at the office of mailing at least 4 days before the planned date of mailing. Specific country information and weight per country must be provided. No prior notification is required for mailers with 750 pounds or less.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–23738 Filed 9–8–97; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL145–2, IL152–2; FRL–5890–1]

Approval and Promulgation of Implementation Plan; Illinois Designation of Areas for Air Quality Planning Purposes; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On July 22, 1997, the EPA published a proposed rule (62 FR 39199) proposing limited approval and limited disapproval of the Granite City portion of a State Implementation Plan (SIP) revision request which was submitted by the State of Illinois on November 14, 1995, May 9, 1996, June 14, 1996, and February 3, 1997, to meet commitments related to the conditional approval of Illinois' May 15, 1992, SIP submittal for the Lake Calumet (SE Chicago), McCook, and Granite City, Illinois, Particulate Matter (PM) nonattainment areas. The proposed limited approval and limited disapproval action entails approval of the submitted regulations into the Illinois SIP for their strengthening effect, and disapproval of the submittal for not meeting all of the commitments of the conditional approval. All of the deficiencies were corrected, except that Illinois failed to provide an opacity limit for coke oven combustion stacks which is reflective of their mass limits. In the same notice, the EPA also proposed to disapprove Illinois' March 19, 1996, and October 15, 1996, request to redesignate the Granite City area to attainment for PM because the area does not have a fully approved implementation plan. The EPA is announcing a 60-day extension of the public comment period on the July 22, 1997, proposed rule.

DATES: Written comments on the July 22, 1997, proposed rule must be received on or before October 20, 1997.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the documents relevant to this action are available for inspection during normal business hours at: Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

Dated: August 15, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97–23842 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 79

[FRL–5890–4]

Proposed Alternative Tier 2 Requirements for Baseline Gasoline and the Oxygenated Gasoline Categories of Methyl Tertiary Butyl Ether, Ethyl Tertiary Butyl Ether, Ethyl Alcohol, Tertiary Amyl Methyl Ether, Diisopropyl Ether, and Tertiary Butyl Alcohol

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed requirements.

SUMMARY: The purpose of this notice is to announce that the Environmental Protection Agency (EPA) has notified the American Petroleum Institute (API) test group consortium (hereinafter API Test Group Consortium) for baseline gasoline and gasolines containing methyl tertiary butyl ether (MTBE) and other oxygenates, of the proposed Alternative Tier 2 testing requirements under the fuel and fuel additive (F/FAs) registration testing requirements of 40 CFR part 79, subpart F, and to request public comment on these proposed requirements.

The Agency notified the API Test Group Consortium, by certified letter dated August 20, 1997, of the specific tests which the Agency is proposing to require under the Alternative Tier 2 provisions for baseline gasoline and gasolines containing MTBE, and other oxygenates, and the proposed schedule for completion and submission of such tests. A copy of the letter as well as the proposed tests and schedule under the Alternative Tier 2 provisions have been placed in the public record.

DATES: Comments on these proposed Alternative Tier 2 provisions must be received from the public by November 10, 1997. Comments on the proposed Alternative Tier 2 provisions must be received from the API Test Group Consortium within 60 days of their receipt of the notification letter.

ADDRESSES: Written comments on this proposed action should be addressed to Public Docket No. A–96–16, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to this rulemaking have been placed in Docket A–96–16. Documents may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: John Brophy, Environmental Scientist, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233–9068.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially regulated by this action are those that manufacture gasoline with or without the fuel additives MTBE, ethyl tertiary butyl ether (ETBE), ethyl alcohol (EtOH), tertiary amyl methyl ether (TAME), diisopropyl ether (DIPE), and tertiary butyl alcohol (TBA) and manufacturers of these oxygenates and other gasoline additives. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Oil refiners, gasoline importers, oxygenate blenders, oxygenate and fuel additive manufacturers.

This table is not intended to be exhaustive, but, rather illustrates the types of entities that EPA is currently aware of that are likely to be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether an entity not described by the examples listed in the table is subject to these requirements, refer to the applicability criteria in § 79 of title 40 of the Code of Federal Regulations. If questions remain regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

In accordance with 40 CFR 79.56(a), manufacturers of F/FAs may satisfy the subpart F testing requirements on a group basis, e.g. the API Test Group Consortium. Each individual manufacturer that is a member of such a group, however, continues to be individually subject to the testing and data submission requirements.

This notice serves as a notice to all manufacturers of the subject F/FAs, that are not exempted from these requirements under the small business provisions of 40 CFR 79.58(d), that they are subject to these requirements.

I. Introduction

The Clean Air Act (CAA) required the Administrator of EPA to promulgate requirements providing for industry testing of the health effects of emissions of F/FAs. The final rule, promulgated on May 27, 1994, established new health effects testing requirements for the registration of designated F/FAs as authorized by sections 211(b)(2) and 211(e) of the CAA.

The registration requirements are organized within a three-tier structure. Tier 1 requires F/FAs manufacturers to supply to EPA (1) the identity and concentration of certain emission products of designated F/FAs and an analysis of potential emission exposures, and (2) any available information regarding the health and welfare effects of the whole and speciated emissions. 40 CFR 79.52. Tier 2 requires that combustion emissions of each F/FAs subject to the testing requirements be tested for subchronic systemic and organ toxicity, as well as the assessment of specific health effects endpoints. 40 CFR 79.53. Tier 3 testing may be required, at EPA's discretion, when remaining uncertainties as to the significance of observed health or welfare effects, or emissions exposures interfere with EPA's ability to reasonably assess the potential risks posed by emissions from a F/FAs. 40 CFR 79.54. EPA's regulations permit submission of adequate existing test data in lieu of conducting new duplicative tests. 40 CFR 79.53(b). The regulations also include provisions for small businesses and certain types of products, and a grouping system which permits manufacturers of similar F/FAs products to share the costs of compliance. 40 CFR 79.58.

The regulations also permit EPA to modify the standard Tier 2 health effects testing requirements for a F/FAs (or group thereof). EPA may modify the standard Tier 2 requirements by substituting, adding, or deleting testing requirements; or changing the underlying vehicle/engine specifications. EPA will not, however, delete a testing requirement for a specific endpoint in the absence of existing adequate information, or an alternative testing requirement for that endpoint. 40 CFR 79.58(c). When EPA exercises its authority under this special provision, it will allow an appropriate time for completion of the prescribed alternative tests.

II. Proposed Alternative Tier 2 Requirements for Baseline Gasoline and Oxygenated Gasolines

The purpose of this notice is to announce that the Environmental Protection Agency (EPA) has notified the API Test Group Consortium of the proposed Alternative Tier 2 testing requirements under 40 CFR 79.58(c) and to request public comment on the proposed requirements.

The Agency notified the API Test Group Consortium, by certified letter dated September 20, 1997, of the specific tests which the Agency is proposing to require under the

Alternative Tier 2 provisions for baseline gasoline and oxygenated gasolines, and the proposed schedule for completion and submission of such tests. A copy of the letter as well as the proposed tests and schedule under the Alternative Tier 2 provisions have been placed in the Public Docket No. A–96–16, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, S.W., Washington, D.C. 20460. The notification letter is also available on the internet via the EPA's Mobile Sources home page at http://www.epa.gov/OMSWWW/. The Agency is requesting public comment on these proposed requirements.

III. Environmental Impact

This proposal will result in no immediate environmental impact, but may provide a basis for further regulatory action, should the collected data indicate that health risks exist.

IV. Economic Impact

This proposed Alternative Tier 2 notification for baseline gasoline and gasolines containing the specified oxygenates will have a significant impact on oil refiners and manufacturers whose total annual sales are more than $50 million. The F/FAs regulations at 40 CFR 79.58(d) contain provisions for those fuel or fuel additive manufacturers whose total annual sales are less than $50 million, and therefore these parties are not subject to the requirements in this notice.

List of Subjects in 40 CFR Part 79

Environmental Protection, Air Pollution Control, Gasoline, Conventional Gasoline, Oxygenates, Methyl Tertiary Butyl Ether, and Motor Vehicle Pollution.

Dated: September 2, 1997.

Richard D. Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 97–23845 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, and 273

[SWH–FRL–5889–2]

Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury-Containing Lamps; Notice of Data Availability; Notice of Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of data availability; notice of extension of comment period.

SUMMARY: The comment period for the Mercury Emissions study relating to the management of spent mercury-containing lamps under the Resource Conservation and Recovery Act Subtitle C hazardous waste management system which was announced in the **Federal Register** on July 11, 1997 (62 FR 37183) is extended from August 25, 1997 to October 9, 1997.

DATES: EPA will accept public comments on this Notice of Data Availability until close of business on October 9, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–97–FLEA–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–FLEA–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. If comments are not submitted electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the ''Supplementary Information'' section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of the report, contact Mr. Lyn Luben, Office of Solid Waste (5307W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, phone (703) 308–0508.

SUPPLEMENTARY INFORMATION: On July 11, 1997 EPA published a Notice of Data Availability (NODA) (62 FR 37183) announcing the availability of its mercury emissions study. The Mercury Emissions study contains information relating to the July 1994 proposed rule addressing the management of spent mercury-containing lamps. The Agency established a 45-day comment period in the NODA and indicated that comments on the study would be accepted until August 25, 1997. EPA has received several written requests to extend the comment period. The additional time requested ranged from 45 to 90 days. As justification for the time extension, stakeholders noted the large amount of information contained in the report and the complexity of the study. The Agency has decided to grant an additional 45 days beyond the initial 45-day comment period to allow stakeholders additional

time to review the study and formulate comments for the Agency's consideration. The Agency does not believe that more than a 45-day extension is necessary. Stakeholders were aware of the types of issues that would be discussed in the study and have had, therefore, adequate time to prepare comments to the Agency on the general issues. As for specific information presented in the study, 90 days provides adequate time to respond. The Agency wishes to move forward with the mercury-containing lamps rulemaking and believes that an extension beyond 45 days would cause unnecessary delay. See 62 FR 37183 (July 11, 1997) for a more detailed explanation of the study. Accordingly, the Agency is extending the comment period 45 days to October 9, 1997 to provide for a 90-day comment period.

Dated: August 25, 1997.

Elizabeth A. Cotsworth,

Acting Director Office of Solid Waste.

[FR Doc. 97–23839 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–5890–2]

Revised Technical Standards for Hazardous Waste Combustion Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comments.

SUMMARY: This document is a notice of data availability and invitation for comment on the following information pertaining to the proposed revised standards for hazardous waste combustors (61 FR 17358 (April 19, 1996)): additional data on various fuel oils to be used to establish a total halogen specification to exclude comparable fuels from the definition of solid waste.

Readers should note that only comments about new information discussed in this notice will be considered during the comment period. Issues related to the April 19, 1996 proposed rule and other subsequent notices that are not directly affected by the documents or data referenced in today's Notice of Data Availability are not open for further comment.

DATES: Written comments must be submitted by September 24, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–97–CS5A–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, S.W., Washington, DC 20460. Deliveries of comments should be made to the Arlington, Virginia address listed below. Comments may also be submitted electronically through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–97–CS5A–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. For other information regarding submitting comments electronically or viewing the comments received or supporting information, please refer to the proposed rule (61 FR 17358 (April 19, 1996)).

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of the CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, S.W., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. To review docket materials, the public must make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9810 or TDD 703–412–3323. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. The RCRA Hotline can also provide directions on how to access electronically some of the documents and data referred to in this notice via EPA's Cleanup Information Bulletin Board System (CLU–IN). The CLU–IN modem access phone number is 301–589–8366 or Telnet to clu-in.epa.gov for Internet access. The files posted on CLU–IN are in Portable Document Format (PDF) and can be viewed and printed using Acrobat Reader.

For more detailed information on specific aspects of this notice, contact Mary Jo Krolewski, Office of Solid Waste (5302W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 703–308–7754, e-mail address: krolewski.maryjo@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On April 19, 1996, EPA proposed revised standards for hazardous waste combustors (i.e., incinerators and cement and lightweight aggregate kilns) that burn hazardous waste. See 61 FR 17358. After an extension, the comment period closed on August 19, 1996. In that proposal, EPA included a comparable fuels provision under which EPA used a benchmark approach to develop a series of technical specifications that would allow hazardous waste similar in composition to a commercially available fossil fuel to be excluded under RCRA when burned. One of the specifications for comparable fuels was a limit on total halogens in comparable fuels. Although total halogens are not listed in Appendix VIII, Part 261, EPA proposed a total halogen specification to ensure that halogenated products of incomplete combustion (PICs) and HCl and Cl_2 generated from burning a comparable fuel would not be emitted at higher levels than from burning a benchmark fossil fuel. See proposal (61 FR at 17461) and a subsequent notice of data availability (61 FR 43501 (August 23, 1996)). PICs resulting from the burning of halogenated compounds can pose a particular hazard to human health and the environment.

Using the benchmark approach, EPA initially proposed total halogen [1] specifications ranging from 10 ppmw to 25 ppmw. These initial total halogen specifications included both organic and inorganic halogens. However, the total halogen data used by EPA in the proposed rule for its No. 4 and No. 6 fuel oils were based on analytical methods measuring only total organic halogens, not both organic and inorganic halogens. EPA's decision to use a method that measured only organic halogens for No. 4 and No. 6 fuel oils was based on two factors. First, EPA was concerned about possible method interferences and poor matrix recovery when measuring total halogen in No. 4 and No. 6 fuel oils and used a method that measures only total organic halogen.[2] Second, EPA was concerned that No. 4 and No. 6 fuel oils

[1] Expressed as chlorine.

[2] The Agency has since determined that EPA Method 325.3 for total halogens should not result in poor matrix recovery.

can contain widely varying levels of inorganic chlorides from contamination with emulsified brine during the oil extraction or transportation process and used a method that avoided measuring these inorganic chlorides.

Commenters disagreed with EPA's decision not to include inorganic halogens in its total halogen analyses for No. 4 and No. 6 fuel oils. Commenters argued that inorganic halogens are normally found in fuel oil and that EPA's analysis was not representative of the total halogen levels in fuel oil.[3] Furthermore, commenters argued that comparable fuel specifications should be set at levels that commercial fuels could consistently pass, and should be based on levels of constituents actually observed in commercial fuels, regardless of their derivation. One commenter submitted additional data on total halogen content for No. 6 fuel oil.[4]

EPA is persuaded by commenters' arguments and is inclined to use data that reflect measurement of both organic and inorganic halogens to establish the total halogen specification. These data better represent the typical total halogen content found in benchmark fuels. To set a total halogen limit that includes both organic and inorganic halogens, EPA has gathered data from its own database (i.e., for Certifications of Compliance required by the Boiler and Industrial Furnace Rule) and included data submitted by one commenter[5] (see Table 1). In addition, EPA will continue to use its original gasoline and No. 2 fuel oil halogen data, which include both organic and inorganic halogens (see Table 2). EPA invites comment on the appropriateness of these data for use in determining a total halogen specification.

As in the proposed rule, EPA has used a nonparametric rank order statistical approach to determine the total halogen specification. See 61 FR at 17463. Using this methodology under the composite fuel approach, the total halogen specification would be 25 ppmw for the 50th percentile composite, 260 ppmw for the 90th percentile composite, and 500 ppmw for the 99th percentile composite. The Agency is not inviting additional comment on the various percentiles in this notice. Rather, this information is provided to enable interested persons to inspect EPA's use of the total halogen data and to comment thereon, including the practical impacts of a total halogen specification of 25, 260, or 500 ppmw.

In addition to new total halogen data, EPA received comment on an equivalency determination to qualify for the comparable fuels exemption. One commenter argued that the Agency should consider the commenter's candidate comparable fuel as a comparable fuel even though it cannot meet the comparable fuel specification for total halogens (see Fina Oil comments, docket number RCSP–00204). The commenter's candidate comparable fuel has an average halogen content of 1145 ppmw, with a standard deviation of 2400 ppmw. The commenter submitted the results of an emissions testing program to demonstrate that emissions of toxic, Appendix VIII, Part 261, compounds from burning its candidate comparable fuel are similar or lower than emissions from this same facility when burning No. 2 fuel oil.

The Agency considered this situation and the attendant test data carefully, but continues to maintain that an emissions-based equivalency determination to the total halogen specification on a national regulatory basis would be inappropriate and infeasible at this time. EPA has consistently declined to adopt an alternative national approach that is based on an extensive comparison of either emissions or the risk from emissions because of the inherent technical complexity and our current inability to adequately model the risks from all potential burners of an unregulated hazardous waste fuel. EPA also expects that other commenters may well ask EPA to create emissions-based equivalency determinations for other individual and less problematic compounds. This would again put EPA administratively in the position of attempting to create, on a national level, a defensible and consistent set of equivalency determinations based on considerations of comparative emissions and risk, a position that EPA has indicated is infeasible at this time.

Finally, if the Agency were to develop an equivalency determination for total halogens, the implementation details needed in a national regulation to ensure proper combustion of halogenated wastes would be numerous including, for example, provisions on operating parameters, performance testing, and monitoring. These details would almost certainly result in a complicated conditional exclusion from the definition of solid waste. This eventuality is viewed as both potentially unworkable and very difficult to implement and enforce on a national basis. However, there remains some discretion for EPA, through a separate rulemaking, to classify individual fuels as non-wastes based on individual circumstances.[6]

Therefore, EPA is not inclined at this time to consider developing any national equivalency determination to the total halogen specification as part of its final deliberations on the comparable fuel exclusion. At some future point, perhaps as our understanding of cause-and-effect relationships regarding emissions from a wider variety of sources grows, EPA may be able to address aspects of the commenter's recommendations if appropriate and feasible.

TABLE 1: ADDITIONAL TOTAL HALOGEN DATA

Fuel type	Facility	Total Halogen (ppmw)	Heat Value (Btu/lb)
No. 2 fuel oil	Dupont, Wilmington	16	19,200
No. 2 fuel oil	Dupont, Wilmington	429	19,200
No. 2 fuel oil	Dupont, Wilmington	461	19,200
No. 2 fuel oil	Dupont, Wilmington	470	19,200
No. 2 fuel oil	Dupont, Wilmington	490	19,200
No. 2 fuel oil	Dupont, Wilmington	523	19,200
No. 2 fuel oil	Dow Chem., Gales Ferry	83	19,587
No. 2 fuel oil	Dow Chem., Gales Ferry	93	19,587
No. 2 fuel oil	Dow Chem., Gales Ferry	137	19,380
No. 6 fuel oil	American Cyan., Kalamazoo	<45 (non-detect)	18,571

[3] See, e.g., RCRA Docket F–97CS5A–FFFFF, number S0001, Chemical Manufacturers Association letter dated June 27, 1997.

[4] See RCRA Docket F–97–CS5A–FFFFF, number S0002, Rohm & Haas letter dated April 14, 1997.

[5] Commenter's data include 6 data points on total halogen in No. 6 fuel oil. EPA screened out one of the data points as an outlier because it was 170% greater than any data point in the total halogen database.

[6] See 61 FR 9396–97 (March 8, 1996).

TABLE 1: ADDITIONAL TOTAL HALOGEN DATA—Continued

Fuel type	Facility	Total Halogen (ppmw)	Heat Value (Btu/lb)
No. 6 fuel oil	American Cyan., Kalamazoo	<45 (non-detect)	18,571
No. 6 fuel oil	American Cyan., Kalamazoo	<45 (non-detect)	18,571
No. 6 fuel oil	Huntsman Poly, Woodbury	<100 (non-detect)	18,500
No. 6 fuel oil	Huntsman Poly, Woodbury	<100 (non-detect)	18,500
No. 6 fuel oil	Huntsman Poly, Woodbury	<100 (non-detect)	18,500
No. 6 fuel oil	Huntsman Poly, Woodbury	<100 (non-detect)	18,500
No. 6 fuel oil	Huntsman Poly, Woodbury	<100 (non-detect)	18,500
No. 6 fuel oil	Huntsman Poly, Woodbury	<100 (non-detect)	18,500
No. 6 fuel oil	Rohm & Haas, Philadelphia	109	18,967
No. 6 fuel oil	Rohm & Haas, Philadelphia	110	18,881
No. 6 fuel oil	Rohm & Haas, Philadelphia	171	18,976
No. 6 fuel oil	Rohm & Haas, Bristol	180	18,400
No. 6 fuel oil	Rohm & Haas, Philadelphia	840	18,300
No. 6 fuel oil	Rohm & Haas, Philadelphia	840	18,600
No. 6 fuel oil	Rohm & Haas, Philadelphia	590	18,400
No. 6 fuel oil	Rohm & Haas, Philadelphia	660	18,300
No. 6 fuel oil	Rohm & Haas, Philadelphia	1000	18,400

TABLE 2: TOTAL HALOGEN DATA FROM PROPOSED RULE

No. 2 fuel oil	EPA sample 8835–001	<25 (non-detect)	19,583
No. 2 fuel oil	EPA sample 8835–002	<25 (non-detect)	19,610
No. 2 fuel oil	EPA sample 8835–003	<25 (non-detect)	19,823
No. 2 fuel oil	EPA sample 8835–004	<25 (non-detect)	19,755
No. 2 fuel oil	EPA sample 8835–005	<25 (non-detect)	19,763
No. 2 fuel oil	EPA sample 8835–006	<25 (non-detect)	19,891
No. 2 fuel oil	EPA sample 8835–007	<25 (non-detect)	19,570
No. 2 fuel oil	EPA sample 8835–008	<25 (non-detect)	19,865
No. 2 fuel oil	EPA sample 8835–009	<25 (non-detect)	19,942
No. 2 fuel oil	EPA sample 8835–010	<25 (non-detect)	20,000
No. 2 fuel oil	EPA sample 8835–011	<25 (non-detect)	19,745
Gasoline	EPA sample 8835–001	<25 (non-detect)	19,506
Gasoline	EPA sample 8835–002	<25 (non-detect)	19,394
Gasoline	EPA sample 8835–003	<25 (non-detect)	19,687
Gasoline	EPA sample 8835–004	<25 (non-detect)	19,420
Gasoline	EPA sample 8835–005	<25 (non-detect)	19,189
Gasoline	EPA sample 8835–006	<25 (non-detect)	19,924
Gasoline	EPA sample 8835–007	<25 (non-detect)	19,373
Gasoline	EPA sample 8835–008	<25 (non-detect)	19,552

Dated: August 25, 1997.

Elizabeth A. Cotsworth,

Acting Director Office of Solid Waste.

[FR Doc. 97–23843 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 64

[CC Docket Nos. 96–45; 97–21; FCC 97–292]

Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Further Notice of Proposed Rulemaking released August 15, 1997 proposes to amend the Commission's rules regarding revenue information submitted to NECA by TRS contributors. The proposed rules would permit USAC, NECA, to the extent that it is acting on behalf of USAC, and the permanent universal service Administrator, to use revenue data submitted to the TRS Administrator by TRS contributors in order to verify revenue information provided on the Universal Service Worksheet by contributors to the universal service support mechanisms.

DATES: Comments are to be filed on or before September 11, 1997. Reply comments are to be filed on or before September 26, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Valerie Yates, Legal Counsel, Common Carrier Bureau, (202) 418–1500 or Sheryl Todd, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking adopted and released on August 15, 1997. The full text is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, D.C. Pursuant to the Telecommunications Act of 1996, the Commission released a Notice of Proposed Rulemaking and Order Establishing a Joint Board, Federal-State Joint Board on Universal Service, CC Docket No. 96–45, on March 8, 1996 (61 FR 10499 (March 14, 1996)), a

Recommended Decision on November 8, 1996 (61 FR 63778 (December 2, 1996)), a Public Notice seeking comment on rules to implement § § 254 and 214(e) of the Communications Act of 1934, as amended, relating to universal service on November 18, 1996 (61 FR 63778 (December 2, 1996)), a Notice of Proposed Rulemaking in Changes to the Board of Directors of the National Exchange Carrier Association, Inc. in CC Docket No. 97–21, on January 10, 1997 (62 FR 2636 (January 17, 1997)), a Report and Order in Federal-State Joint Board on Universal Service, CC Docket No. 96–45, on May 8, 1997 (62 FR 32862 (June 17, 1997)), and a Report and Order and Second Order on Reconsideration in Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service, CC Docket Nos. 97–21 and 96–45, on July 18, 1997 (62 FR 41294 (August 1, 1997)). The Further Notice of Proposed Rulemaking certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), that the proposed rule amendments would not have a significant economic impact on a substantial number of small entities and seeks comment on this tentative conclusion.

Summary of Further Notice of Proposed Rulemaking

I. Further Notice of Proposed Rulemaking

In this Further Notice of Proposed Rulemaking (FNPRM) we propose to amend § 64.604(c)(4)(iii)(I) of the Commission's rules to permit the use of TRS Fund revenue data by USAC, NECA, to the extent that it is acting on behalf of USAC, and the permanent universal service Administrator to enable those entities to verify revenue information provided by contributors pursuant to the Universal Service Worksheet. Although § 64.604(c)(4)(iii)(I) specifically provides that the Commission may order the disclosure of the underlying revenue data contained in the TRS Fund database, we note that the rule also imposes limitations regarding permissible use of the data. Therefore, in light of the limitations imposed on NECA by § 64.604(c)(4)(iii)(I) regarding permissible use of the data, and consistent with our prior practice, we propose to amend the rule rather than directing NECA, in its capacity as TRS Administrator, to disclose the data to the universal service Administrator. Accordingly, we propose to amend the rule to state that the TRS Fund data also may be used by USAC, NECA, to the extent that it is acting on behalf of USAC, and the permanent universal service Administrator, for the purpose of verifying revenue information provided by contributors to the universal service support mechanisms. We further propose to amend § 54.711(b) to clarify that, except as specified here, the duty of NECA, USAC, and the permanent Administrator to keep confidential all data obtained from universal service contributors, not to use such data except as provided in the proposed rule amendment, and not to disclose the information in company-specific form unless directed to do so by the Commission extends to data obtained from the TRS Fund as well.

We tentatively conclude that these proposed amendments are sufficient to maintain the confidentiality of the TRS Fund revenue data disclosed to the universal service Administrator in light of the restrictions we propose to impose upon their use. We seek comment on this tentative conclusion and the proposed rule amendments set forth below.

II. Procedural Matters

A. Ex Parte

The FNPRM is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Regulatory Flexibility

Section 603 of the Regulatory Flexibility Act (RFA), as amended, requires an Initial Regulatory Flexibility Analysis in notice and comment rulemaking proceedings, unless the head of the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The FNPRM portion of this proceeding applies only to NECA's obligation to disclose certain TRS Fund data to the universal service Administrator.

For the purposes of this FNPRM, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' includes a small organization, which is defined as a non-profit enterprise that is independently owned and operated and is not dominant in its field. NECA is a non-profit, quasi-governmental association that was created to administer the Commission's interstate access tariff and revenue distribution processes. Therefore, NECA is not a small organization within the meaning of the RFA. Furthermore, this FNPRM does not apply to other ''small business concerns'' because it proposes to modify a rule that applies only to NECA. For this reason, we tentatively conclude that these proposals would not have a significant economic impact on a substantial number of small entities.

We therefore certify, pursuant to section 605(b) of the RFA, that the proposed rule amendments would not have a significant economic impact on a substantial number of small entities. We seek comment on this tentative conclusion. The Commission shall publish this certification in the **Federal Register**, and shall provide a copy of this FNPRM, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Effective Date

We find that the conclusions adopted herein should become effective immediately upon release of the Order.

D. Procedures for Filing Comments

We invite comment on the proposed rule amendments, issues, and tentative conclusion set forth in the Further Notice of Proposed Rulemaking. Pursuant to applicable procedures set forth in § § 1.415 and 1.419 of the Commission's rules, interested parties may file FNPRM comments on or before September 11, 1997 and reply comments on or before September 26, 1997. To file formally in this proceeding, parties must file an original and six copies of all comments, reply comments, and supporting comments. Parties that want each Commissioner to receive a personal copy, must file an original plus eleven copies. Parties should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Five courtesy copies should also be sent to Sheryl Todd at 2100 M Street, N.W., Room 8611, Washington, D.C. 20554. Parties should also file one copy of any document filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. ITS's telephone number is 202–857–3800. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments must

include a concise summary of the substantive arguments raised in the pleading.

Parties are also asked to submit comments on diskette. Diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Sheryl Todd at 2100 M Street, N.W., Room 8611, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette in an IBM compatible format using WordPerfect 5.1 for Windows software in a ''read only'' mode. The diskette should be accompanied by a cover letter. For further information concerning this proceeding, contact Sheryl Todd, Accounting and Audits Division, Common Carrier Bureau at 202–418–7400.

III. Ordering Clauses

It is further ordered, pursuant to sections 1–4, 254 of the Communications Act of 1934, as amended, 47 U.S.C. § § 151–154, and 254 that notice is hereby given of proposed amendments to parts 64 and 54 of the Commission's Rules, 47 CFR parts 64 and 54, as described in the further notice of proposed rulemaking in CC Docket No. 97–21 and comments are requested as described above.

List of Subjects

47 CFR part 54

Universal service.

47 CFR part 64

Communications common carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Parts 54 and 64 of title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. Secs. 1, 4(i), 201, 214, and 254, unless otherwise noted.

2. Section 54.711 is proposed to be amended by revising paragraph (b) to read as follows:

Section 54.711 Contributor reporting requirements.

* * * * *

(b) The Commission shall have access to all data reported to the Administrator, Schools and Libraries Corporation, and Rural Health Care Corporation. Contributors may make requests for Commission nondisclosure of company-specific information under § 0.459 of this chapter at the time that the subject data are submitted to the Administrator. The Commission shall make all decisions regarding nondisclosure of company-specific information. The Administrator, Schools and Libraries Corporation, and Rural Health Care Corporation shall keep confidential all data obtained from contributors, including all data obtained from the Administrator of the Telecommunications Relay Service Fund, shall not use such data except for purposes of administering the universal service support programs, and shall not disclose such data in company-specific form unless directed to do so by the Commission.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. Sec. 154 unless otherwise noted.

2. Section 64.604 is amended by revising paragraph (c)(4)(iii)(I) to read as follows:

Section 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(4) * * *

(iii) * * *

(I) *Information filed with the administrator.* The administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form unless directed to do so by the Commission. The administrator shall not use such data except for purposes of administering the TRS Fund, enabling the universal service Administrator to verify revenue information provided by contributors to the universal service support mechanisms, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. The Commission shall have access to all data reported to the administrator, and authority to audit TRS providers.

* * * * *

[FR Doc. 97–23828 Filed 9–8–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–193, RM–9125]

Radio Broadcasting Services; Kaunakakai, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Native Hawaiian Broadcasting seeking the allotment of FM Channel 272C to Kaunakakai, Hawaii, as that community's first local aural transmission service. Coordinates used for this proposal are 21–05–30 and 157–01–24.

DATES: Comments must be filed on or before October 20, 1997, and reply comments on or before November 4, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dan J. Alpert, Esq., The Law Office of Dan J. Alpert, 2120 N. 21st Rd., Suite 400, Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, 202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–193, adopted August 20, 1997, and released August 29, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–23823 Filed 9–8–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 212, 225, and 252

[DFARS Case 7–D022

Defense Federal Acquisition Regulation Supplement; Buy American Act Exception for Information Technology Products

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the determination by the Under Secretary of Defense (Acquisition & Technology) that it is not in the public interest to apply the restrictions of the Buy American Act to U.S. made information technology products, in acquisition subject to the Trade Agreements Act.

DATES: Comment date: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 10, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 97–D022 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

Background

This proposed rule adds a provision at DFARS 252.225–7020, Trade Agreements Certificate, and a clause at DFARS 252.225–7021, Trade Agreements, and makes other necessary amendments in DFARS Parts 212 and 225 to implement the determination, signed by the Under Secretary of Defense (Acquisition & Technology) (USD (A&T)) on May 16, 1997, that it is not in the public interest, in acquisitions subject to the Trade Agreements Act, to apply the restrictions of the Buy American Act to U.S. made information technology products in Federal Supply Group 70 or 74. Federal Supply Group 70 includes general purpose automatic data processing equipment, software (including firmware), supplies, and support equipment. Federal Supply Group 74 includes office machines and visible record equipment.

In the determination and finding, USD (A&T) explains how the different rules of origin under the Trade Agreements Act and the Buy American Act result in evaluating products substantially transformed in the United States less favorably than if the product were substantially transformed in an eligible country. UDS (A&T) also finds that the different rules of origin place a disproportionately burdensome recordkeeping requirement on United States firms offering information technology products. Because manufacturers of information technology products commonly use worldwide sources for components, requiring manufacturers to distinguish between foreign and domestic components represents a significant deterrent to the acquisition of both commercial and state-of-the-art information technology products by DoD.

Regarding the certification requirements of this rule, for acquisition of information technology products subject to the Trade Agreements Act, the certification requirement in paragraph (c) of the proposed provision at 252.225–7020, Trade Agreements Certificate, replaces and simplifies the existing certification requirement in paragraph (c) of the provision at DFARS 252.225–7006, Buy American Act—Trade Agreements—Balance of Payments Program Certificate. Therefore, for the purposes of Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425), this rule does not impose a new certification requirement.

B. Regulatory Flexibility Act

This rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. An Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows: The rule will apply to all offerors/contractors offering information technology products in Federal Supply Group 70 or 74 to DoD, in acquisitions valued at $190,000 or more. The rule will particularly benefit offerors of U.S. made information technology end products that do not qualify as domestic end products. However, suppliers of domestic information technology products will also benefit to the extent that they no longer need to track the source of components. The rule will also affect suppliers of components for such information technology products, to the extent that suppliers of domestic components may face increased competition from suppliers of foreign components.

With regard to the provision at 252.225–7003, Information for Duty-Free Entry Evaluation, the rule will have a positive impact on small entities, because the rule prescribes use of the provision in solicitation that include the clause FAR 52.225–10, Duty-Free Entry, rather than all solicitations that include the clause at 252.225–7001, Buy American Act and Balance of Payments Program. This will reduce the number of respondents by about 100,000, of which it is estimated that 35 percent may be small businesses, as it is generally the acquisitions of less than $100,000 that will no longer include the provision. In addition, responses to the questions in paragraph (b) of the provision are no longer required for eligible products under a trade agreement, or for nonqualifying country components of domestic end products (U.S. made end products if Alternate I is used) unless the offeror plans to request duty-free entry.

A copy of the Initial Regulatory Flexibility Analysis may be obtained from the address specified herein. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D022 in correspondence.

C. Paperwork Reduction Act

This rule will result in a reduction of paperwork burden on offerors. The existing certification requirement at DFARS 252.225–7006, Buy American Act-Trade Agreements-Balance of Payments Program Certificate, has an approved information collection requirement under Office of Management and Budget (OMB) Clearance Number 0704–0259. This rule creates a certificate for use when the Trade Agreements Act, but neither the Buy American Act nor the Balance of Payments Program, applies. This

certificate is shorter than the Buy American Act-Trade Agreements-Balance of Payments Program Certificate and, therefore, reduces the burden on offerors.

In addition, the information collection requirements contained in the clause at DFARS 252.225–7003, Information for Duty-Free Entry Evaluation, are approved under OMB Clearance Number 0704–0187. It is estimated that by narrowing the clause prescription, limiting the requirement to respond when supplying domestic end products, and providing an alternate applicable to acquisitions of information technology products subject to the Trade Agreements Act, the amendments in this rule will result in an annual reduction of more than 486,000 hours in the paperwork burden.

List of Subjects in 48 CFR Part 212, 225, and 252

Government procurement.

Michele P. Peterson,

Executive Editor Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 212, 225, and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 212, 225, and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

2. Section 212.301 is amended by redesignating paragraph (f)(i)(C) as (f)(i)(D), and by adding a new paragraph (f)(i)(C) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) * * *

(C) 252.225–7020, Trade Agreements Certificate.

* * * * *

PART 225—FOREIGN ACQUISITION

3. Section 225.000–70 is amended by revising paragraph (m) to read as follows:

225.000–70 Definitions.

* * * * *

(m) *U.S. made end product* is defined in the clauses at 252.225–7007, Buy American Act-Trade Agreements-Balance of Payments Program, and 252.225–7021, Trade Agreements.

4. Section 225.000–71 is amended by revising paragraph (c)(2) to read as follows:

225.000–71 General guidelines.

* * * * *

(c) * * *

(2) If the product is an eligible product under subpart 225.4, evaluate the offer under FAR 25.402, 225.105, and 225.402.

* * * * *

5. Section 225.102 is amended by revising paragraph (a)(3)(A), redesignating paragraphs (a)(3)(B) and (a)(3)(C) as paragraphs (a)(3)(C) and (a)(3)(D) respectively, and by adding a new paragraph (a)(3)(B) to read as follows:

225.102 Policy.

(a) * * *

(3)(A) Specific public interest exceptions for DoD for certain countries are in 225.872.

(B) The Under Secretary of Defense (Acquisition & Technology) has determined that, for procurements subject to the Trade Agreements Act, it is inconsistent with the public interest to apply the Buy American Act to information technology products in Federal Supply Group 70 or 74 that are substantially transformed in the United States.

* * * * *

6. Section 225.105 is amended by revising the introductory text and paragraphs (1), (2), and (3) to read as follows:

225.105 Evaluating offers.

Use the following procedures instead of those in FAR 25.105. These evaluation procedures do not apply to acquisitions of information technology end products in Federal Supply Group 70 or 74 that are subject to the Trade Agreements Act.

(1) Treat offers of eligible products under acquisitions subject to trade agreements as qualifying country offers. Treat all other offers, except domestic offers, as nonqualifying country offers (see Example 4 in Table 25–1, Evaluation).

(2) Except as provided in paragraph (3) of this section, evaluate offers by adding a 50 percent factor to the price (including duty) of each nonqualifying country offer (see Example 1 in Table 25–1, Evaluation).

(i) Nonqualifying country offers include duty in the offered price. When applying the factor, evaluate based on the inclusion of duty, whether or not duty is to be exempted. If award is made on the nonqualifying country offer and duty is to be exempted through inclusion of the clause at FAR 52.225–10, Duty-Free Entry, award at the offered price minus the amount of duty identified in the provision at 252.225–7003, Information for Duty-Free Entry Evaluation. See Example 1, Alternate II, in Table 25–1, Evaluation.

(ii) When a nonqualifying country offer includes more than one line item, apply the 50 percent factor—

(A) On an item-by-item basis; or

(B) On a group of items, if the solicitation specifically provides for award on a group basis.

(3) When application of the factor would not result in the award of a domestic end product, i.e., when no domestic offers are received (see Example 3 of Table 25–1, Evaluation) or when a qualifying country offer is lower than the domestic offer (see Example 2 of Table 25–1, Evaluation), evaluate nonqualifying country offers without the 50 percent factor.

(i) If duty is to be exempted through inclusion of the clause at FAR 52.225–10, Duty-Free Entry, evaluate the nonqualifying country offer exclusive of duty by reducing the offered price by the amount of duty identified in the clause at 252.225–7003, Information for Duty-Free Entry Evaluation (see Examples 2 and 3, Alternate II, of Table 25–1, Evaluation). If award is made on the nonqualifying country offer, award at the offered price minus duty.

(ii) If duty is not to be exempted, evaluate the nonqualifying country offer inclusive of duty (see Examples 2 and 3, Alternate I, of Table 25–1, Evaluation).

* * * *

7. Section 225.109 is amended by revising paragraphs (a) and (d)(i) to read as follows:

§ 225.109 Solicitation provisions and contract clauses.

(a) Use the provision at 252.225–7000, Buy American Act-Balance of Payments Program Certificate, instead of the provisions at FAR 52.225–1, Buy American Certificate, and FAR 52.225–6, Balance of Payments Program Certificate. Use the provision in any solicitation which includes the clause at 252.225–7001, Buy American Act and Balance of Payments Program, unless the solicitation includes either the clause at 252.225–7007, Buy American Act-Trade Agreements-Balance of Payments Program, or the clause at 252.225–7036, North American Free Trade Agreement Implementation Act.

* * * * *

(d) * * *

(i) Do not use the clause if an exception to the Buy American Act or Balance of Payments Program is known to apply. Do not use the clause when the clause at 252.225–7021, Trade Agreements, is used.

* * * * *

8. Section 225.109–70 is revised to read as follows:

§ 225.109–70 Additional provisions and clauses.

(a) Use the clause at 252.225–7002, Qualifying Country Sources as Subcontractors, in all solicitations and contracts that include the clause at 252.225–7001, Buy American Act and Balance of Payments Program, or the clause at 252.225–7021, Trade Agreements.

(b) When only domestic ends products are acceptable, the solicitation must make a statement to that effect.

9. Section 225.302 is amended by revising paragraphs (a)(iii) and (a)(iv), and by adding a new paragraph (a)(v) to read as follows:

§ 225.302 Policy.

(a) * * *

(iii) Do not apply to qualifying end products;

(iv) Do not apply to articles, materials, or supplies produced or manufactured in Panama when purchased by and for the use of U.S. forces in Panama; and

(v) For acquisitions subject to the Trade Agreements Act, do not apply to information technology products in Federal Supply Group 70 or 74 that are substantially transformed in the United States.

* * * * *

10. Section 225.402 is amended by revising paragraph (a)(1) to read as follows:

§ 225.402 Policy.

(a) * * *

(1) See 225.105 for evaluation of eligible products and U.S. made end products, except when acquiring information technology end products in Federal Supply Group 70 or 74 that are subject to the Trade Agreements Act.

* * * * *

11. Section 225.408 is amended by revising paragraphs (a)(1) and (a)(2), by redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(5) and (a)(6) respectively, and by adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 225.408 Solicitation provisions and contract clauses.

(a)(1) Use the provision at 252.225–7006, Buy American Act-Trade Agreements-Balance of Payments Program Certificate, instead of the provision at FAR 52.225–8, Buy American Act-Trade Agreements-Balance of Payments Program Certificate, in all solicitations that include the clause at 252.225–7007, Buy American Act-Trade Agreements-Balance of Payments Program.

(2) Except as provided in 225.408(a)(4), use the clause at 252.225–7007, Buy American Act-Trade Agreements-Balance of Payments Program, instead of the clause at FAR 52.225–9, Buy American Act-Trade Agreements-Balance of Payments Program. The clause need not be used where purchase from foreign sources is restricted (see 225.403(d)(1)(B)). The clause may be used where the contracting officer anticipates a waiver of the restriction. For procurements by the U.S. Army Corps of Engineers, use the clause with its Alternate I.

(3) Use the provision at 252.225–7020, Trade Agreements Certificate, in all solicitations that include the clause at 252.225–7021, Trade Agreements.

(4) Use the clause at 252.225–7021, Trade Agreements, instead of the clause at FAR 52.225–9, Buy American Act—Trade Agreements—Balance of Payments Program, when acquiring information technology products in Federal Supply Group 70 or 74. For procurements by the U.S. Army Corps of Engineers, use the clause with its Alternate I.

* * * * *

12. Section 225.603 is amended by revising paragraph (5) to read as follows:

225.603 Procedures.

* * * * *

(5) Exclude from the evaluation of domestic end products, or information technology end products in Federal Supply Group 70 or 74 in acquisitions subject to the Trade Agreements Act, any duty for nonqualifying country components listed in the provision at 252.225–7003, Information for Duty-Free Entry Evaluation, for which duty-free entry will be granted. Except for acquisitions of information technology end products in Federal Supply Group 70 or 74 subject to the Trade Agreements Act, apply the evaluation procedures for the Buy American Act in accordance with 225.105.

* * * * *

13. Section 225.605–70 is amended by adding paragraph (e) to read as follows:

225.605–70 Additional solicitation provisions and contract clauses.

* * * * *

(e) Use the provision at 252.225–7003, Information for Duty-Free Entry Evaluation, in all solicitations that include the clause at FAR 52.225–10, Duty-Free Entry. Use the provision with its Alternate I when the clause at 252.225–7021, Trade Agreements, is used.

14. Section 225.872–4 is amended by revising the introductory text of paragraph (c) to read as follows:

225.872–4 Evaluation of offers.

* * * * *

(c) Evaluate offers of end products from the qualifying country sources in 225.872–1(b) without application of the 50 percent Buy American Act or Balance of Payments Program evaluation factor. If the offer, as evaluated, is low or otherwise eligible for award, the contracting officer shall request an exemption of the Buy American Act/Balance of Payments Program as inconsistent with the public interest, unless another exception such as the Trade Agreements Act applies.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

15. Section 252.212–7001 is amended by revising the clause date; in paragraph (b) by removing the entry ''____ 252.225–7007 Trade Agreements (10 U.S.C. 2502–2582)''; and in paragraph (b) by adding entries, in numerical order, to read as follows:

252.212–7001 Contract terms and conditions required to implement statutes or Executive Orders applicable to Defense acquisitions of commercial items.

* * * * *

Contract Terms and Conditions Required to implement statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (_____ 19___)

* * * * *

(b) * * *

_____ 252.225–7007 Buy American Act—Trade Agreements—Balance of Payments Programs.

(_____ Alternate I) (41 U.S.C. 10a–10d, 19 U.S.C. 2501–2518, and 19 U.S.C. 3301 note)

* * * * *

_____ 252.225–7021 Trade Agreements

(_____ Alternate I) (19 U.S.C. 2501–2518 and 19 U.S.C. 3301 note)

* * * * *

16. Section 252.225–7003 is amended by revising the introductory text, the clause date, and paragraph (a); by removing paragraph (d); and by adding Alternate I. The revised and added text reads as follows:

252.225–7003 Information for duty-free entry evaluation.

As prescribed in 225.605–70(e), use the following provision:

Information for Duty-Free Entry Evaluation (xxx 19xx)

(a) Does the offeror propose to furnish—

(1) A domestic end product with nonqualifying country components for which the offeror requests duty-free entry; or

(2) A foreign end product consisting of end items, components, or material of foreign origin other than those that will be accorded duty-free entry as qualifying country end products or components, or eligible products under a trade agreement?
Yes ( )
No ( )

* * * * *

ALTERNATE I (xxx 19xx). As prescribed in 225.605–70(e), substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) Does the offeror propose to furnish a U.S. made end product with nonqualifying country components for which the offeror requests duty-free entry?
Yes ( )
No ( )

17. Section 252.225–7007 is amended by revising the section heading, and the clause title and date to read as follows:

252.225–7007 Buy American Act—Trade agreements—Balance of payments program.

* * * * *

Buy American Act—Trade Agreements—Balance of Payments Program

(xxx 19xx)

* * * * *

18. Section 252.225–7020 is added to read as follows:

252.225–7020 Trade Agreements certificate.

As prescribed in 225.408(a)(3), use the following provision:

Trade Agreements Certificate (xxx 19xx)

(a) *Definitions.*

''Caribbean Basin country end product,'' ''designated country end product,'' ''NAFTA country end product,'' ''nondesignated country end product,'' ''qualifying country end product,'' and ''U.S. made end product'' have the meanings given in the Trade Agreements clause of this solicitation.

(b) *Evaluation.*

Offers will be evaluated in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement. Offers of foreign end products that are not U.S. made, qualifying country, designated country, Caribbean Basin country, or NAFTA country end products will not be considered for award, unless the Contracting Officer determines that there are no offers of such end products; or the offers of such end products are insufficient to fulfill the requirements; or a national interest exception to the Trade Agreements Act is granted.

(c) *Certifications.*

(1) The Offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S. made, qualifying country, designated country, Caribbean Basin country, or NAFTA country end product.

(2) The following supplies are other nondesignated country end products:
(insert line item number)

_____

(insert country of origin)

_____

(End of provision)

19. Section 252.225–7021 is added to read as follows:

252.225–7021 Trade Agreements.

As prescribed in 225.408(a)(4), insert the following clause:

Trade Agreements (xxx 19xx)

(a) *Definitions.*

As used in this clause—

(1) *Caribbean Basin country* means—

Antigua and Barbuda
Aruba
Bahamas
Barbados
Belize
British Virgin Islands
Costa Rica
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Montserrat
Netherlands Antilles
Nicaragua
Panama
St. Kitts-Nevis
St. Lucia
St. Vincent and the Grenadines
Trinidad and Tobago

(2) *Caribbean Basin country end product.*—

(i) Means an article that—

(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles and apparel articles that are subject to textile agreements;

(B) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under Title V of the Trade Act of 1974;

(C) Tuna, prepared or preserved in any manner in airtight containers; and

(D) Watches and watch parts (including cases, bracelets, and straps) of whatever type, including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which Harmonized Tariff Schedule column 2 rates of duty apply.

(3) *Components* means those articles, materials, and supplies directly incorporated into end products.

(4) *Designated country* means—

Aruba
Austria
Bangladesh
Belgium
Benin
Bhutan
Botswana
Burkina Faso
Burundi
Canada
Cape Verde
Central African Republic
Chad
Comoros
Denmark
Djibouti
Equatorial Guinea
Finland
France
Gambia
Germany
Greece
Guinea
Guinea-Bissau
Haiti
Hong Kong
Ireland
Israel
Italy
Japan
Kiribati
Lesotho
Liechtenstein
Luxembourg
Malawi
Maldives
Mali
Mozambique
Nepal
Netherlands
Niger
Norway
Portugal
Republic of Korea
Rwanda
Sao Tome and Principe
Sierra Leone
Singapore
Somalia
Spain
Sweden
Switzerland
Tanzania U.R.
Togo
Tuvalu
Uganda
United Kingdom
Vanuatu
Western Samoa
Yemen

(5) *Designated country end product* means an article that—

(i) Is wholly the growth, product, or manufacture of the designated country; or

(ii) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a designated country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(6) *End product* means those articles, materials, and supplies to be acquired for public use under the contract. For this contract, the end products are the line items to be delivered to the Government (including supplies to be acquired by the Government for public use in connection with service contracts, but excluding installation and other services to be performed after delivery).

(7) *NAFTA country end product* means an article that—

(i) Is wholly the growth, product, or manufacture of the NAFTA country; or

(ii) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a NAFTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(8) *Nondesignated country end product* means any end product that is not a U.S. made end product or a designated country end product.

(9) *North American Free Trade Agreement (NAFTA) country* means Canada or Mexico.

(10) *Qualifying country* means any country set forth in subsection 225.872–1 of the Defense Federal Acquisition Regulation (FAR) Supplement.

(11) *Qualifying country end product* means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if the cost of the components mined, produced, or manufactured in the qualifying country and its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

(12) *United States* means the United States, its possessions, Puerto Rico, and any other place subject to its jurisdiction, but does not include leased bases or trust territories.

(13) *U.S. made end product* means an article that—

(i) Is wholly the growth, product, or manufacture of the United States; or

(ii) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

(b) Unless otherwise specified, the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*), the North American Free Trade Agreement Implementation Act of 1993 (19 U.S.C. 3301 note), and the Caribbean Basin Initiative apply to all items in the Schedule.

(c) (1) The Contractor agrees to deliver under this contract only U.S. made, qualifying country, designated country, Caribbean Basin country, or NAFTA country end products unless, in its offer, it specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation.

(2) The Contractor may not supply a nondesignated country end product other than a qualifying country end product, a Caribbean Basin country end product, or a NAFTA country end product, unless—

(i) The Contracting Officer has determined that offers of U.S. made end products or qualifying, designated, Caribbean Basin, or NAFTA country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or

(ii) A national interest waiver has been granted under section 302 of the Trade Agreements Act of 1979 (see FAR 25.402(c)).

(d) The offered price of end products listed under paragraph (c)(2) of the Trade Agreements Certificate provision of the solicitation must include all applicable duty, whether or not a duty-free entry certificate will be granted. The offered price of qualifying country, designated country, Caribbean Basin country, or NAFTA country end products for line items subject to the Trade Agreements Act, or the North American Free Trade Agreement Implementation Act, should not include custom fees or duty. The offered price of U.S. made end products should not include duty for qualifying country components.

(End of clause)

ALTERNATIVE I (XXX 19XX). As described in 225.408(a)(4), delete Singapore from the list of designated countries in paragraph (a)(4) of the basic clause.

252.225–7035 [Amended]

20. Section 252.225–7035 is amended in the introductory text by revising the reference ''225.408(a)(3)'' to read ''225.408(a)(5)''.

252.225–7036 [Amended]

21. Section 252.225–7036 is amended in the introductory text by revising the reference ''225.408(a)(4)'' to read ''225.408(a)(6)''.

[FR Doc. 97–23656 Filed 9–8–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 833 and 852

RIN 2900–AI51

VA Acquisition Regulation: Department Protests

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) Acquisition Regulations (VAAR) to delete coverage which duplicates or conflicts with the Federal Acquisition Regulation; to delete internal agency guidance to contracting officers; to delete obsolete references to the General Services Administration Board of Contract Appeals; to incorporate changes made by Federal Acquisition Circular (FAC) 90–40, Item XIII and FAC 90–45, Item XII; to publish VA policy regarding the availability of staff of the VA Board of Contract Appeals to serve as third party neutrals in alternative dispute resolution proceedings; and to update clauses and references. These changes will implement VA policy and are required to ensure that the VAAR corresponds with the requirements of the Federal Acquisition Regulation and public law.

DATES: Comments must be received on or before November 10, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN: 2900–AI51.'' All written comments will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Don Kaliher; Acquisition Policy Team (95A), Office of Acquisition and Materiel Management, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington DC 20420, (202) 273–8819.

SUPPLEMENTARY INFORMATION: As provided by Public Law 104–106, the Clinger-Cohen Act of 1996, the General Services Administration Board of Contract Appeals (GSBCA) no longer hears bid protests. Therefore, obsolete references to the GSBCA would be removed from the VAAR.

This proposed rule would clarify an existing VA procedure in 833.103(a), which allows an interested party to file

an initial protest at a level above the contracting officer, and, as required by FAR 33.103(d)(4), would add new clause 852.233–71, Alternate Protest Procedure, to inform bidders/offerors of the availability of this alternate protest procedure. This is one of the two methods discussed in FAR 33.103(d)(4) for providing an independent review of a protest. In addition, existing Department procedures for appealing a contracting officer's protest decision, which is the other method discussed in FAR 33.103(d)(4) for providing an independent review of a protest, would be clarified and relocated from 833.103(c) to new paragraph 833.103(f). Material in 833.103(c) which is internal agency guidance to contracting officers would be removed from the VAAR.

It is current VA practice to make available the administrative judges and hearing examiners of the VA Board of Contract Appeals (VABCA) to serve as neutral third parties when alternative dispute resolution (ADR) methods are used to resolve potential or actual contract disputes and appeals. This practice would be codified in VAAR at 833.214. In addition, as provided at FAR 33.103(c), this practice would be extended to bid protests at 833.103(b) and would make the administrative judges and hearing examiners of VABCA available to serve as neutral third parties when ADR is used to resolve bid protests.

This proposed rule would renumber current paragraph 833.103(b) as 833.103(c) and would make changes to the paragraph to comply with the requirements of FAR 33.103 (f)(1) and (f)(3). FAR paragraphs 33.103 (f)(1) and (f)(3) require that a justification or determination to award a contract or to continue contract performance after receipt of a protest shall be approved at a level above the contracting officer or by another official pursuant to agency procedures. Proposed paragraph 833.103(c) would revise and clarify who that approving official is within VA.

Paragraph 833.103(e) currently provides guidance to contracting officers on actions to take upon receipt of a protest after a contract has been awarded. FAR 33.103(f)(3) was recently revised to provide new guidelines on when a contract must be suspended upon receipt of a protest. This proposed rule would revise 833.103(e) to conform VAAR to, and comply with, these new requirements of FAR 33.103(f)(3).

VA provision 852.233–70, Protest Content, would be updated to conform to FAR 33.103(d)(2); VA clause 852.233–71, Alternate Protest Procedure, would be added to comply with the requirements of FAR 33.103(d)(4); and VA clause 852.236–73, Bonds, which duplicates new FAR clause 52.228–15, Performance and Payment Bonds, Construction, would be deleted.

This proposed rule would also update or change names and titles and make other minor clarifications.

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This proposed rule would have a minuscule effect, if any, on small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

List of Subjects

48 CFR Part 833

Administrative practices and procedure, Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping.

Approved: August 27, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 48 CFR parts 833 and 852 are proposed to be amended as follows:

PART 833—PROTESTS, DISPUTES, APPEALS

Subpart 833.1—Protests

1. The authority citation for parts 833 and 852 continue to read as follows:

Authority: 38 U.S.C. 501 and 40 U.S.C. 486(c).

§ 833.102 [Amended]

2. Section 833.102 introductory text is amended by removing ''852.233–2'' and adding, in its place, ''FAR provision 52.233–2''. It is further amended by removing ''or the GSA Board of Contract Appeals (GSBCA)''; and paragraph (b) is amended by removing ''(95B)'' and adding, in its place, '', Acquisition Administration Team''.

§ 833.103 [Amended]

3. In § 833.103, paragraph (a)(1) is amended by removing '','' immediately following ''contracting officer'' and adding, in its place, ''or, as an alternative, may request an independent review by filing a protest with''; by removing ''Review Division, or'' and adding, in its place, ''Administration Team, or, for solicitations issued by the Office of Facilities Management,''; by removing '', as appropriate''; and by adding at the end of the paragraph ''A protest filed with the Deputy Assistant Secretary for Acquisition and Materiel Management or the Chief Facilities Management Officer will not be considered if the interested party has a protest on the same or similar issues pending with the contracting officer.''

4. In § 833.103, paragraph (a)(2)(ii) is amended by removing ''Review Division'' and adding, in its place, ''Administration Team''; paragraphs (a)(3) and (a)(4) are removed; paragraph (a)(5) is redesignated as paragraph (a)(3); newly redesignated paragraph (a)(3)(vi) is removed; paragraphs (a)(3)(vii) through (a)(3)(ix) are redesignated as paragraphs (a)(3)(vi), through (a)(3)(viii), respectively.

5. In § 833.103, paragraph (c) is removed; paragraph (b) is redesignated as a new paragraph (c) and is revised and a new paragraph (b) is added to read as follows:

§ 833.103 Protests to the Department.

* * * * *

(b) Where appropriate, alternative dispute resolution (ADR) procedures may be used to resolve protests at any stage in the protest process. The Department of Veterans Affairs Board of Contract Appeals (VABCA) is an independent and neutral entity within the Department of Veterans Affairs and is available to serve as the third party neutral (Neutral) for bid protests. If ADR is used, the Department of Veterans Affairs will not furnish any documentation in an ADR proceeding beyond what is allowed by the Federal Acquisition Regulation.

(c) *Action upon receipt of protest.* For protests filed with the contracting officer, the head of the contracting activity (HCA) shall be the approving official for the determinations identified in FAR 33.103(f)(1) and (f)(3). If the HCA is also the contracting officer, the approving official shall be the Deputy Assistant Secretary for Acquisition and Materiel Management. For protests filed with the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, or the Chief Facilities Management Officer, Office of Facilities Management, those individuals shall be the approving officials for the determinations identified in FAR 33.103(f)(1) and (f)(3).

* * * * *

6. In § 833.103, paragraph (d) is amended by removing ''lodged'' and adding, in its place, ''filed''; by removing ''he/she'' each time it appears and adding, in its place, ''the contracting officer''; by removing ''Review Division'' and adding, in its

place, ''Administration Team''; and by removing ''officer will'' and adding, in its place, ''officer shall''.

7. In § 833.103, paragraph (e) is revised and paragraph (f) is added to read as follows:

§ 833.103 Protests to the Department.

* * * * *

(e) *Protest after award.* When a written protest is filed with the contracting officer after contract award:

(1) If FAR 33.103(f)(3) requires suspension of contract performance, the contracting officer shall seek to obtain a mutual agreement with the contractor to suspend performance on a no-cost basis and, if successful, shall document the suspension with a supplemental agreement. If unsuccessful, the contracting officer shall issue a stop-work order in accordance with contract clause FAR 52.233–3, Protest After Award.

(2) If suspension of contract performance is not required by FAR 33.103(f)(3) and if the contracting officer determines that the award was proper, the contracting officer shall furnish the protester a written explanation of the basis for the award which is responsive to the allegations of the protest. The contracting officer shall advise the protester that the protester may appeal the determination to the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, or the Chief Facilities Management Officer, Office of Facilities Management, in the case of a contract awarded by the Office of Facilities Management, or the Comptroller General, as specified in internal Department guidance.

(3) If suspension of contract performance is not required by FAR 33.103(f)(3) but the contracting officer determines that the award is questionable, the contracting officer may consult with the Office of the General Counsel (025) and shall advise the contractor of the protest and invite the contractor to submit comments and relevant information. The contracting officer shall submit the case promptly to the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, or the Chief Facilities Management Officer, Office of Facilities Management, in the case of a contract awarded by the Office of Facilities Management, who may consult with the Office of the General Counsel (025) and who shall either advise the contracting officer of the appropriate action to take, or submit the case to the Comptroller General for a decision. The contracting officer shall provide interested parties with a copy of the final decision.

(f) *Agency appellate review of contacting officer's protest decision.* An interested party may request an independent review of a contacting officer's protest decision by filing an appeal with the Deputy Assistant Secretary for Acquisition and Materiel Management or, for solicitations issued by the Office of Facilities Management, with the Chief Facilities Management Officer, Office of Facilities Management. To be considered timely, the appeal must be received by the Deputy Assistant Secretary for Acquisition and Materiel Management or, for solicitations issued by the Office of Facilities Management, by the Chief Facilities Management Officer, Office of Facilities Management, within 10 calendar days of the date the interested party knew, or should have known, whichever is earlier, of the basis for the appeal. Appeals shall be addressed as provided in paragraphs (a)(2)(ii) or (iii) of this section. Appeals shall not extend GAO's timeliness requirements for appeals to GAO. By filing an appeal as provided herein, an interested party may waive its rights to further appeal to the Comptroller General at a later date. Agency responses to appeals submitted to the agency shall be reviewed and concurred in by the Office of the General Counsel (025).

§ 833.105 [Removed]

8. Section 833.105 is removed.

9. Section 833.106 is revised to read as follows:

§ 833.106 Solicitation provision.

(a) The contracting officer shall insert the provision at 852.233–70, Protest Content, in each solicitation where the total value of all contract awards under the solicitation is expected to exceed the simplified acquisition threshold.

(b) The contracting officer shall insert the provision at 852.233–71, Alternate Protest Procedure, in each solicitation where the total value of all contract awards under the solicitation is expected to exceed the simplified acquisition threshold.

Subpart 833–2—Disputes and Appeals

10. Section 833.214 is added to read as follows:

§ 833.214 Alternative dispute resolution (ADR).

(a) Contracting officers and contractors are encouraged to use alternative dispute resolution (ADR) procedures to resolve contract disputes before they become appealable disputes by using the Department of Veterans Affairs' ADR Program.

(b) Under the Department's ADR Program, the Department of Veterans Affairs Board of Contract Appeals (VABCA or Board) Chair, who is the Department's Dispute Resolution Specialist, will appoint a Board member or hearing examiner (at no cost to either party) to serve as a Neutral to aid in resolving matters before they become appealable disputes. The administrative judges and hearing examiners are trained Neutrals and are available to assist in ADR proceedings.

(c) Under the ADR Program, the parties are able to select the ADR process they believe will help resolve the matter. Everything discussed during the ADR meeting is confidential. In the event a Board member serves as a Neutral in a matter that is not resolved using ADR, that Board member shall keep all discussions confidential and shall have no further input or contact with the parties or other Board members in subsequent Board activities (ref. the Administrative Dispute Resolution Act, 5 U.S.C. 571–583; and, Federal Acquisition Regulation, Subpart 33.2).

(d) The Department of Veterans Affairs and contractors are also encouraged to use ADR in disputes appealed to the VABCA.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 852.2—Texts of Provisions and Clauses

11. Section 852.233–70 is revised to read as follow:

§ 852.233–70 Protest content.

As prescribed in 833.106, insert the following provision in each solicitation where the total value of all contract awards under the solicitation is expected to exceed the simplified acquisition threshold:

PROTEST CONTENT (XXX 1997)

(a) Any protest filed by an interested party shall:

(1) Include the name, address, fax number, and telephone number of the protester;

(2) Identify the solicitation and/or contract number;

(3) Include an original signed by the protester or the protester's representative, and at least one copy;

(4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;

(5) Specifically request a ruling of the individual upon whom the protest is served;

(6) State the form of relief requested; and

(7) Provide all information establishing the timeliness of the protest.

(b) Failure to comply with the above may result in dismissal of the protest without further consideration.

(End of Provision)

12. Section 852.233–71 is added to read as follows:

§ 852.233–71 Alternate Protest Procedure.

As prescribed in 833.106, insert the following provision in each solicitation where the total value of all contract awards under the solicitation is expected to exceed the simplified acquisition threshold:

ALTERNATE PROTEST PROCEDURE (XXX 1997)

As an alternative to filing a protest with the contracting officer, an interested party may file a protest with the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, or, for solicitations issued by the Office of Facilities Management, the Chief Facilities Management Officer, Office of Facilities Management, 810 Vermont Avenue, NW, Washington, DC 20420. The protest will not be considered if the interested party has a protest on the same or similar issues pending with the contracting officer.

§ 852.236–73 [Removed]

13. Section 852.236–73 is removed.

[FR Doc. 97–23753 Filed 9–8–97; 8:45 am]

BILLING CODE 8320–01–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 97–45; Notice 1]

RIN 2127–AG84

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Federal motor vehicle safety standard on lighting to permit asymmetrical headlamp beams on motorcycle headlighting systems. An amendment of this nature would allow upper and lower beams to be emitted by separate dedicated headlamps on either side of a motorcycle's vertical centerline or by separate off center light sources within a single headlamp that is located on the vertical centerline. This action implements the grant of a rulemaking petition from Kawasaki Motors Corp.U.S.A. and represents a further step towards harmonization of Standard No. 108 with the lighting standards of other nations.

DATES: Comments are due October 24, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and must be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Safety Performance Standards, NHTSA (Phone: 202–366–5276).

SUPPLEMENTARY INFORMATION: Table IV of Motor Vehicle Safety Standard No. 108 specifies where motorcycle headlighting systems are to be located. If a motorcycle has a single headlamp, the headlamp must be mounted on the vehicle's vertical centerline. If two headlamps are provided, they must be symmetrically disposed around the vertical centerline. Under Standard No. 108, a center-mounted headlamp must provide upper and lower beams with a single light source, and each headlamp in a two-headlamp motorcycle headlighting system must provide both an upper and a lower beam with a single light source. In interpretation letters in 1994 and 1995, NHTSA advised Kawasaki Motors Corp. U.S.A. (Kawasaki) that a single-lamp headlighting system in which an upper beam or lower beam is provided by a single light source that is not on the vertical centerline is not permitted by Standard No. 108.

Kawasaki has developed a projector beam headlighting system which it wishes to offer on motorcycles that it sells in the United States. The system incorporates light sources that are not on the vertical centerline and that will typically be illuminated singly. The consequence is that the motorcycle will have a single-off center light source. Under the Kawasaki system, separate headlamps provide the upper and lower beam respectively, or separate light sources in a single headlamp, which lie on either side of the vertical centerline even if the headlamp itself is centered on it. Accordingly, Kawasaki has petitioned the agency for rulemaking to amend Standard No. 108 in a manner that would allow its asymmetrical headlighting system.

The agency has granted this petition. At the time that Standard No. 108 was issued, the predominant concern was that the headlighting system clearly identify a motorcycle as such when the vehicle was being operated at night. Thus, the location of a single headlamp on the vertical centerline was justifiable to distinguish the motorcycle from an approaching passenger car whose left headlamp was inoperative. To assist oncoming drivers in detecting the nature of an approaching vehicle, Standard No. 108 also requires passenger cars and light trucks to have parking lamps, and requires the parking lamps to be illuminated when the headlamps are on. Motorcycles are not required to have parking lamps, and their appearance at night will differ in this respect from that of a four-wheeled motor vehicle. Kawasaki has assured the agency that, in markets where projector beam headlamps are common, there has been no increase in crashes because of misjudgment of a motorcycle's presence.

This assurance allows the agency to contemplate the advisability of allowing a single beam to be projected somewhere other than on the vertical centerline. Kawasaki has brought the agency's attention to the Official Journal of the European Communities, Council Directive 93/92/EEC dated 29 October 1993. This Directive allows separate upper and lower beam headlamps, but specifies that their ''reference centers must be symmetrical in relation to the median longitudinal plane of the vehicle'', and that the distance between the edges of the illuminating surfaces of the two headlamps must not exceed 200 mm., i.e., approximately 8 inches. Adoption of this maximum separation distance should ensure that asymmetrical beams remain relatively close to the vertical centerline of the vehicle and do not mislead oncoming drivers. It will also ensure that NHTSA's amendment of Standard No. 108 would be consistent with regulations of other nations concerning the same lighting specification.

The agency is therefore proposing that Standard No. 108 be amended in a manner that would allow Kawasaki to use the projector beam headlighting system. Although traditionally motorcycle headlighting requirements have been contained in Tables III and IV, paragraph S7.9 Motorcycles has been added to Standard No. 108 to contain and set apart all motorcycle lighting performance requirements for ease of reference. This purpose will be enhanced by specifying headlighting location requirements as well. Accordingly NHTSA proposes that a new paragraph S7.9.6 be added which will contain the previous location requirements specified in Table IV as modified by the proposed changes to accommodate Kawasaki's request, and as discussed above. A two-headlamp system in which each headlamp

provides an upper and lower beam would continue to be mounted symmetrically disposed about the vertical centerline. The new paragraph would permit a two-headlamp system in which one headlamp provides an upper beam and the other a lower beam and which would have to be horizontally disposed and mounted at the same height, which is to say, with their center point at 90 degrees to either side of vertical, or vertically disposed, which is to say, placed one above the other on the vertical centerline. Similarly, the light sources in a single lamp providing different beams would have to be horizontally disposed and mounted at the same height, or vertically disposed. Table IV would be amended to delete the material which would be covered by S7.9.6.2 relating to mounting of headlamps, and a reference to S7.9 substituted.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Effective Date

Since the final rule would not impose any additional burden and is intended to afford an alternative to existing requirements, it is hereby tentatively found that an effective date earlier than 180 days after issuance of the final rule is in the public interest. The final rule would be effective 45 days after its publication in the **Federal Register**.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The effect of the rulemaking action would be to allow a motorcycle manufacturer a wider choice of headlighting systems with which to equip its vehicles. The final rule would not impose any additional burden upon any person. Impacts of the rule are so minimal as not to warrant preparation of a full regulatory evaluation.

Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action would not have a significant economic effect upon a substantial number of small entities. Motor vehicle manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would not be significantly affected since the price of new motor vehicles should not be impacted. As noted above, the final rule would afford an option to existing requirements, so that there are no mandatory cost impacts to this proposal. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism)

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

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action would not have a significant effect upon the environment as it does not affect the present method of manufacturing motorcycle headlamps.

Civil Justice Reform

This rulemaking action would not have any retroactive effect. Under 49 U.S.C. 30103, 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. Under 49 U.S.C. 30163, a procedure is set forth 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority section would continue to read as follows:

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

§ 571.108 [Amended]

2. Section 571.108 would be amended by adding new paragraph S7.9.6 and by amending Table IV by revising the entry for headlamps, to read as set forth below:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S7.9.6 A headlamp system shall be installed on a motorcycle in accordance with the requirements of this paragraph.

S7.9.6.1 The headlamp system shall be located on the front of the motorcycle, with each headlamp not less than 22 inches (55.9 cm), nor more than 54 inches (137.2 cm) above the

road surface measured from the center of the headlamp on the motorcycle at curb weight.

S7.9.6.2 (a) If the system consists of a single headlamp, it shall be mounted on the vertical centerline of the motorcycle. If the headlamp contains more than one light source, each light source shall be mounted on the vertical centerline or horizontally disposed about the vertical centerline and mounted at the same height. If the light sources are horizontally disposed about the vertical centerline, the distance between the closest edges of the effective projected luminous lens area in front of the light sources shall not be greater than 200 mm (8 in.).

(b) If the system consists of two headlamps, each of which provides both an upper and lower beam, the headlamps shall be mounted at the same height and symmetrically disposed about the vertical centerline.

(c) If the system consists of two headlamps, one of which provides an upper beam and one of which provides the lower beam, the headlamps shall be located on the vertical centerline, or horizontally disposed about the vertical centerline and mounted at the same height. If the headlamps are horizontally disposed about the vertical centerline, the distance between the closest edges of the effective projected luminous lens area of the headlamps shall not be greater than 200 mm (8 in.).

* * * * *

TABLE IV—LOCATION OF REQUIRED EQUIPMENT

[All Passenger Cars and Motorcycles, and Multipurpose Passenger Vehicles, Trucks, Trailers, and Buses of Less than 80 (2032) Inches (MM) Overall Width]

	Location on—		
Item	Passenger cars, multipurpose passenger vehicles, truck, trailers, and busses	Motorcycles	Height above road surface measured from center of item on vehicle at curb weight
Head-lamps ..	On the front, each headlamp providing the upper beam, at the same height, 1 on each side of the vertical centerline, each headlamp providing the lowe beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. See also S7..	See S7.9	Not less than 22 inches (55.9 cm) nor more than 54 inches (137.2 cm).

* * * * *

Issued on: August 28, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–23512 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 970829218–7218–01; I.D. 080597E]

RIN 0648–AK39

Options for Banning the Sale of Undersized Atlantic Swordfish

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

ACTION: Advanced notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: NMFS is requesting comments on the necessity of and options for rulemaking to impose a ban on the sale of all undersized swordfish, regardless of origin, in order to implement an International Convention for the Conservation of Atlantic Tunas(ICCAT) recommendation to ban the sale of Atlantic swordfish less than the adopted minimum size (73 cm measured cleithrum to keel (CK) or 33 lb dressed weight (dw)).

DATES: Written comments on this ANPR must be received on or before October 6, 1997.

ADDRESSES: Written comments should be addressed to Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, 301-713-2347 or Buck Sutter (813) 570–5447.

SUPPLEMENTARY INFORMATION:

Background

The fishable biomass of the north Atlantic swordfish stock is estimated to have declined 68 percent between 1963 and 1996. Prior to the early 1960s, the stock's biomass is estimated to have been nearly two times the level needed to produce MSY. By the beginning of 1996, its biomass was estimated to be 58 percent of the level needed to produce maximum sustainable yield (MSY). Similarly, the South Atlantic swordfish stock has been under increased fishing pressure.

ICCAT has adopted measures to reduce fishing mortality in the entire Atlantic Ocean. A 1991 ICCAT recommendation had established a minimum size for Atlantic swordfish of 79 cm CK (125 cm lower jaw fork length) with a discretionary 15–percent-per-trip (by number) tolerance. Even with the provision for tolerance, however, U.S. fishermen have continued to catch and discard many undersized fish.

In 1995, in order to protect small Atlantic swordfish, ICCAT adopted an alternative minimum size measure, recommending that each contracting party take necessary steps to prohibit the taking of swordfish in the Atlantic Ocean, as well as the landing and sale in each party's jurisdiction, of swordfish and swordfish parts less than 119 cm lower jaw fork length (73 cm or 29 inches CK)or the equivalent in weight (33 lb dw), provided that no tolerance of Atlantic swordfish smaller than this alternative minimum size was allowed.

According to the Standing Committee on Research and Statistics of ICCAT, the fishing mortality associated with the lower minimum size and zero tolerance is roughly equivalent to that with the higher minimum size and 15–percent tolerance. This same ICCAT alternative minimum size recommendation provided for a ban on the sale of fish less than the absolute minimum size.

In 1996, the United States implemented this lower minimum size limit in order to facilitate enforcement and reduce discards of juvenile fish, since most of the small swordfish brought in under the 15–percent tolerance were greater than the alternative minimum size. Having adopted the alternative, U.S. vessels operating in the North Atlantic, Gulf of

Mexico, and Caribbean Sea were no longer permitted to land any swordfish less than the minimum size.

However, given the considerable volume of domestic swordfish of Pacific Ocean origin and imported swordfish from all ocean areas that is entered into commerce, NMFS is considering whether it is necessary to prohibit the sale in the United States of all undersized swordfish, regardless of origin, in order to enforce the ICCAT recommendation regarding Atlantic swordfish.

Complicating Factors

Since the implementation of the alternative minimum size (61 FR 27304, May 31, 1996), NMFS has been researching the necessity of and options for implementing a ban on the sale of undersized swordfish. Many complicating factors make this ban a particular challenge.

The United States imports as much swordfish as it produces from both its Atlantic and Pacific fisheries. From 1975–1996, U.S. businesses imported an annual average of 3,167,093 kg (6,967,605 lb) of swordfish from 83 different countries. In the last 5 years (1992–1996), an annual average of 5,384,143 kg (11,845,114 lb) of swordfish has been imported into the United States from 51 countries with imports from Brazil, Canada, and Chile comprising 61 percent of the 1992–1996 imports. It is not known what proportion of these landings is comprised of undersized fish. Further, it is not currently known how many businesses import swordfish or process imported swordfish.

The ICCAT recommendation considers only Atlantic swordfish, however, domestic landings and imports of Pacific swordfish complicate monitoring and enforcement activities since genetic testing to distinguish the two stocks is complex and costly. NMFS intends to work with the Fishery Management Councils in the Pacific to assess the feasibility of applying the minimum size for Atlantic swordfish to Pacific and imported swordfish. Finally, it is not known what impact regulations that ban the possession of small swordfish or swordfish parts would have on foreign exporters and processors.

Alternatives

Should it be determined that rulemaking is necessary, NMFS is considering several alternatives to implement a ban on the sale of undersized swordfish, regardless of origin:

(1) A requirement that all swordfish importers obtain a valid dealer permit and that permitted dealers be prohibited from possessing swordfish or swordfish parts less than the minimum size.

This strategy may have a significant impact on those importers who also process swordfish, as well as countries that export processed swordfish (steaks, fillets). Furthermore, NMFS would need assistance on estimating the approximate number of businesses affected, both domestic and foreign.

(2) A ban on the possession of small swordfish by dealers unless the imported shipment were accompanied by a validated document from the country of origin that states that the swordfish or swordfish parts were obtained in a manner consistent with ICCAT recommendations.

While this is a very thorough strategy in tracking swordfish shipments, this documentation framework could be extremely cumbersome, costly, and a significant reporting burden to a large number of businesses. It would, however, identify the size of the whole fish, regardless of the product form(e.g., steaks, fillets) as well as its origin (flag country, ocean area of catch).

(3) A designation restricted ports of entry for Atlantic swordfish in order to effect inspection of shipments.

While this would facilitate enforcement of regulations, it would still require restrictions on imports (whole swordfish or pieces thereof weighing greater than 33 lb) and could be costly and burdensome to implement.

Request for Comments

NMFS solicits comments on possible implementation strategies of a ban on sale of swordfish less than the minimum size, regardless of origin, including any information that would enable NMFS to analyze the economic impacts (e.g., number of businesses), as well as to estimate any applicable reporting burden. Comments received on this ANPR will assist NMFS in determining the necessity of and options for rulemaking to impose a ban on the sale of undersized swordfish, regardless of origin.

Classification

This advanced notice of proposed rulemaking has been determined to be not significant for purposes of E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: September 3, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–23775 Filed 9-4-97; 2:28 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 174
Tuesday, September 9, 1997

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.

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATES: September 17, 1997.

PLACE: ARRB, 600 E STREET, NW., WASHINGTON, DC.

STATUS: CLOSED. OPEN: 1:30 P.M.

MATTERS TO BE CONSIDERED:

Closed Meeting:
1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

Open Meeting:
1. Selection of New Executive Director
2. Review and Accept Minutes of April 24 Open Meeting
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn,

General Counsel.

[FR Doc. 97–23939 Filed 9–5–97; 10:18 am]

BILLING CODE 6118–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 12:00 p.m. on Monday, September 22, 1997, at the Providence Marriott, One Orms Street, Providence, Rhode Island 02904. The purpose of the meeting is to conduct a briefing session on the effects of welfare reform on legal immigrants in Rhode Island, and to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert Lee, 401–863–1693, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 26, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–23747 Filed 9–8–97; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–804]

Cold-Rolled Carbon Steel Flat Products From the Netherlands: 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 from the petitioners and respondent, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on cold-rolled carbon steel flat products from the Netherlands. The review covers one manufacturer/exporter of the subject merchandise to the United States and the period August 1, 1995 through July 31, 1996.

We have preliminarily determined that respondent has made sales below normal value during the period of review. If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries.

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 (no longer than five pages, including footnotes).

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Helen M. Kramer or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0405 or 482–3833, respectively.

APPLICABLE STATUTE: Unless otherwise indicated, all citations to the Trade and 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 of 1994 (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to part 353 of 19 CFR, (1997).

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce published an antidumping duty order on cold-rolled carbon steel flat products from the Netherlands on August 19, 1993 (58 FR 44172). The Department published a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order for the 1995/1996 review period on August 12, 1996 (61 FR 41768). On August 23, 1996, the respondent, Hoogovens Staal BV, filed a request for review. On August 30, 1996, the petitioners filed a similar request. We published a notice of initiation of the review on September 17, 1996 (61 FR 48882).

Due to the complexity of issues involved in this case, the Department extended the time limit for completion of the preliminary results until September 2, 1997, in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675 (a)(3)(A)). The deadline for the final results of this review will continue to be 120 days after the date of publication of this notice. The Department is conducting this review in accordance with section 751 of the Act, as amended.

Scope of the Review

The products covered by this review include cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, i.e., aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 782(i)(3) of the Act, we verified information provided by Hoogovens at its headquarters in IJmuiden, the Netherlands, using standard verification procedures, including inspection of the manufacturing facilities, examination of relevant sales and financial records, and selection of original documentation containing relevant information. We also verified information provided by Hoogovens Steel USA, Inc. at its office in Scarsdale, New York.

United States Price (USP)

In calculating USP, the Department treated respondent's sales as export price (EP) sales, as defined in section 772(a) of the Act, when Hoogovens first sold the merchandise to unaffiliated U.S. purchasers prior to the date of importation. The Department treated respondent's sales as constructed export price (CEP) sales, as defined in section 772(b) of the Act, when the merchandise was first sold to unrelated U.S. purchasers after importation by an affiliated seller in the United States. All of the CEP sales of prime merchandise were further manufactured in the United States. A small number of CEP sales of secondary merchandise were sold ''as is.''

We calculated EP based on the delivered, duty-paid price to unaffiliated purchasers in the United States. We made adjustments, where applicable, for foreign inland freight, post-sale warehousing, ocean freight and marine insurance, brokerage and handling, U.S. inland freight, U.S. customs duties, early payment discounts and post-sale price adjustments in accordance with section 772(c) of the Act.

We based CEP on the delivered price to unaffiliated customers in the United States. We made deductions for foreign inland freight, ocean freight and marine insurance, brokerage and handling, U.S. inland freight, and U.S. customs duties. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, including credit expenses, indirect selling expenses, inventory carrying costs and where applicable, commissions and post-sale price adjustments. We split the reported indirect selling expenses into two groups: one consisting of the expenses of the New York office plus warranty and technical service expenses for U.S. sales, and the other consisting of indirect selling expenses incurred in the Netherlands and allocated to U.S. sales of subject merchandise. We deducted the first group from the CEP, but we did not deduct the second group or inventory carrying costs incurred in the home market for U.S. sales, because these expenses did not relate to economic activities in the United States. In accordance with section 772(d)(2) of the Act, we also deducted the cost of further manufacturing, including repacking expenses. We added general, administrative and interest expenses to the reported further manufacturing costs for certain sales involving additional processing by an unaffiliated contractor. Finally, we made an adjustment for an amount of profit allocated to these expenses in accordance with section 772(d)(3) of the Act, using information from respondent's audited financial statement.

Hoogovens also claimed an offsetting adjustment to U.S. indirect selling expenses for CEP sales to account for the cost of financing cash deposits during the POR. In recent determinations in the bearings cases, we accepted such an adjustment, mainly to account for the opportunity cost associated with making a deposit (i.e., the cost of having money unavailable for a period of time). See *e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825, 11826–30 (March 13, 1997); *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts thereof From France, et al.; Final Results of Antidumping Duty Administrative Review,* 62 FR 2081, 2104 (January 15, 1997). However, we have preliminarily determined to change our practice of accepting such an adjustment.

We are not convinced that there are such opportunity costs associated with paying deposits. Moreover, while it may be true that importers sometimes incur an expense if they borrow money in order to pay antidumping duty cash deposits, it is a fundamental principle that money is fungible within a corporate entity. Thus, if an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost. We find that the calculation of the dumping margin should not vary depending on whether a party has funds available to pay cash deposits or requires additional funds in the form of loans.

Therefore, we find that an adjustment to indirect selling expenses where parties have claimed financing costs for cash deposits is inappropriate and we have denied such adjustments for the preliminary results of this review. (See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts*

Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31568 (June 10, 1997).) We invite interested parties to comment on this issue.

Normal Value (NV)

In order to determine whether sales of the foreign like product in the home market are a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of subject merchandise sold in the United States, in accordance with section 773(a)(1)(C) of the Act. Hoogovens' aggregate volume of home market sales of the foreign like product was greater than five percent of its respective aggregate volume of U.S. sales of the subject merchandise. Therefore, we have based NV on home market sales.

Hoogovens made sales to both affiliated and unaffiliated customers in the home market during the period of review. We included sales to affiliated customers when we determined those sales to be at arms length (i.e., at weighted average prices that were 99.5 percent or more of weighted average prices for identical products sold to unaffiliated customers in the home market). When the weighted average price to an affiliated customer was less than 99.5 percent of the weighted average price to unaffiliated customers, or there were no sales of identical merchandise to unaffiliated customers, we excluded sales to that affiliated customer from our calculation of NV. See *e.g., Rules and Regulations, Antidumping Duties; Countervailing Duties* 62 FR 27296, 27355 (May 19, 1997): ''The Department's current policy is to consider transactions between affiliated parties as 'arm's length' if the prices to affiliated purchasers are on average at least 99.5 percent of the prices charged to unaffiliated purchasers.''

Home market prices were based on the packed, ex-factory or delivered prices to customers. We made deductions to NV for inland freight and insurance, early payment discounts, rebates, credit expenses, and packing. We made deductions or additions, as appropriate, for post-sale price adjustments.

Level of Trade (LOT)

In accordance with section 773(a)(1)(A) of the Act, and the Statement of Administrative Action (SAA) accompanying the URAA (at pages 829–831), to the extent practicable, the Department will calculate NV based on sales at the same LOT as the U.S. sale (either EP or CEP). When there are no sales in the comparison market at the same LOT as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different LOT, and adjust NV if appropriate. The NV LOT is that of the starting price of sales in the home market. (See *e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 31070 (June 6, 1997)).

As the Department explained in *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review, (Cement from Mexico)* 62 FR 17148, 17156 (April 9, 1997), for both EP and CEP, the relevant transaction for the LOT analysis is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses may yield a different LOT for the CEP than for the later resale (which we use for the starting price).

To determine whether home market sales were at a different LOT than U.S. sales, we examine whether the home market sales were at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT. Customer categories such as distributor, retailers or end-users are commonly used by respondents to describe levels of trade, but without substantiation, they are insufficient to establish that a claimed LOT is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if levels of trade are nominally the same, the selling functions performed should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Differences in levels of trade are characterized by purchasers at different stages of marketing or their equivalent, which may be different stages in the chain of distribution and sellers performing qualitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different LOT, we make a LOT adjustment if the difference in LOT affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in the home market (or the third-country market) used to calculate NV. Any price effect must be manifested in a pattern of consistent price differences between home market (or third-country) sales used for comparison and sales at the equivalent LOT of the export transaction. (See, *e.g. Granular Polytetrafluorethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 26283, 26285 (May 13, 1997); *Cement from Mexico,* at 17148.) To quantify the price differences, we calculate the difference in the weighted average of the net prices of the same models sold at different levels of trade in the home market. Net prices are used because any difference will be due to differences in LOT rather than other factors. We use the average percentage difference between these weighted averages to adjust NV when the LOT of NV is different from that of the export sale. If there is a pattern of no price differences, then the difference in LOT does not have a price effect and no adjustment is necessary.

In the case of CEP sales, section 773 of the statute also provides for an adjustment to NV if it is compared to U.S. sales at a different LOT, provided the NV is more remote from the factory than the CEP sales and we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation might occur when there is no home market (or third-country) LOT equivalent to the U.S. sales level, or where there is an equivalent home market (or third-country) level, but the data are insufficient to support a conclusion on price effect. (See *e.g., Certain Corrosion Resistant Carbon Steel Flat Products and Cut-to-Length Carbon Steel Plate from Canada; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 18448, 18466 (April 15,

1997)). This adjustment, the CEP offset, is identified in section 773(a)(7)(B) and is the lower of the (1) indirect selling expenses of the home market (or third-country) sale; or (2) indirect selling expenses deducted from the starting price used to calculate CEP. The CEP offset is not automatic each time we use CEP. (See *Mechanical Transfer Presses from Japan, Final Results of Antidumping Administrative Review,* 62 FR 17148, 17156 (October 9, 1996)). The CEP offset is made only when the LOT of the home market (or third country) sale is more advanced than the LOT of the U.S. CEP sale and there is not an appropriate basis for determining whether there is an effect on price comparability. (See *e.g., Cement from Mexico,* at 17156.)

In implementing this principle in this review, we requested information concerning the selling functions associated with each phase of marketing, or the equivalent, in each of Hoogovens' markets. In its response, Hoogovens stated that it cannot differentiate among the selling functions performed and services offered to different classes of home market and export price customers. Further, at verification, the senior sales executive stated that the same services are provided to all customers, including the U.S. affiliated companies.

In this review, the affiliated importer of record did not take title to or possession of the merchandise, which was shipped directly by the manufacturer to affiliated steel service centers in the United States. We calculated the CEP by removing from the first resale to an independent U.S. customer the expenses under section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by the affiliated service centers, which further process the merchandise. Hoogovens claimed it had no home market sales at a LOT equivalent to the CEP LOT. The company argued that the CEP price is adjusted to the equivalent of an ex-factory LOT, but the starting price of its home market sales includes selling expenses not reflected in the adjusted CEP price, such as indirect selling activities, indirect warranty and technical service expenses, and inventory carrying costs. Hoogovens therefore claimed that the home market LOT is a more advanced LOT than the adjusted CEP LOT, and requested that the Department make an adjustment to normal value for indirect selling expenses up to the amount of indirect selling expenses deducted from CEP.

In reviewing the selling functions reported by Hoogovens, we considered the selling functions performed in the home market for domestic sales and the selling functions performed in the home market for sales to the affiliated resellers in the United States (functions associated with allocated indirect expenses that we did not deduct from CEP). For this review, we determined that the following selling functions and activities occur in relation to Hoogovens' sales of subject merchandise in the domestic and U.S. markets: (1) Carrying inventory, and (2) maintaining a sales office and Quality Assurance Department in IJmuiden. We did not consider packing arrangements to be a selling function, since packing is accounted for in the Department's calculations as a separate adjustment.

We examined the selling functions performed by Hoogovens with respect to both markets to determine whether U.S. sales can be matched to home market sales at the same LOT. Hoogovens' sales office in IJmuiden made EP sales directly to two categories of customers: end users and service centers. These are the same categories as in the home market, and in both markets there was only one channel of distribution, *i.e.,* direct sales. In addition, Hoogovens reported the same types of selling activities in both markets. Therefore, the EP sales are at the same LOT as the comparison market sales.

For the sales made by Hoogovens' affiliated companies, Rafferty-Brown Steel Company, Inc. of Connecticut (RBC) and Rafferty-Brown Steel Company of North Carolina (RBN), the LOT of the U.S. sales is determined for the CEP rather than for the starting price to unaffiliated purchasers. In the current review, the CEP sales reflect certain selling functions, such as carrying inventory from the time between production at IJmuiden and Customs clearance at the U.S. port of entry, at which time the merchandise entered the inventory of either RBC or RBN, and maintaining a sales office in IJmuiden. Although delivery times are shorter for domestic sales, Hoogovens also carries inventory for these sales and operates the sales office. Therefore, we have determined that there are no differences in LOT and neither a LOT adjustment nor a CEP offset is warranted in this review.

Sales Comparisons

To determine whether sales of cold-rolled carbon steel flat products in the United States were made at less than fair value, we compared USP to the NV, as described in the ''United States Price'' and ''Normal Value'' sections of this notice. In accordance with section 777(A) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions. When there were no contemporaneous home market sales of the foreign like product, we used constructed value (CV) as the basis for normal value, in accordance with section 773(a)(4) of the Act. All the sales to which CV was applied were CEP sales of secondary merchandise. We calculated CV in accordance with section 773(e) of the Act and the methodology enunciated in the Memorandum of April 19, 1995, entitled ''Treatment of Non-Prime Merchandise for the First Administrative Review of Certain Carbon Steel Flat Products.'' We included the cost of manufacture, and selling, general and administrative expenses (SG&A). In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses on the amounts incurred by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market. For selling expenses, we used the weighted average home market selling expenses. For profits we used the audited 1995 Profit and Loss Statement for Hoogovens Staalbedrijf (Steel Division) to determine the ratio of profit to expenses for merchandise in the same general category of products as the subject merchandise, in accordance with section 773(e)(2)(B)(i) of the Act. We adjusted CV for credit expenses.

Reimbursement

Section 353.26 of the antidumping regulations requires the Department to deduct from USP the amount of any antidumping duty that is reimbursed to the importer. Based on verified evidence on the record in this review, including the revised agency agreement between Hoogovens and Hoogovens Steel USA, the Department has preliminarily determined that Hoogovens Steel USA, the importer of record, is solely responsible for the payment of antidumping duties. Therefore, for this period of review, we have determined that Hoogovens has not reimbursed Hoogovens Steel USA for antidumping duties to be assessed. See the public version of the proprietary memorandum on Reimbursement dated August 29, 1997, in Import Administration's Central Records Unit.

Duty Absorption

On October 15, 1996, the petitioners requested, pursuant to section 751(a)(4) of the Act, that the Department determine whether antidumping duties had been absorbed by respondent during the POR. Section 751(a)(4)

provides for the Department, if requested, to determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Act by the URAA. The Department's current regulations do not address this provision of the Act.

For transition orders as defined in section 751(c)(6)(C) of the Act, *i.e., orders in effect as of January 1, 1995, § 351.213(j)(2) of the Department's new antidumping regulations provides that the Department will make a duty absorption determination, if requested, in any administrative review initiated in 1996 or 1998. See 19 CFR § 351.213(j)(2), 62 FR 27394 (May 19, 1997). While the new regulations are not binding on the Department in the instant reviews, which were initiated under the interim regulations, they nevertheless serve as a statement of departmental policy. Because the order on certain cold-rolled carbon steel flat products from the Netherlands has been in effect since 1993, it is a transition order in accordance with section 751(c)(6)(C) of the Act. Since this review was initiated in 1996 and a request for a duty-absorption inquiry was made, the Department will undertake a duty absorption inquiry as part of this administrative review.*

The Act provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In this case, the reviewed firm sold through an importer of record, Hoogovens Steel USA, Inc., that is ''affiliated'' within the meaning of section 751(a)(4) of the Act. Furthermore, we have preliminarily determined that there are dumping margins for respondent with respect to 18.50 percent of its U.S. sales, by quantity.

We presume that the duties will be absorbed for those sales which were dumped. This presumption can be rebutted with evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty. However, there is no such evidence on the record. Under these circumstances, we preliminarily find that antidumping duties have been absorbed by Hoogovens Steel BV on the percentages of U.S. sales indicated. If interested parties wish to submit evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty, they must do so no later than 15 days after publication of these preliminary results.

Preliminary Results of Review

We preliminarily determine that the following margin exists for the period August 1, 1995 through July 31, 1996:

Company	Margin (percent)
Hoogovens Steel BV	1.95

Parties to this proceeding may request disclosure within five days of publication of this notice and 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 working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review 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 cold-rolled carbon steel flat products from the Netherlands 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 the reviewed firm will be the rate established in the final results of administrative review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 353.6, in which case the cash deposit rate will be zero; (2) if the exporter is not a firm covered in this 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; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original fair value investigation, the cash deposit rate will be 19.32 percent.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23849 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815 & A–580–816]

Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests from three respondents and from the petitioners in the original investigation, the Department of Commerce (''the Department'') is conducting administrative reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea. These reviews cover three manufacturers and exporters of the subject merchandise. The period of review (''POR'') is August 1, 1995, through July 31, 1996.

We preliminarily determine that sales have been made below normal value (''NV''). If these preliminary results are adopted in our final results of administrative reviews, we will instruct U.S. Customs to assess antidumping duties based on the difference between

export price (''EP'') or constructed export price (''CEP'') and NV.

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: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Fred Baker (Dongbu), Steve Bezirganian (POSCO), Thomas Killiam or Alain Letort (Union), or John Kugelman, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; telephone (202) 482–2924 (Baker), –1395 (Bezirganian), –2704 (Killiam), –4243 (Letort), or –0649 (Kugelman).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR part 353 (April 1997). Although the Department's new regulations, codified at 19 CFR part 351 (62 FR 27296—May 19, 1997), do not govern these proceedings, citations to those regulations are provided, where appropriate, to explain current departmental practice.

Background

The Department published antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea on August 19, 1993 (58 FR 44159). The Department published a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty orders for the 1995/96 review period on August 12, 1996 (61 FR 41768). On August 31, 1996, respondents Dongbu Steel Co., Ltd. (''Dongbu''), Union Steel Manufacturing Co., Ltd. (''Union''), and Pohang Iron and Steel Co., Ltd. (''POSCO''), requested that the Department conduct administrative reviews of the antidumping duty orders on cold-rolled and corrosion-resistant carbon steel flat products from Korea. On the same day, the petitioners in the original less-than-fair-value (''LTFV'') investigations (AK Steel Corporation; Bethlehem Steel Corporation; Inland Steel Industries, Inc.; LTV Steel Co., Inc.; National Steel Corporation; and U.S. Steel Group, a unit of USX Corporation) filed a similar request. We initiated these reviews on September 13, 1996 (61 FR 48882—September 17, 1996).

On October 7, 1996, the petitioners requested, pursuant to section 751(a)(4) of the Act, that the Department determine whether antidumping duties had been absorbed by the respondents during the POR. Section 751(a)(4) provides for the Department, if requested, to determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Act by the URAA.

The regulations governing these reviews do not address this provision of the Act. However, for transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.,* orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's new antidumping regulations provides that the Department will make a duty-absorption determination, if requested, in any administrative review initiated in 1996 or 1998. *See* 19 CFR 351.213(j)(2), 62 FR at 27394. As noted above, while the new regulations do not govern the instant reviews, they nevertheless serve as a statement of departmental policy. Because the orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea have been in effect since 1993, they are transition orders in accordance with section 751(c)(6)(C) of the Act. Since these reviews were initiated in 1996 and a request for a duty-absorption inquiry was made, the Department will undertake a duty-absorption inquiry as part of these administrative reviews.

The Act provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In these cases, all reviewed firms sold through importers that are ''affiliated'' within the meaning of section 751(a)(4) of the Act. Furthermore, we have preliminarily determined that there are dumping margins for the following firms with respect to the percentages of their U.S. sales, by quantity, indicated below:

Name of firm	Class or kind of merchandise	Percentage of U.S. affiliate's sales with dumping margins
Dongbu	Cold-Rolled ..	0.00%.
	Corrosion-Resistant.	5.98%
POSCO	Cold-Rolled ..	10.07%
	Corrosion-Resistant.	10.63%.
Union	Cold-Rolled ..	No U.S. sales in POR.
	Corrosion-Resistant.	7.88%.

We presume that the duties will be absorbed for those sales which were dumped. This presumption can be rebutted with evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty. However, there is no such evidence on the record. Under these circumstances, we preliminarily find that antidumping duties have been absorbed by the above-listed firms on the percentages of U.S. sales indicated. If interested parties wish to submit evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty, they must do so no later than 15 days after publication of these preliminary results.

Under the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On February 18, 1997, and again on July 18, 1997, the Department extended the time limits for the preliminary results in these cases. *See Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Extension of Time Limits for Antidumping Duty Administrative Reviews,* 62 FR 40333 (July 28, 1997).

The Department is conducting these administrative reviews in accordance with section 751 of the Act.

Scope of the Reviews

The review of ''certain cold-rolled carbon steel flat products'' covers cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150

millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (''HTS'') under item numbers 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review is certain shadow mask steel, *i.e.*, aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface.

The review of ''certain corrosion-resistant carbon steel flat products'' covers flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this review are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this review are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

These HTS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

The POR is August 1, 1995 through July 31, 1996. These reviews cover sales of certain cold-rolled and corrosion-resistant carbon steel flat products by Dongbu, Union, and POSCO.

Verification

As provided in section 782(i)(3) of the Act, we verified information provided by the respondents using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the EP (or CEP) and NV of each entry of subject merchandise.

In determining NV, based on our review of the submissions by Dongbu and Union, the Department determined that Dongbu and Union need not report ''downstream'' sales by affiliated resellers in the home market because of their small quantity. With respect to POSCO, based on our review of the respondent's submissions, the Department determined that POSCO need not report the home market downstream sales of the service centers in which it owns a minority stake because it appears that they would have a minimal effect upon the calculation of NV, and such reporting would constitute an enormous burden. *See* Memorandum to Richard O. Weible from Steve Bezirganian (August 29, 1997).

For purposes of these reviews, we are treating POSCO, Pohang Coated Steel Co., Ltd. (''POCOS''), and Pohang Steel Industries Co., Ltd. (''PSI'') as affiliated parties and have ''collapsed'' them as a single producer of certain cold-rolled carbon steel flat products (POSCO and PSI) and certain corrosion-resistant carbon steel flat products (POSCO, POCOS, and PSI). POSCO, POCOS, and PSI were already collapsed in previous segments of these proceedings. *See, e.g., Final Determinations of Sales at Less Than Fair Value: 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 Korea,* 58 FR 37176 (July 9, 1993). The POSCO group has submitted no information which would cause us to change that treatment.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all cold-rolled carbon steel flat products produced by the respondents, covered by the descriptions in the ''Scope of the Reviews'' section of this notice, *supra,* and sold in the home market during the POR, to be foreign like products for the purpose of determining appropriate product comparisons to U.S. sales of cold-rolled carbon steel flat products. Likewise, we considered all corrosion-resistant carbon steel flat products produced by the respondents and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to corrosion-resistant

carbon steel flat products sold in the United States. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's September 19, 1996 antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent and verified by the Department. Where sales were made in the home market on a different weight basis from the U.S. market (theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the respondents, before making our fair-value comparisons.

Fair-Value Comparisons

To determine whether sales of certain cold-rolled and corrosion-resistant carbon steel flat products by the respondents to the United States were made at less than fair value, we compared EP (or CEP) to NV, as described in the ''Export Price (or Constructed Export Price)'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Use of Home-Market Sales

Section 773(a)(1)(C)(iii) of the Act provides that the Department will use third-country sales as the basis for normal value if ''the particular market situation in the exporting country does not permit a proper comparison with the export price or the constructed export price.'' Section B.2.a(1) of the Statement of Administrative Action, which accompanied the passage of the URAA (H.R. Doc. No. 3106, 103rd Cong., 2nd Sess. 829–831 (1994)) (''SAA''), further states that ''Commerce may determine that home market sales are inappropriate as a basis for determining normal value if the particular market situation would not permit a proper comparison.'' SAA at 822. The statute does not define ''particular market situation,'' but the SAA indicates that ''such a situation might exist where a single sale in the home market constitutes five percent of sales to the United States or where there is government control over pricing to such an extent that home market prices cannot be considered to be competitively set.'' *Id.*

On October 24 and November 22, 1996, and again on March 17, 1997, the petitioners alleged that the Government of Korea controls steel prices in Korea and that the home-market prices reported by respondents are therefore not true market prices. Claiming that the home market could not be used, the petitioners requested that the Department collect third-country sales information for each of the Korean respondents, and use the respondents' sales of subject merchandise to third countries for purposes of comparison with prices in the U.S. market.

On April 15, 1997, the Department published in the **Federal Register** its notice of final results of administrative reviews in the previous segment of these proceedings. In that notice the Department found that ''while there (was) some evidence of a substantial level of Korean government involvement in domestic steel pricing, there was not ''convincing'' evidence that the Korean government controlled domestic steel prices ''to such an extent that home market prices cannot be considered to be competitively set.'' In other words, petitioners failed to meet the burden of demonstrating that there is a ''reasonable basis for believing that a ''particular market situation'' exists.'' *See* ''Explanation to the Final Rules,'' section 351.404, in the new regulations at 62 FR 27357 (May 19, 1997). We determined, therefore, that the Korean home market was viable and appropriate as a basis for NV. No factual information has been submitted in the record of these proceedings that would lead us to modify this decision. We determine, therefore, that the Korean home market still provides an appropriate basis for calculating NV.

Date of Sale

It is the Department's current practice normally to use the invoice date as the date of sale; we may, however, use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i) (62 FR at 27411).

The questionnaire we sent to the respondents on September 19, 1997 instructed them to report the date of invoice as the date of sale; it also stated, however, that ''[t]he date of sale cannot occur after the date of shipment.'' Because in these reviews the date of shipment in many instances preceded the date of invoice, we cannot use the date of invoice as the new regulations prescribe. Accordingly, as allowed by the exception set forth in § 351.401(i) of the new regulations, we used the dates of sale described below. These sale dates reflect the dates on which the exporter or producer established the material terms of sale.

A. Dongbu

Rather than the date of invoice, we used the date of shipment as the date of sale for home-market sales by Dongbu, and the contract date as the date of sale for Dongbu's U.S. sales. We based the date of sale on those dates because the material terms of sale could, and did, change until those dates.

B. POSCO

Rather than the date of invoice, we used the date of shipment as the date of sale for all sales by the POSCO group. We based the date of sale on this date because the material terms of sale could, and did, change until that date.

C. Union

Rather than the date of invoice, we used the date of shipment as the date of sale for home-market sales by Union, and the contract date as the date of sale for Union's U.S. sales. We based the date of sale on those dates because the material terms of sale could, and did, change until those dates.

Export Price (or Constructed Export Price)

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Act, when the subject merchandise was sold to unaffiliated purchasers in the United States prior to the date of importation. In certain instances, however, we determined that CEP, as defined in section 772(b) of the Act, was a more appropriate basis for comparison with NV.

We determined that some of the sales Dongbu reported as EP sales were actually CEP sales because they were sold to the first unaffiliated customer in the U.S. after importation into U.S. customs territory. We also determined that some of those sales were made outside the period of review. We will review these sales in the review covering the period during which those sales were made. With regard to Union, we used CEP as the basis for comparison with NV in certain instances where sales were made prior to importation and Union's U.S. affiliate had substantial involvement in the U.S. sale. In these cases, our determination was based on the following facts: (a) Union America (''UA'') and later Dongkuk International (''DKA''), Union's sales office in the United States, was the importer of record and took title to the merchandise; (b) UA or DKA financed the relevant sales transactions; (c) UA

arranged to have the merchandise further processed by an outside contractor in the United States on a fee-for-service basis and paid for the further processing; and (d) UA or DKA assumed the seller's risk.

Although these are the only sales we are reclassifying as CEP, for the final review results we will consider whether other sales claimed by respondents to be indirect EP sales should in fact be reclassified as CEP sales. We will reexamine the issues surrounding the affiliate's selling activities and sales operations in the United States in determining whether a particular sale should be considered indirect EP or CEP.

For all three respondents, we calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, U.S. Customs duties, and that portion of markups by affiliated trading companies categorized as movement expenses; we also added duty drawback to the starting price.

We calculated CEP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, U.S. Customs duties, commissions, credit expenses, warranty expenses, indirect selling expenses, and further processing in the United States; we also added duty drawback to the starting price. Finally, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. We excluded certain ''overrun'' sales in the home market from our sales comparisons because these sales were outside the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, inland freight (offset, where applicable, by freight revenue), inland insurance, and packing. We also deducted value-added tax (''VAT'') since the reported gross unit price included VAT. Based on our verification of home-market sales responses, we made adjustments to NV, where appropriate, for differences in credit expenses (offset, where applicable, by interest income), warranty expenses, post-sale warehousing, and for differences in weight basis. We also made adjustments, where appropriate, for home-market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

In comparisons to EP and CEP sales, we also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

Differences in Levels of Trade

In accordance with section 773(a)(1)(A) of the Act and the SAA 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. sale (either EP or CEP). When there are no sales in the comparison market at the same LOT as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different LOT, and adjust NV if appropriate. The NV LOT is that of the starting price of sales in the home market. *See, e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 31070 (June 6, 1997).

As the Department explained in *Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review,* (''*Cement from Mexico*'') (62 FR 17148, 17156—April 9, 1997), for both EP and CEP, the relevant transaction for the LOT analysis is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses may yield a different LOT for the CEP than for the later resale (which we use for the starting price).

To determine whether home-market sales were at a different LOT than U.S. sales, we examine whether the home-market sales were at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed LOT. Customer categories such as distributor, retailers or end-users are commonly used by respondents to describe levels of trade, but without substantiation, they are insufficient to establish that a claimed LOT is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if levels of trade are nominally the same, the selling functions performed should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Differences in levels of trade are characterized by purchasers at different stages of marketing or their equivalent, which may be different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home-market sales at a different LOT, we make a LOT adjustment if the difference in LOT affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in the home market (or the third-country market) used to calculate NV. Any price effect must be manifested in a pattern of consistent price differences between home-market (or third-country) sales used for comparison and sales at the equivalent LOT of the export transaction. *See, e.g. Granular Polytetrafluorethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 26283, 26285 (May 13, 1997); *Cement from Mexico* at 17148.) To quantify the

price differences, we calculate the difference in the weighted average of the net prices of the same models sold at different levels of trade in the home market. Net prices are used because any difference will be due to differences in LOT rather than other factors. We use the average percentage difference between these weighted averages to adjust NV when the LOT of NV is different from that of the export sale. If there is a pattern of no price differences, then the difference in LOT does not have a price effect and no adjustment is necessary.

In the case of CEP sales, section 773 of the statute also provides for an adjustment to NV if it is compared to U.S. sales at a different LOT, provided the NV is more remote from the factory than the CEP sales and we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation might occur when there is no home-market (or third-country) LOT equivalent to the U.S. sales level, or where there is an equivalent home-market (or third-country) level, but the data are insufficient to support a conclusion on price effect. *See, e.g., Certain Corrosion Resistant Carbon Steel Flat Products and Cut-to-Length Carbon Steel Plate from Canada; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 18448, 18466 (April 15, 1997). This adjustment, the CEP offset, is identified in section 773(a)(7)(B) and is the lower of the (1) indirect selling expenses of the home-market (or third-country) sale; or (2) indirect selling expenses deducted from the starting price used to calculate CEP. The CEP offset is not automatic each time we use CEP. *See Mechanical Transfer Presses from Japan, Final Results of Antidumping Administrative Review,* 62 FR 17148, 17156 (October 9, 1996). The CEP offset is made only when the LOT of the home-market (or third country) sale is more advanced than the LOT of the U.S. CEP sale and there is not an appropriate basis for determining whether there is an effect on price comparability. *See, e.g., Cement from Mexico,* at 17156.

A. Dongbu

In its questionnaire responses, Dongbu stated that there were no differences in its selling activities by customer categories within each market. In order independently to confirm the absence of separate levels of trade within or between the U.S. and home-markets, we examined Dongbu's questionnaire responses for indications that Dongbu's functions as a seller differed qualitatively and quantitatively among customer categories. *See* commentary to § 351.412 of the Department's new regulations (62 FR at 27371).

Dongbu sold to local distributors and end-users in the U.S. market. In the home market, Dongbu also sold to local distributors and end-users. At both stages of distribution, Dongbu performed the same selling and marketing functions for all its home-market and U.S. customers. In accordance with section 773(a)(1)(B)(i) of the Act, we consider the selling functions reflected in the starting price of home-market sales before any adjustments. Our analysis of the questionnaire response leads us to conclude that sales within or between each market are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level of trade. Therefore, all price comparisons are at the same level of trade and any adjustment pursuant to section 773(a)(7) of the Act is unwarranted.

B. POSCO

In its questionnaire responses, POSCO stated that its home-market sales by affiliated service centers were at a different level of trade than its other home-market sales and its U.S. sales (regardless of the customer category). The respondent indicated that the service centers provide certain selling functions to all of their customers, while POSCO and its selling arms (*e.g.,* POCOS or PSI) provide a different set of selling functions to all of their customers (including the service centers).

In order independently to confirm the presence of separate levels of trade within or between the U.S. and home markets, we examined POSCO's questionnaire responses for indications of substantive differences in selling and marketing functions, and reviewed this issue during the sales verification in Korea. *See* commentary to § 351.412 of the Department's new regulations (62 FR at 27371).

The POSCO group did not provide evidence of differences in selling functions to support its characterization of its home-market service-center sales as a different level of trade from its U.S. sales and its other home-market sales. The POSCO group indicated at verification that selling functions were unchanged from the second administrative review period, and for that segment of these proceedings the Department treated all POSCO group sales in both markets as having been at the same level of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level of trade. Therefore, all price comparisons are at the same level of trade and any adjustment pursuant to section 773(a)(7) of the Act is unwarranted.

C. Union

In its questionnaire responses, Union stated that there were no differences in its selling activities by customer categories within each market. In order independently to confirm the absence of separate levels of trade within or between the U.S. and home markets, we examined Union's questionnaire responses for indications that Union's functions as a seller differed, qualitatively and quantitatively, among customer categories. *See* commentary to § 351.412 of the Department's new regulations (62 FR at 27371).

Union sold to unrelated distributors and end-users in the U.S. market. In the home market, Union sold to unrelated distributors and end-users and to related distributors for sale to unrelated end-users. At both stages of distribution, Union performed the same selling and marketing functions for sales to all its home-market and U.S. sales. In identifying the level of trade for CEP sales, we considered only the selling activities reflected in the U.S. price after deduction of expenses and profit under section 772(d) of the Act. In accordance with section 773(a)(1)(B)(i) of the Act, we consider the selling functions reflected in the starting price of home-market sales before any adjustments. Our analysis of the questionnaire response leads us to conclude that sales within and between each market are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level of trade. Therefore, all price comparisons are at the same level of trade and any adjustment pursuant to section 773(a)(7) of the Act is unwarranted.

Cost-of-Production Analysis

At the time the questionnaires were issued in these reviews, the LTFV investigations were the most recently completed segments of these proceedings in which POSCO had participated. Because we disregarded certain below-cost sales by POSCO in the investigations, we found reasonable grounds in these reviews, in accordance with section 773(b)(2)(A)(ii) of the Act, to believe or suspect that POSCO made sales in the home market at prices below the cost of producing the merchandise.

Furthermore, based on the fact that we had disregarded certain sales by Dongbu and Union in the first administrative review of the antidumping duty order on certain corrosion-resistant flat products because they were made below the COP, we found reasonable grounds in these reviews, in accordance with section 773(b)(2)(A)(ii) of the Act, to believe or suspect that Dongbu and Union made sales of certain corrosion-resistant flat products in the home market at prices below the cost of producing the merchandise. Finally, petitioners alleged, on January 8, 1997, that Dongbu sold certain cold-rolled carbon steel flat products in the home market at prices below COP. Based on these allegations, the Department determined, on April 9, 1997, that it had reasonable grounds to believe or suspect that Dongbu had sold the subject merchandise in the home market at prices below the COP. We therefore initiated cost investigations with regard to Dongbu, POSCO, and Union in order to determine whether the respondents made home-market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

Before making any fair-value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling, general, and administrative expenses (''SG&A''), and packing costs in accordance with section 773(b)(3) of the Act.

For certain POCOS and POSCO control numbers, we revised the cost of manufacturing (''COM'') to reflect differences in production costs associated with differences in quality, thickness, and coating weight.

B. Test of Home-Market Prices

We used the respondents' weighted-average COP, as adjusted (see above), for the period July 1995 to June 1996. We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act, and were not at prices which would permit recovery of all costs within an extended period of time, in accordance with section 773(b)(2)(D) of the Act. When we found that below-cost sales had been made in ''substantial quantities'' and were not at prices which would permit recovery of all costs within a reasonable period of time, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act. Where all contemporaneous sales of a specific comparison product were at prices below the COP, we calculated NV based on CV.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of respondents' cost of materials, fabrication, SG&A, U.S. packing costs, interest expenses, and profit. In accordance with sections 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home-market selling expenses. Based on our verification of the cost responses submitted by POSCO, we adjusted that respondent's reported CV to reflect adjustments to COM and G&A, as detailed in the ''Calculation of COP'' section of this notice. We also made adjustments, where appropriate, for home-market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See, e.g., Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review* (61 FR 8915, 8918—March 6, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days. When we determined a fluctuation existed, we substituted the benchmark for the daily rate.

Preliminary Results of the Reviews

As a result of these reviews, we preliminarily determine that the following weighted-average dumping margins exist:

Producer/manufacturer/exporter	Weighted-average margin (percent)
Certain Cold-Rolled Carbon Steel Flat Products:	
Dongbu	0.00
POSCO	3.40
Certain Corrosion-Resistant Carbon Steel Flat Products:	
Dongbu	0.09
POSCO0	0.32
Union	0.63

Parties to this proceeding may request disclosure within five days of publication of this notice and 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 working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of the administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section

751(a)(1) of the Act: (1) The cash deposit rate for each respondent will be the rate established in the final results of these administrative reviews (except that no deposit will be required for firms with zero or *de minimis* margins, *i.e.*, margins lower than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original LTFV investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any prior reviews, the cash deposit rate will be 14.44 percent (for certain cold-rolled carbon steel flat products) and 17.70 percent (for certain corrosion-resistant carbon steel flat products), the ''all others'' rate established in the LTFV investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews 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 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23857 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822, A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. These reviews cover five manufacturers/exporters of the subject merchandise to the United States and the period August 1, 1995 through July 31, 1996.

We have preliminarily determined that sales have been made below normal value (''NV'') by various companies subject to these reviews. If these preliminary results are adopted in our final results of these administrative reviews, we will instruct U.S. Customs to assess antidumping duties based on the difference between the export price (''EP'') and the NV.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski (Dofasco Inc. and Sorevco Inc. (''Dofasco'')), Carrie Blozy (Continuous Colour Coat (''CCC'')), Greg Weber (Algoma, Inc. (''Algoma'')) and Gerdau MRM Steel (''MRM'')), N. Gerard Zapiain (Stelco, Inc. (''Stelco'')), or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are 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 19 CFR Part 353, as they existed on April 1, 1996.

Background

On August 19, 1993, the Department published in the **Federal Register** (58 FR 44162) the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. On August 16, 1996, Algoma (cut-to-length steel plate) requested a review of its exports of subject merchandise. On August 21, 1996, MRM (cut-to-length steel plate) requested a review of its exports of subject merchandise. On August 30, 1996, the following companies also requested reviews for their exports of subject merchandise: CCC (corrosion-resistant steel), Dofasco (corrosion-resistant steel), and Stelco (corrosion-resistant steel and cut-to-length steel plate). On August 30, 1996, Bethlehem Steel Corporation, U.S. Steel Group (a Unit of USX Corporation), Inland Steel Industries Inc., Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, Geneva Steel, and Lukens Steel Company, petitioners, requested reviews of Algoma, CCC, Dofasco, MRM, and Stelco on both classes or kinds of merchandise. On September 17, 1996, in accordance with 19 CFR 353.22(c), we published a notice of initiation of administrative reviews of these orders for the period August 1, 1995, through July 31, 1996 (61 FR 51892).

On October 10, 1996, petitioners requested that the Department determine whether antidumping duties had been absorbed by Algoma, CCC, Dofasco, MRM, Sorevco, and Stelco during the POR, pursuant to section 751(a)(4) of the Act. Section 751(a)(4) provides that the Department, if requested, will determine during an administrative review initiated two years or four years after publication of the order whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Act by the URAA. The Department's interim regulations do not address this provision of the Act.

For transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect as of January 1, 1995, § 351.213(j)(2) of the Department's May 19, 1997 regulations provides that the Department will make a duty absorption determination, if requested, for any administrative review initiated in 1996 or 1998. *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27394 (''new regulations'').

Although these new regulations do not govern these administrative reviews, they do constitute a public statement of how the Department will proceed in construing section 751(a)(4) of the Act. This approach assures that interested parties will have the opportunity to request a duty absorption determination on entries for which the second and fourth years following an order have already passed, prior to the time for sunset review of the order under section 751(c). Because the orders on corrosion-resistant carbon steel flat products and cut-to-length carbon steel plate from Canada have been in effect since 1993, these are transition orders in accordance with section 751(c)(6)(C) of the Act; therefore, based on the policy stated above, the Department will consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996 and a request having been made, we are making a duty-absorption determination as part of these administrative reviews.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. For all respondents, these companies are themselves the importers of record for either some (Algoma, Stelco, and Dofasco) or all (CCC and MRM) of their respective sales to the U.S. (*i.e.*, the exporter and the importer are the same entity). In addition, some of Dofasco's U.S. sales are made through a U.S. affiliate. Therefore, the importer and the exporter are ''affiliated'' within the meaning of 751(a)(4) for all Dofasco, MRM and CCC transactions, and for some Algoma and Stelco transactions.

With respect to CCC, we have preliminarily determined that there is a dumping margin on 7.39 percent of its U.S. sales during the POR. For Dofasco, we have preliminarily determined that there is a dumping margin on 28.91 percent of its U.S. sales. For Algoma, MRM, and Stelco, we have preliminarily determined that there are zero or *de minimis* dumping margins on these companies' U.S. sales during the POR.

In addition, for CCC and Dofasco, we cannot conclude from the record that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Under these circumstances, therefore, we preliminarily find that antidumping duties have been absorbed by Dofasco on 28.91 percent of its U.S. sales and by CCC on 7.39 percent of its U.S. sales. For Algoma, MRM, and Stelco, because there are no dumping margins, we preliminarily find that antidumping duties have not been absorbed by Algoma, MRM, and Stelco on their U.S. sales.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 13, 1997, the Department published a notice of extension of the time limit for the preliminary results in this case to September 2, 1997. *See Extension of Time Limit for Antidumping Duty Administrative Reviews,* 62 FR 11813.

The Department is conducting these reviews in accordance with section 751(a) of the Act.

Scope of Reviews

The products covered by these administrative reviews constitute two separate ''classes or kinds'' of merchandise: (1) Certain corrosion-resistant steel and (2) certain cut-to-length plate.

The first class or kind, certain corrosion-resistant steel, includes flat-rolled carbon steel products of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel-or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. 33

The second class or kind, certain cut-to-length plate, includes hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which

have been worked after rolling)—for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by Algoma (cost), Dofasco (cost), Stelco (cost), and MRM (sales and cost), using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the *Scope of the Review* section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix III of the Department's September 19, 1996, antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Fair Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than fair value, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

For calculation of the price to the United States, we used EP, in accordance with subsections 772(a) and (c) of the Act because the subject merchandise was sold directly or indirectly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts of record.

We will also examine for the final results whether certain sales claimed by respondents to be indirect EP should in fact be considered CEP. We will reexamine the issues surrounding the affiliate's selling activities in the United States in determining whether a particular sale should be considered indirect EP or CEP.

Algoma

The Department calculated EP for Algoma based on packed, prepaid or delivered prices to customers in the United States. We made adjustments to the starting price for movement expenses (foreign and U.S. movement, brokerage and handling, and U.S. Customs duties), in accordance with section 772(c)(2) of the Act.

We used Algoma's date of invoice as the date of sale for both U.S. sales and home market sales in accordance with the Department's standard practice. *See, e.g., Porcelain-on-Steel Cookware from Mexico; Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 4723, 4725 (January 31, 1997). For a discussion of the Department's position with respect to the normal use of invoice date as date of sale, see *Antidumping Duties; Countervailing Duties; Proposed Rule* (''*Proposed Regulations*''), 61 FR 7308, 7381 (February 27, 1996).

CCC

The Department calculated EP for CCC based on packed, prepaid or delivered prices to customers in the United States.

We made deductions to the starting price for movement expenses (foreign and U.S. movement, brokerage and handling, and U.S. Customs duties) in accordance with section 772(c)(2), and for discounts and rebates.

We used CCC's date of invoice as the date of sale for U.S. sales in accordance with the Department's standard practice.

Dofasco

For purposes of these reviews, we treated Dofasco, Inc. and Sorevco, Inc. as one respondent, as we have done in prior segments of the proceeding. *See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Determination of Sales at Less than Fair Value,* 58 FR 37099 (1993), and *Preliminary Results of Antidumping Duty Administrative Review,* 60 FR 42511 (1995)). The Department calculated EP for Dofasco based on packed prices to customers in the United States.

We made deductions to the starting price for discounts, a rebate, and, in accordance with section 772(c)(2), movement expenses (foreign and U.S. movement, U.S. Customs duty and brokerage, and post-sale warehousing). As in the prior review, U.S. further processing expenses for certain sales have not been treated as part of the export price.

It is the Department's current practice normally to use the invoice date as the date of sale; we may, however, use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i) (62 FR at 27411).

The questionnaire we sent to the respondents on September 19, 1996 instructed them to report the date of invoice as the date of sale; it also stated, however, that ''(t)he date of sale cannot occur after the date of shipment.'' In this review, Dofasco's date of shipment in many instances preceded the date of invoice, and therefore we cannot use the date of invoice as the new regulations prescribe. Accordingly, as allowed by the exception set forth in § 351.401(i) of the new regulations, we used the dates of sale described below. These sale dates reflect the dates on which the exporter or producer established the material terms of sale.

We used the date of order acknowledgment as date of sale, as reported by Dofasco, Inc., for all Dofasco, Inc. sales in both the U.S. and the home market (except sales made pursuant to long-term contracts). For Dofasco, Inc.'s sales made pursuant to long-term contracts, we used date of the contract as date of sale.

We used the date of order confirmation as the date of sale, as reported by Sorevco, Inc., for all Sorevco, Inc. sales in the U.S. and the home market, except that when Sorevco shipped more merchandise than the customer originally ordered, and such overages were in excess of accepted industry tolerances, we used date of shipment as date of sale for the excess merchandise.

MRM

The Department calculated EP for MRM based on packed, prepaid or delivered prices to customers in the United States. We made deductions to the starting price for movement expenses (foreign and U.S. movement, brokerage and handling, and U.S. Customs duties) pursuant to section 772(c)(2) of the Act.

We used MRM's date of invoice as the date of sale for its U.S. sales in accordance with the Department's standard practice.

Stelco

Corrosion-resistant products: We calculated EP based on the packed price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions to the starting price for movement expenses including foreign and U.S. freight, brokerage and handling, U.S. Customs duties, and post-sale warehousing, in accordance with section 772(c)(2) of the Act.

We used Stelco's date of invoice as the date of sale for EP corrosion-resistant sales in accordance with the Department's standard practice.

Plate: We calculated EP based on the packed price to unaffiliated purchasers in, or for exportation, to the United States. We made deductions for movement expenses including foreign and U.S. movement, brokerage and handling, U.S. Customs duty and warehousing, in accordance with section 772(c)(2) of the Act. We made no other adjustments for EP.

We used the date of invoice as the date of sale for plate sales in accordance with the Department's standard practice.

Normal Value

The Department determines the viability of the home market as the comparison market by comparing the aggregate quantity of home market and U.S. sales. We found that each company's quantity of sales in its home market exceeded five percent of its sales to the U.S. Moreover, there is no evidence on the record supporting a particular market situation in the exporting country that would not permit a proper comparison of home market and U.S. prices. We, therefore, have determined that each company's home market sales are viable for purposes of comparison with sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, at the same level of trade as the export price.

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers.

Considering first all respondents except MRM, for both classes or kinds of merchandise under review, the Department disregarded sales below the cost of production (''COP'') in the last completed review (*see Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Reviews* 62, FR 18448 (April 15, 1997)). We therefore had reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP. With respect to MRM, we note that Manitoba Rolling Mills participated in the first administrative review of plate from Canada (*See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Reviews* (61 FR 13815 (March 28, 1996)). However, on June 1, 1995, Manitoba Rolling Mills was acquired by Metalurgica Gerdau S.A., with the new corporate entity named Gerdau MRM Steel, Inc. Based on information on the record, there is no indication that Gerdau MRM Steel, Inc. operates in a manner substantively different from that of its predecessor, with respect to either management, production, suppliers, or customer base. Therefore, the Department finds that, with respect to initiation of a cost investigation, the disregarding of MRM sales in the first administrative review provides sufficient grounds to believe or suspect that sales by Gerdau MRM Steel, Inc. of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP. Therefore, pursuant to section 773(b)(1) of the Act, we initiated COP investigations of sales by all respondents in the home market.

We compared sales of the foreign like product in the home market with the model-specific cost of production figure for the POR (''COP''). In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition packed and ready for shipment. In our COP analysis, we used home market sales and COP information provided by each respondent in its questionnaire responses.

After calculating COP, we tested whether home market sales of subject merchandise were made at prices below COP and, if so, whether the below-cost sales were made within an extended period of time in substantial quantities and at prices that did not permit recovery of all costs within a reasonable period of time. Because each individual price was compared against the POR-long average COP, any sales that were below cost were also not at prices which permitted cost recovery within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the weighted-average COPs for the POR, we disregarded the below-cost sales because they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2) (B) and (C) of the Act, and were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to all companies and classes or kinds of merchandise.

In accordance with section 773(a)(1)(B)(i) of the Act, we based NV on sales at the same level of trade (''LOT'') as the EP. If NV was calculated at a different level of trade, we made an additional adjustment, if appropriate and if possible, in accordance with section 773(a)(7) of the Act. (*See* Level of Trade section below.)

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, 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 the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 353.56 for circumstance of sale (COS) differences. For comparisons to EP, we made COS adjustments by deducting

home market direct selling expenses and adding U.S. direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP comparisons pursuant to 19 CFR section 353.56(b).

Algoma

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to unaffiliated purchasers (Algoma made no home market sales to affiliated parties), in accordance with 19 CFR 353.45(a). Home market prices were based on the packed, ex-factory or delivered prices to unaffiliated purchasers in the home market.

We deducted discounts and rebates. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in COS in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. These included direct selling expenses (credit and warranty) in the home market and credit and warranty expenses in the U.S. market. When comparisons were made to EP sales on which commissions were paid, we made adjustments for home market indirect selling expenses to offset these U.S. commissions pursuant to 19 CFR section 353.56(b).

CCC

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to unaffiliated parties, in accordance with 19 CFR 353.45(a). Home market prices were based on the packed, ex-factory or delivered prices to affiliated (when made at prices determined to be arm's-length) or unaffiliated purchasers in the home market. We adjusted for discounts and rebates. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for COS differences in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit) and adding U.S. direct selling expenses (credit). When comparisons were made where commissions were paid on EP sales, we made adjustments for home market indirect selling expenses to offset U.S. commissions pursuant to 19 CFR section 353.56(b).

Dofasco

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to affiliated (when made at prices determined to be arm's-length) or unaffiliated parties, in accordance with 19 CFR 353.45(a). Home market prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers in the home market. We deducted discounts and rebates. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for COS differences in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit, royalties and warranty expenses) and adding U.S. direct selling expenses (credit, royalties and warranty expenses). When comparisons were made where commissions were paid on EP sales, we made adjustments for home market indirect selling expenses to offset U.S. commissions pursuant to § 353.56(b).

MRM

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to unaffiliated purchasers (MRM made no home market sales to affiliated parties), in accordance with 19 CFR 353.45(a). Home market prices were based on the packed, ex-factory or delivered prices to unaffiliated purchasers in the home market.

We deducted discounts and rebates. We made adjustments, where applicable, for packing and movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in circumstances of sale (''COS'') in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. These included credit expenses in the home market and credit expenses in the U.S. market. When comparisons were made to EP sales on which commissions were paid, we made adjustments for home market indirect selling expenses to offset these U.S. commissions pursuant to 19 CFR 353.56(b).

Stelco

For those models for which there was a sufficient quantity of sales at prices above COP, we based NV on home market prices to affiliated or unaffiliated parties, in accordance with 19 CFR 353.45(a). Home market prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers in the home market. We made deductions for discounts and rebates. We made adjustments, where applicable, for packing and movement expenses, in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for COS differences in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56.

Corrosion resistant steel: We adjusted home market prices for interest revenue on certain sales. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit, warranties, technical services) and adding U.S. direct selling expenses (credit and technical services).

Plate: For comparison to EP, we made COS adjustments by deducting home market direct selling expenses (credit, warranties, technical services) and adding U.S. direct selling expenses (credit and technical services). When comparisons were made to EP sales on which commissions were paid, we made adjustments for home market indirect selling expenses to offset the U.S. commissions pursuant to 19 CFR 353.56(b).

Level of Trade (''LOT'')

To the extent practicable, we determine NV for sales at the same level of trade as the U.S. sales (either export price (EP) or constructed export price (CEP)). When there are no sales at the same level of trade, we compare U.S. sales to home market (or, if appropriate, third-country) sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the level of trade is that of the sales from which we derive selling, general, and administrative expenses (SG&A) and profit.

For both EP and CEP, the relevant transaction for the level of trade analysis is the sale (or constructed sale) from the exporter to the importer.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, original equipment manufacturer (OEM), or wholesaler are commonly used by respondents to describe levels of trade, but, without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Different levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is based on a level of trade different from that of the export sale. If there is a pattern of no price differences, the difference in levels of trade does not have a price effect and, therefore, no adjustment for level of trade is necessary.

In the present review, none of the respondents requested a level of trade (LOT) adjustment. To ensure that no such adjustment was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Canadian markets, including the selling functions, classes of customer, and selling expenses for each respondent.

Algoma

In both the home market and the United States, Algoma reported one LOT and one distribution system with two classes of customers: end-users and steel service centers (SSCs). We analyzed the selling functions and activities performed for both classes of customers in both markets. We preliminarily determine that Algoma's selling functions and activities are substantially similar for both classes of customers for sales of subject merchandise and, therefore, warrant one level of trade in both markets. Finally, we compared the selling functions performed at the home market LOT and the LOT in the United States and found them substantially similar. Thus, no adjustment is appropriate. For a further discussion of the Department's LOT analysis with respect to Algoma, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Algoma,* pg. 2, September 2, 1997.

CCC

CCC reported three different LOTs in the home market based on class of customer: original equipment manufacturers (OEMs), steel service centers, and scrap merchants. However, we examined the reported selling functions and found that CCC provides the same selling functions to its home market customers regardless of distribution level, marketing phase, or the equivalent. Overall, we preliminarily determine that the selling functions between the reported LOTs are sufficiently similar to consider them as one LOT in the comparison market.

CCC stated that it sells to two LOTs in the United States: OEMs and steel service centers. Again, we examined the selling functions at both claimed levels, and found they were the same. Therefore, we preliminarily determine that the selling functions between the reported LOTs are sufficiently similar to consider them as one LOT in the United States market. Finally, we compared the selling functions performed at the home market LOT and the LOT in the United States and found them substantially similar. Therefore, no adjustment is appropriate. For a further discussion of the Department's LOT analysis with respect to CCC, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for CCC,* pg. 2, September 2, 1997.

Dofasco

Dofasco reported three LOTs in the home market. Dofasco defined its LOT categories by customer category: service center, automotive, and construction and converters/manufacturers (''construction''). We examined the selling functions performed at each claimed level and found that there was a significant difference in selling functions offered between the automotive and service center sales levels. Moreover, Dofasco has established a separate sales division for its automotive sales. Additionally, sales to automotive customers are sales to end users, while sales to service centers are sales to resellers. In sum, these sales were made at different stages of marketing. Therefore, we preliminarily conclude that the automotive and service center classes of customer constitute separate levels of trade.

Between the automotive and construction sales channels, although Dofasco sales to both of these classes of customer are sales to OEMs, we note that both quantitatively and qualitatively, the selling functions offered to automotive customers involve significantly greater resources and thus represent a distinct stage of marketing. Specifically, Dofasco performed only five of the same or similar selling functions between these LOTs. Dofasco's functions for these two channels differed with respect to numerous other activities. Therefore, given these differences, we preliminarily conclude that automotive and construction constitute separate levels of trade.

Between the construction and service center sales channels, we note that sales to construction customers are sales to end users, while sales to service centers are sales to resellers. Furthermore, there were numerous differences in selling functions between these two channels. We found that these differences suggested distinct stages of marketing. Therefore, we preliminarily conclude that construction and service centers constitute different levels of trade.

Overall, we determine that the selling functions between the automotive,

service center, and construction customer categories are substantially dissimilar to one another. Furthermore, sales to service centers are made at a different stage of marketing than sales to automotive and construction customers. Therefore, we preliminarily determine that the automotive, service center, and construction customer categories should be treated as three LOTs in the comparison market.

Respondents reported the same three LOTs in the U.S. market: automotive, service center, and construction and converters/manufacturers (''construction''). We preliminarily determine that the results of our analysis of U.S. LOTs are identical to those of the comparison market. There were only insignificant differences in selling functions at each LOT between the comparison market and the U.S. market.

The Department did not find that there existed a pattern of consistent price differences between the three levels of trade. Therefore, we did not make LOT adjustments when calculating the final margins for Dofasco. For a further discussion of the Department's LOT analysis with respect to Dofasco, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Dofasco,* pp. 2–3, September 2, 1997.

MRM

In both the home market and the United States, MRM reported one LOT and one distribution system with two classes of customers: distributors and original equipment manufacturers (OEMs). We analyzed the selling functions and activities performed for both classes of customers in both markets. We found that MRM's selling functions and activities were substantially similar for both classes of customers for sales of subject merchandise and, therefore, constitute one level of trade in both markets. Finally, we compared the selling functions performed at the home market LOT and the LOT in the United States and found them substantially similar. Thus, no adjustment was appropriate. For a further discussion of the Department's LOT analysis with respect to MRM, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for MRM,* pp. 1–2, September 2, 1997.

Stelco

Stelco identified one level of trade and two classes of customers (end-users and resellers) in the home market for each class or kind of merchandise. We examined the selling functions performed for each class of customer and found that Stelco provided many of the same or similar selling functions in each, including: personnel training, engineering services, and technical advice. We found few differences between selling functions for transactions made through the two classes of customers and that Stelco's prices did not vary consistently based on the type of customer. Overall, we determine that the selling functions between the two classes of customers are sufficiently similar to consider them one LOT in the comparison market for sales of both corrosion-resistant products and plate products.

In the United States, Stelco sold corrosion-resistant products through one distribution system and to end users only. Stelco's U.S. sales of plate products were made to end users and service centers. We preliminarily determine that the results of our analysis of U.S. LOTs are identical to those of the comparison market: the selling functions performed for sales to the United States are sufficiently similar to consider them one LOT for both corrosion-resistant products and plate products. Additionally, we consider this LOT to be the same as that identified in the comparison market. Therefore, no adjustment is appropriate. For a further discussion of the Department's LOT analysis with respect to Stelco, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for Stelco,* pg. 2, September 2, 1997.

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins (in percent) for the period August 1, 1995, through July 31, 1996 to be as follows:

Manufacturer/exporter	Margin (percent)
Corrosion-Resistant Steel:	
Dofasco	3.02
CCC	1.16
Stelco	0.22
Cut-to-Length Plate:	
Algoma	0.37
MRM	0.00
Stelco	0.24

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 business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in those briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we will calculate an importer-specific *ad valorem* duty assessment rate for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP, by the total statutory EP value of the sales compared, and adjusting the result by the average difference between EP and customs value for all merchandise examined during the POR).

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rate for each reviewed company will be that established in the final results of review (except that no deposit will be required for firms with zero or *de minimis* margins, i.e., margins less than 0.5 percent); (2) for exporters not covered in this review, but covered in the LTFV investigation or previous review, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation; (3) if the exporter is not a firm covered in this review, a previous review, or the original 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; (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rates made effective by the LTFV investigations, which were 18.71 percent for corrosion-resistant steel products and 61.88 percent for plate

(*see Amended Final Determination,* 60 FR 49582 (September 26, 1995)). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

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.

These administrative reviews and notices are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23848 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration A–351–817

Certain Cut-to-Length Carbon Steel Plate From Brazil: 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 requests from the respondent, Usinas Siderurgicas de Minas Gerais (''USIMINAS''), and from petitioners (Bethlehem Steel Corporation; U.S. Steel Company, a Unit of USX Corporation; Inland Steel Industries, Inc.; Geneva Steel; Gulf States Steel Inc. of Alabama; Sharon Steel Corporation; and Lukens Steel Company), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Brazil. This review covers the above manufacturer/exporter of the subject merchandise to the United States. The period of review (POR) is August 1, 1995, through July 31, 1996.

We preliminarily determine the dumping margin for USIMINAS and its affiliate Companhia Siderurgica Paulista (''COSIPA'') to be 10.49 percent during the POR. Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Samantha Denenberg or Linda Ludwig, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0413 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 references to the Department's regulations are to 19 CFR Part 353 (1997).

Background

On July 9, 1993, the Department published in the **Federal Register** (58 FR 37062) the final affirmative antidumping duty determination on certain cut-to-length carbon steel plate from Brazil. We published an antidumping duty order on August 19, 1993 (58 Fed. Reg. 44164). On August 12, 1996, the Department published the Opportunity to Request an Administrative Review of this order for the period August 1, 1995–July 31, 1996 (61 FR 41768). The Department received requests for an administrative review of USIMINAS'' exports from USIMINAS itself, a producer/exporter of the subject merchandise, and from the petitioners. We published a notice of initiation of the review on September 17, 1996 (61 FR 48882).

Significant inflation was an issue in the previous segments of this proceeding. The Department required that USIMINAS report monthly inflation rates for 1995–1996. The Department's analysis of the inflation rates determined that inflation did not exceed 15% during the POR. The Department did not require USIMINAS to report monthly costs, as it was determined that inflation was not significant during the period of review. *See* the Department's letter from Linda Ludwig to Christopher S. Stokes, dated October 22, 1996. We are not using the Department's inflationary methodology in these preliminary results of the review.

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for issuing a preliminary determination in an administrative review if it determines that it is not practicable to complete the preliminary review within the statutory time limit of 245 days. On March 21, 1997, the Department published a notice of extension of the time limit for the preliminary results in this case to 365 days after the last day of the month in which the anniversary date of the order occurred. *See Extension of Time Limit for Antidumping Duty Administrative Reviews,* 62 FR 13596 (March 21, 1997).

The Department is conducting this review in accordance with section 751(a) of the Act.

Affiliated Respondents

Pursuant to section 771 (33) of the Act, the Department considers the following persons or parties to be affiliated:

A. Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

B. Any officer or director of an organization and such organization.

C. Partners.

D. Employer and employee.

E. Any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization.

F. Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

G. Any person who controls any other person and such other person.

For the purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

USIMINAS acknowledges that COSIPA is affiliated with it under the antidumping statute because, during the POR, as indicated by publicly available information on the record, USIMINAS owned 49 percent of the voting stock of COSIPA. See Section A Response at 3.

It is the Department's practice to collapse affiliated producers for purposes of calculating a margin when the facts demonstrate that the relationship is such that there is a strong possibility of manipulation of prices

and production decisions that would result in circumvention of the antidumping law. *See* the Department's internal memorandum from Richard Weible to Joseph A. Spetrini, dated March 21, 1997. Although the Department's new regulations published May 19, 1997 (62 FR 27410) do not govern this review, they do codify the Department's current practice. Current practice calls for the Department to treat two or more affiliated producers as a single entity (*i.e.*, ''collapse'' the firms) for purposes of calculating a dumping margin when the following three criteria are met:

1. The producers must be affiliated;
2. The producers must have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and
3. There must be a significant potential for the manipulation of price or production. *See 19 CFR Part 351 et. al., Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27410.

As indicated above, USIMINAS and COSIPA are considered affiliated. Further, based on publicly available information, it was determined that USIMINAS and COSIPA have production facilities for identical products and that no substantial retooling would be required for USIMINAS and COSIPA to restructure their production priorities with respect to production of subject merchandise. In identifying whether there is a significant potential for the manipulation of price or production, the factors the Department considers include: the level of common ownership; whether managerial employees or board members of one of the affiliated producers sit on the board(s) of directors of the other affiliated parties; and whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. The following factors support a conclusion that the relationship between USIMINAS and COSIPA has significant potential for manipulation of price or production: a large share of COSIPA's stock is held by USIMINAS and related parties, there is cross-representation on the governing bodies of the two companies and both companies are making at least a portion of their home market sales of subject merchandise through the same channels of distribution (distributors affiliated with USIMINAS). Thus, the Department has determined to collapse USIMINAS and COSIPA and to treat them as a single producer of cut-to-length carbon steel plate for purpose of this antidumping duty review. *See* the Department's internal memorandum from Richard Weible to Joseph A. Spetrini, dated March 21, 1997 (''Collapsing Memorandum'').

Scope of the Review

The products covered by this administrative review constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000.

These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the manufacturing facilities of USIMINAS and COSIPA, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the verification reports, the public versions of which are available at the Department of Commerce, in the Central Records Unit (CRU), Room B099.

Transactions Reviewed

In accordance with section 751(a)(2) of the Act, the Department is required to determine the normal value (NV) and export price (EP) of each entry of subject merchandise.

The Department granted respondent's request for limited time reporting of sales data. USIMINAS/COSIPA was only required to report home market sales during a window of February 1995 through September 1995. *See* Letter to Respondent's Counsel (Willkie Farr & Gallagher) from Linda Ludwig, October 22, 1996.

Based on a review of USIMINAS/ COSIPA's submissions and verification findings, the Department determined that USIMINAS/COSIPA need not report its home market downstream sales because the total volume and value of home market sales to affiliated parties constitutes a relatively small percentage of USIMINAS/COSIPA's total home market sales. *See Decision Memorandum on Reporting Downstream Sales*, April 1, 1997.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the Scope of the Review section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

Fair Value Comparisons

To determine whether sales of certain cut-to-length carbon steel plate by USIMINAS/ COSIPA to the United States were made at less than fair value, we compared the EP to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A (d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

We used EP as defined in section 772(a) of the Act. We calculated EP based on prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for inland freight, brokerage and handling, and

international freight. *See USIMINAS and COSIPA Sales Verification Reports*, August 12, 1997. Based on verification of the U.S. sales response, we made adjustments to the gross unit price from a theoretical metric ton basis to an actual metric ton basis in order to convert all fields to the same weight basis.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, at the same level of trade as the export price. See ''Level of Trade'' section below.

Where appropriate, we deducted rebates, discounts, packing costs, credit expenses, movement expenses, pre-sale warehousing, inland insurance. We added interest revenue. We also deducted IPI tax and the ICMS tax from the reported gross unit price, since the reported price included those taxes. Based on our verification of USIMINAS/COSIPA's home market sales response, we made adjustments on certain sales to reported imputed credit expenses.

Further, we added U.S. Commissions and U.S. credit expenses to NV; because there were no home market commissions, we deducted from NV the lesser of either (1) the amount of commission paid on a U.S. sale for a particular product, or (2) the amount of indirect selling expenses incurred on the home market sales for a particular product.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action (SAA) accompanying the URAA, to the extent practicable, the Department will calculate normal values based on sales at the same level of trade as the U.S. sales (either EP or CEP). When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at different levels of trade, and adjust NV if appropriate. The NV level of trade is that of the starting-price sales in the home market. As the Department explained in *Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review (''Cement from Mexico'')*, 62 Fed. Reg. 17148, 17156 (April 9, 1997), for both EP and CEP, the relevant transaction for the level of trade analysis is the sale from the exporter to the importer.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with the good being sold by the producer and extends to the sale to the final user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, retailer or end-user are commonly used by respondents to describe level of trade, but without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed customer categorization levels. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if customer levels are nominally the same, the selling functions performed should also be the same. Different levels of trade 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. Differences in levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in level of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market (or the third-country market used to calculate NV when the home market is not viable or otherwise inappropriate as a basis for NV). Any price effect must be manifested in a pattern of consistent price differences between home market (or third-country) sales used for comparison and sales at the equivalent level of trade of the export transaction. *See Granular Polytetrafluorethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review*, 62 Fed. Reg. 26283, 26285 (May 13, 1997); *Cement from Mexico*. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average percentage difference between these net prices to adjust NV when the level of trade of NV is different from that of the export sale. If there is a pattern of no price differences, then the difference in level of trade does not have a price effect and, therefore, no adjustment is necessary.

USIMINAS/COSIPA sold to a single customer in the U.S. market (a trading company). In the home market, USIMINAS/COSIPA sold to two categories of customers (wholesalers/distributors and end-users) and performed the same selling functions for all sales to all its U.S. and home market customers. Originally, respondents claimed and reported two levels of trade: sales directly from the producer to the customer and sales from the producer to an affiliated distributor for resale. However, since the Department determined that respondents need not report downstream sales by affiliated distributors, respondent is no longer claiming two levels of trade. *See Transactions Reviewed* section above. Our analysis of the questionnaire response and information collected at verification lead us to conclude that sales within each market and between markets are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market utilized by the Department and all sales to the U.S. market are made at the same level of trade. Therefore, all price comparisons are at the same level of trade and no adjustment pursuant to section 773(a)(7)(A) is warranted.

Cost of Production Analysis

Petitioners alleged on January 15, 1997 that USIMINAS sold cut-to-length carbon steel plate in the home market at prices below the cost of production (''COP''). Based on this allegation, and in accordance with section 773(b) of the Act, the Department determined, on March 20, 1997, that it had reasonable grounds to believe or suspect that USIMINAS had sold the subject merchandise in the home market below the COP. See Decision Memorandum from Linda Ludwig to Richard O. Weible (March 20, 1997). As a result,

the Department initiated an investigation to determine whether USIMINAS made home market sales during this POR at prices below their COP within the meaning of section 773(b) of the Act. After determining that USIMINAS and COSIPA should be collapsed, the Department extended the COP investigation to include COSIPA. Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of USIMINAS/COSIPA's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses and packing costs in accordance with section 773(b)(3) of the Act. Based on findings made at verification, we have recalculated USIMINAS/COSIPA's general and administrative expenses and interest. *See Analysis Memorandum for The File from Samantha Denenberg,* September 2, 1997.

B. Test of Home Market Prices

We used the respondent's weighted-average COP, as adjusted (see above), for the period 1/1/95–12/31/95. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and discounts.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act, and not at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded such below-cost sales. Where all contemporaneous sales of a comparison product were disregarded, we calculated NV based on CV.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of USIMINAS/COSIPA's cost of materials, fabrication, SG&A, U.S. packing costs, interest expenses as reported in the U.S. sales database and profit. As noted above, we recalculated USIMINAS/COSIPA'S general and administrative expenses and interest expenses based on our verification results. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. Where we compared CV to EP, we added U.S. commissions to CV, and then we deducted from CV the lesser of either (1) the amount of commission paid on a U.S. sale for a particular product, or (2) the amount of indirect selling expenses incurred on the home market sales for a particular product.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/Exporter	Period	Margin (percent)
Usinas Siderurgicas de Minas Gerais, S.A.	8/1/95–7/31/96	10.49
Companhia Siderurgica Paulista	8/1/95–7/31/96	10.49

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 business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in those briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

The following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of certain cut-to-length carbon steel plate from Brazil, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be that established in the final results of review; (2) for exporters not covered in this review, but covered in the LTFV investigation or previous review, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation or the most recent previous review; (3) if the exporter is not a firm covered in this review, a previous review, or the original 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; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 75.54 percent, the ''All Others'' rate in the

LTFV investigation. 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 administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary, for Import Administration.

[FR Doc. 97–23855 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–614–801]

Fresh Kiwifruit From New Zealand; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amendment to Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 3, 1996, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. On December 27, 1996, the Department published amended final results of this review. The review covers one exporter, the New Zealand Kiwifruit Marketing Board (NZKMB), and the period from June 1, 1994, through May 31, 1995. Based on the correction of ministerial errors made with respect to the amended final results of December 27, 1996, we are amending the final results a second time.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Paul M. Stolz or Thomas F. Futtner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Departments regulations are to 19 CFR part 353 (1997).

Background

On September 3, 1996, the Department published the final results (61 FR 46438) of its administrative review of the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203 (June 2, 1992)). On December 27, 1996 the Department published amended final results of this review. The review covered one exporter, the NZKMB. The Department has now amended the final results of this administrative review a second time in accordance with section 751 of the Act.

Scope of the Review

The product covered by the order under review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of the order. The subject merchandise is currently classifiable under subheading 0810.90.20 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Amended Final Results

After publication of our amended final results, we received timely allegations of ministerial errors from the respondent, NZKMB, and the petitioner, the California Kiwifruit Commission.

Allegation 1: NZKMB alleges that the Department failed to properly initialize the variable for home market pallet expenses, PALEXPH, in the computer program. The petitioner agrees with NZKMB's allegation. The Department agrees with both respondent and petitioner and has adjusted the computer program to properly initialize the variable.

Allegation 2: NZKMB alleges that the Department incorrectly added imputed credit and inventory carrying costs into the computation of constructed value (CV). Since these costs are already included in CV, as elements of selling, general and administrative expenses, respondent asserts that adding them would result in double-counting. We agree and have revised the program accordingly.

Allegation 3: NZKMB argues that imputed credit expenses should be deducted from CV and inventory carrying costs should be deducted up to the CEP offset cap. We agree regarding the deduction of credit and inventory carrying costs and have revised the program accordingly.

Allegation 4: NZKMB alleges that the Department treated the sum of the cost of manufacturing (COM) and G&A as the COM, and then double-counted G&A by adding it again in the calculation of COP. We agree and have corrected the computer program as appropriate.

Allegation 5: NZKMB alleges that the Department converted normal value for price-to-price comparisons into U.S. dollars by erroneously multiplying, instead of dividing, the NV by the exchange rate, We agree and have corrected the computer program as appropriate.

Allegation 6: Petitioner alleges that the Department's program applies the New Zealand rate of exchange twice to the United States packing cost used to create the variable ''FUPDOL''. We agree and have corrected the program as appropriate.

For a description of allegations we did not agree were clerical errors, see the memorandum from Tom Futtner, Program Manager, to Holly Kuga, Senior Office Director, dated July 25, 1997.

Upon correction of the error described above as allegation 1, the Department has determined that all home market sales were below the cost of production, thus requiring the calculation of constructed value. Section 773(e)(2)(B) of the Act states that in the absence of above cost sales, selling expenses and profit shall be based on (i) expenses and profit of the respondent's other products, or (ii) the expenses and profit of other producers subject to the antidumping investigation or review, or (iii) any other reasonable method. The first two alternatives and not available in this case, since NZKMB sells no other products and since there are no other New Zealand exporters subject to this review. Therefore we must rely on ''other reasonable'' methods. In this case, since NZKMB earned no profits on home market sales and we have no other information on the record with respect to profit earned in the home market, as facts available we used the profits

realized at the grower level. In this instance, we used the average profit of the twenty sampled growers as the profit figure in our margin calculations. With respect to selling expenses, we have used the selling expenses associated with the home market sales. *See Final Results of Administrative Review, Ferrosilicon from Brazil,* (61 FR 59407), dated November 22, 1996.

Amended Final Results of Review

As a result of our correction of the ministerial errors, we have determined the following margin exists for the period June 1, 1994, through May 31, 1995:

Manufacturer/exporter	Margin (percent)
New Zealand Kiwifruit Marketing Board	0.00

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentage stated above. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed firm will be 0.00 percent; and (2) the cash deposit rate for merchandise exported by all other manufacturers and exporters will be the ''all others'' rate of 98.60 percent established in the less-than-fair-value investigation; in accordance with the Department practice. *See* Floral Trade Council v. United States, 822 F. Supp. 766 (1993), and Federal Mogul Corporation, 822 F. Supp. 782 (1993).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as 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 the APO is a sanctionable violation.

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: August 27, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23851 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is amending its final results of review, published on September 5, 1996, of the antidumping duty order on silicon metal from Brazil, to reflect the correction of ministerial errors in those final results.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Fred Baker, Alain Letort, or John Kugelman, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone 202/482–2924 (Baker), 202/482–4243 (Letort), or 202/482–0649 (Kugelman), fax 202/482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the regulations are references to the provisions as they existed on December 31, 1994.

Background

The Department published the final results of the second administrative review of the antidumping duty order on silicon metal from Brazil on September 5, 1996 (61 FR 46763) (*Second Review Final Results*), covering the period July 1, 1992 through June 30, 1993. The respondents are Companhia Brasileira Carbureto de Cálcio (CBCC), Companhia Ferroligas Minas Gerais—Minasligas (Minasligas), Eletroila, S.A. (currently known as Eletrosilex Belo Horizonte (Eletrosilex)), and Rima Industrial S.A. (RIMA). The petitioners are American Alloys, Inc., Elken Metals, Co., Globe Metallurgical, Inc., SMI Group, and SKW Metals & Alloys.

On September 20, 1996, the petitioners filed clerical error allegations with respect to each of the four respondents in the review. The same day we received clerical error allegations from respondent CBCC. On September 27, 1996, we received rebuttal comments from the petitioners, CBCC, and Minasligas. On September 30, 1996, we received rebuttal comments from Eletrosilex. The Department agreed that certain of the allegations constituted ministerial errors, but the Department was unable to issue a determination correcting these errors before the petitioners filed a complaint with the Court of International Trade (CIT) challenging the final results of review. Therefore, the Department requested leave from the CIT to correct these errors. On July 9, 1997, the CIT granted the Department leave to correct the errors. *See American Silicon Technologies et al.*, v. *United States*, Slip Op. 97–94, July 9, 1997.

Scope of Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains a higher aluminum content than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item numbers are provided for convenience and for U.S.

Customs purposes. The written description remains dispositive as to the scope of product coverage.

Clerical Error Allegations

Comment 1

Petitioners argue that the Department used the wrong cost of manufacture (COM) in the computation of constructed value (CV) for one of CBCC's U.S. sales. We reviewed the sale at issue in the first (91–92) administrative review of the order, but reviewed it again in the second review of the order because, after issuing the final results of the first review, we determined that the importer of the sale had no entries during the first review period. In our analysis of this sale in the first review, we made an upward adjustment to CBCC's reported COM in order to account for costs that the Department determined at verification to have been understated. However, in its analysis of this sale for the second review, the Department used the COM as CBCC originally reported it. Petitioners argue that this use of the unadjusted COM constitutes a clerical error.

CBCC argues that the Department erred by using CV, rather than third-country sales, as the basis for foreign market value (FMV) for comparison to the U.S. sale at issue. In its final results analysis memorandum for the second review, the Department stated that it used CV as the basis for FMV because there were no Japanese sales contemporaneous with this sale. (*See* the Department's September 12, 1996 final results analysis memorandum, at 4.) CBCC argues that this stated rationale for using CV is fallacious because, in the first review, the Department used third-country sales to Japan as the basis of FMV for that sale. Thus, CBCC argues, there must have been contemporaneous sales. Furthermore, CBCC argues that because the Department performed a sales-based comparison for this sale in the first review, and never indicated to CBCC that it intended to review the sale again in the second review, the Department's decision to use CV in the margin calculation for the sale in the second review violated its due-process rights because CBCC never had an opportunity to comment on it. It may also be illegal, CBCC argues, because only the CIT can require the Department to re-open and re-analyze a determination which is final under the statute.

Finally, CBCC argues that the Department's failure to use the adjusted COM for the sale at issue is more than offset by a clerical error it made in its calculation of CBCC's interest expenses. In its calculation of interest expenses, the Department, CBCC alleges, used the interest expense ratio for 1993, rather than the interest expense ratio for 1992.

Department's Position:

We agree with petitioners that the Department's failure to use the adjusted COM for the sale at issue constituted a clerical error. In these amended final results of review, we have used the adjusted COM for this sale as given in the first review final results analysis memorandum dated February 2, 1994. The Department made this memorandum part of the record of the second review. *See* the Department's June 12, 1996 letter to CBCC.

We disagree with CBCC's argument that its due-process rights were violated by our decision to perform a CV-based, rather than a sales-based, comparison for the sale at issue. In the first review the Department made a sales-based comparison only in the preliminary results of review, not the final results of review. In the final results of the first review the Department used CV as the FMV. *See* the final results analysis memorandum dated August 13, 1994, at 1.

We also disagree with CBCC's argument that there were contemporaneous sales which could serve as the FMV in the margin calculation for the sale at issue. In the final results analysis memorandum, we stated explicitly that there were no above-cost third-country sales. (*See* the first review final results analysis memorandum dated August 13, 1994, at 1.) Thus, the Department's September 12, 1996 analysis memorandum that states that there were no contemporaneous third-country sales should be amended to read that there were no *above-cost* contemporaneous third-country sales. Therefore, in these amended final results of review we have continued to use CV as the FMV.

We agree with CBCC that the Department used the wrong interest expense ratio to calculate interest for the sale at issue. We have corrected this error in these amended final results of review.

Comment 2:

Petitioners argue that the Department made a ministerial error by failing to include IPI taxes in the computation of CV for one of CBCC's U.S. sales. They argue that the final results notice states that the Department intended to include these taxes in CV. *See Second Review Final Results* at 46769.

CBCC argues that petitioners' comments regarding IPI taxes are irrelevant because the Department acted illegally in re-analyzing this U.S. sale using a methodology different from that supporting its final results in the first review. It refers the reader to its comments summarized under comment 1 (above).

Department's Position:

We agree with petitioners that in omitting IPI taxes from the computation of CV for the sale at issue we made a ministerial error. In these amended final results of review, we have included IPI taxes in CV. We obtained the value of these taxes from CBCC's May 29, 1996 submission.

We disagree with CBCC that we acted illegally in our treatment of this sale. As explained in response to comment 1 (above), we used CV for this sale in the final results of the first review, as well as in the final results of the second review.

Comment 3

Petitioners argue that the Department made a clerical error by using an incorrect exchange rate for converting some of CBCC's and Eletrosilex's expenses from Brazilian currency into U.S. dollars. This error occurred, petitioners argue, because the Department incorrectly believed that these expenses were denominated in cruzeiros, rather than in cruzeiros reais. The expenses at issue are CBCC's brokerage, warehousing, and foreign inland freight, and Eletrosilex's brokerage, foreign inland freight, ocean freight, packing, and warehousing costs.

CBCC argues that there is no evidence on the record that any of the charges it reported are in a currency other than cruzeiros.

Eletrosilex argues that the determination of the correct exchange rate is a factual and judgmental determination, and not a clerical error. By raising the issue at this stage of the proceeding, Eletrosilex argues, petitioners are misusing the ministerial errors correction process. For this reason, Eletrosilex argues, petitioners' argument should be rejected.

Department's Position

We agree with petitioners. With respect to CBCC, we note that exhibit 6 of CBCC's March 17, 1994 supplemental questionnaire response demonstrates the currency conversion. That demonstration indicates that the expenses in question were in fact denominated in cruzeiros reais, and not cruzeiros. With respect to Eletrosilex, we find that Eletrosilex demonstrated the correct currency conversion for the charges at issue in exhibit 9 of its March

21, 1994 submission and on pages 3 and 4 of its September 12, 1994 submission. These demonstrations indicate that the charges at issue were reported in cruzeiros reais, and not cruzeiros. Thus, for the charges at issue, in these amended final results of review we have used the exchange rates for converting cruzeiros reais into U.S. dollars, rather than for converting cruzeiros into U.S. dollars.

We do not agree with Eletrosilex's argument that petitioners are misusing the ministerial error corrections process. Our use of incorrect exchange rates is an ''unintentional error'' within the meaning of 19 C.F.R. § 353.28(d).

Comment 4

Petitioners argue that the Department made a ministerial error by failing to deduct from one of CBCC's U.S. sales an unspecified charge that CBCC reported as ''other expenses.'' Petitioners argue that these ''other expenses'' should be deducted from U.S. price in accordance with section 772(d)(2)(A) of the Tariff Act of 1930, as amended.

CBCC argues that if the Department decides to deduct the ''other expenses'' (which, it states, are movement expenses) from the U.S. price, it should note that CBCC mislabeled the currency as U.S. dollars. In fact, CBCC states, it reported them in cruzeiros, and they must be converted into U.S. dollars for the margin calculation.

Department's Position

We agree that we made a ministerial error by failing to deduct the ''other expenses'' from U.S. price for the sale at issue. In these amended final results of review we have corrected this error. We have converted them into dollars because the amount of these expenses relative to other reported expenses indicates that they were incurred in cruzeiros. See CBCC's March 17, 1994 submission, exhibit 3.

Comment 5

CBCC argues that the Department made a ministerial error in its calculation of CV by using the same interest ratio in the calculation of CV as it used in the calculation of cost of production (COP). CBCC argues that doing so was an error because CV includes imputed credit, whereas COP does not. The Department's methodology, CBCC argues, double-counts the interest expenses included in financial expenses. Thus, CBCC argues the Department should calculate financial expenses for CV net of the amount attributable to trade accounts receivables. To correct the error, CBCC states that the Department should multiply the CV interest expenses by the formula: (1-accounts receivable/total assets).

Petitioners argue that the Department made this error in only one of CBCC's U.S. sales. For CBCC's other U.S. sales, petitioners argue, the Department made an offset to the interest expenses included in CV for home-market imputed credit expenses. Thus, petitioners argue, CBCC's allegation is not applicable to all of CBCC's U.S. sales.

Department's Position

We agree with CBCC that the Department normally allows an offset to CV interest expenses. However, we did not offset CV financing costs for CBCC in this review because it did not submit the offsetting figure, nor did it submit the accounts receivable and total asset figures necessary to perform the calculation as it suggests. Therefore, the Department did not make a ministerial error by not allowing an offset to CV interest expense in this case because the necessary information was not on the record. Accordingly, we have not made an offset to CBCC's financing costs in these amended final results.

Comment 6

CBCC argues that the Department made two clerical errors in its calculation of interest expenses. First, CBCC alleges that the Department calculated different monthly financial expense ratios for each month of the period of review (POR), and applied these differing ratios to the COM to calculate financial expenses. CBCC argues that calculating a different financial expense ratio for each month of the POR was an error, and that the Department intended to calculate an annual weighted-average rate in order to calculate a single weighted-average COP/CV for the POR. CBCC bases its argument on the fact that the Department allegedly calculated general and administrative (G&A) expenses by multiplying the COM by a single annual rate. Second, CBCC argues that the Department made a clerical error by applying the calculated interest expense ratio to the replacement cost COM, rather than the historical cost COM. It argues that this was an error because the Department calculated the interest expense ratio based on historical costs, and not replacement costs. Thus, CBCC argues, the Department should have either calculated the interest expenses on a replacement cost basis and applied the resulting ratio to the replacement cost COMs (as it did for G&A expenses), or calculated the interest expense ratio on historical costs and applied it to the historical cost COMs.

Petitioners argue that CBCC is incorrect in asserting that the Department calculated different interest expense ratios for different months of the POR. In fact, petitioners argue, the Department calculated one interest expense ratio for 1992, which it applied to the months July through December 1992, and one interest expense ratio which it applied to the months January through June 1993. Furthermore, petitioners argue that CBCC is incorrect in saying that the Department intended to calculate a single COP/CV for the POR. The Department's practice in hyperinflationary-economy cases, petitioners argue, is to calculate monthly COPs and CVs, and to make comparisons for both the cost test and the margin calculation on a monthly basis. Finally, petitioners argue that CBCC is incorrect in stating that the Department made a clerical error by applying the interest expense ratios to replacement costs in calculating COP and CV. In fact, petitioners argue, the Department specifically addressed this issue in the final results. It said, ''We do not have the necessary information on the record to index monthly interest costs. Therefore, we calculated financial expenses based on our established practice prior to the CIT decision because it is still a viable method (see Comment 27 for details).'' *See Second Review Final Results* at 46773. Thus, petitioners argue, the Department's method of calculating interest expenses does not constitute a clerical error.

Department's Position

We disagree with CBCC that we intended to calculate a single weighted average interest rate for the POR. In the case of G&A costs, we computed a single weighted-average rate because the monthly G&A information was available. The monthly information required for the interest expense rate calculation, however, was not available. Therefore, as a reasonable alternative, we used available information to calculate separate interest expense rates for 1992 and 1993. Moreover, because all data needed to compute the appropriate interest expense ratio was not available, as a reasonable estimate of the interest expense, we applied the computed rate to replacement cost COMs. This is the method we intended to employ in the final results, and therefore does not constitute a clerical error.

Comment 7

Petitioners argue the Department made a clerical error in its computation

of the profit used in calculating CV for RIMA, Eletrosilex, and CBCC. Petitioners state that the Department calculated profit as the difference between COP and home-market selling prices from which the Department had subtracted imputed credit. Petitioners argue that because COP includes interest (which by definition includes the cost of financing receivables), it is incorrect and a ministerial error to calculate profit by comparing COP to home-market prices from which the cost of financing receivables has already been deducted.

Eletrosilex argues that the exclusion of imputed credit was not a ministerial error, and that therefore the petitioners' contention should be rejected from consideration at this stage of the proceeding.

Department's Position

We agree with petitioners. It was not our intent to understate profit by including imputed credit in COP but excluding it from revenue. Furthermore, we reviewed this issue in the final results of the third review of this order, and determined there too that in the profit calculation the home-market prices should not be net of imputed credit. *See Silicon Metal from Brazil; Final Results of Review and Determination Not to Revoke in Part;* 62 FR 1954, 1967 (January 14, 1997) *(Third Review Final Results).* In these amended final results of review, we have continued to include interest expenses in the calculation of COP, but have adjusted home-market prices so as not to deduct imputed credit from such prices in the computation of revenue.

Comment 8

Petitioners argue that the Department made a clerical error when it calculated the percentage of overhead allocated to RIMA's silicon metal production by using unadjusted direct material costs. The Department calculated the percentage of overhead allocated to RIMA's silicon metal production by averaging ratios for direct labor, electricity, and direct materials calculated by comparing the usage of each item for silicon metal production to the usage for overall production. In calculating the ratio for direct materials, the Department, petitioners allege, used the unadjusted direct materials costs for silicon metal production that RIMA reported in verification exhibit 15, rather than the adjusted material costs that the Department calculated following the verification.

Department's Position

We disagree with petitioners that it was a ministerial error not to adjust RIMA's primary direct material costs used in allocating the company's overhead. For the final results, we allocated RIMA's overhead costs based on the relation between RIMA's primary direct material consumed in the silicon production (numerator) and its total primary direct material consumed in the furnaces (denominator). These figures are unadjusted for RIMA's understatement of its direct material costs. Therefore, if we adjust the numerator as suggested by the petitioner, we must also adjust the denominator, which (like the numerator) was unadjusted in the final results calculations. If, however, we adjust both the numerator and the denominator, the allocation factor does not change. Therefore, the Department did not err in concluding that it was unnecessary to adjust these figures.

Comment 9

Petitioners argue that the Department made a clerical error in its calculation of the direct selling expenses to include in Eletrosilex's CV. Eletrosilex reported its direct selling expenses inclusive of inland freight. However, because inland freight is a movement expense, and not a selling expense, the Department subtracted inland freight from Eletrosilex's total direct selling expenses in its calculation of the direct selling expenses to be included in CV. Petitioners argue that the value for inland freight that the Department used in performing this subtraction was an aggregate amount, and not a per-unit amount. Using this aggregate amount was an error, petitioners argue, because all the other elements of Eletrosilex's reported direct selling expenses were per-unit amounts.

Eletrosilex argues that if the Department determines that it subtracted aggregate inland freight costs from the reported direct selling expenses, rather than per-unit inland freight costs, and therefore makes the correction requested by petitioners, it should also ascertain that it correctly applies the inflation rate for 30 days after the invoice, as discussed on page 4 of its March 21, 1994 submission.

Department's Position

We agree with petitioners that we inadvertently used aggregate inland freight costs rather than per-unit inland freight costs. We have corrected this error in these amended final results of review. With regard to Eletrosilex's argument that we apply the correct inflation rate, we have determined that because the reported inland freight costs already include an inflation adjustment, no further inflation adjustment is necessary. Moreover, Eletrosilex's citation to the discussion on page 4 of its March 21, 1994 submission is inapposite because that discussion concerns the conversion from Brazilian currency into U.S. dollars, and the calculations at issue here do not include a currency conversion. Therefore, because no further inflation adjustment is required, we used the invoiced inland freight costs as Eletrosilex reported them.

Comment 10

Petitioners argue that the Department made a clerical error by failing to include duty drawback in Eletrosilex's CV. In the *Second Review Final Results* the Department stated, ''n order to make an 'apples-to-apples' comparison between USP [United States Price] and CV, we need to add to CV the full amount of the duty drawback that we added to USP in accordance with section 772(d)(1)(B) of the Tariff Act. We have done so in these final results of review.'' *See Second Review Final Results* at 46770. Petitioners argue that in fact the Department added duty drawback to CV for some of Eletrosilex's U.S. sales, but not for all of them.

Department's Position

We agree with petitioners that we failed to add duty drawback to CV for some of Eletrosilex's sales, but we believe that the petitioners incorrectly identified the set of sales for which we made this error. In these amended final results of review we have corrected the final results programs to ensure that duty drawback was added to CV.

Comment 11

Petitioners argue that the Department erred with respect to Eletrosilex by failing to deduct home-market commissions from the gross home-market price in computing the net home-market price (variable name NPRICOP) to be compared to COP in the sales-below-cost test. They argue, based on Policy Bulletin 94.6, that this failure was a violation of the Department's established practice.

Eletrosilex argues that this was not a clerical error because Eletrosilex pays no commissions on its home-market sales.

Department's Position

We disagree with Eletrosilex and agree with petitioners in part. Eletrosilex's home-market sales listing indicates that it did pay a commission

on some of its home-market sales. See page 14 of Eletrosilex's November 12, 1992 submission, and the home-market sales listing contained therein. We agree with petitioners that we made no adjustment for these commissions in the calculation of NPRICOP, but we disagree with petitioners' argument that our failure to do so was an error. In this review we included in COP the direct and indirect selling expenses Eletrosilex reported in section D of its questionnaire response, as intended, and made no adjustment for selling expenses in the calculation of NPRICOP, also as intended. Thus, because both COP and NPRICOP contained selling expenses, the cost test was proper and not distorted. Furthermore, this treatment of Eletrosilex's selling expenses in the cost test is identical to our treatment of selling expenses in the cost test for all other respondents in this review.

Comment 12

Petitioners argue that the Department made a clerical error in its calculation of Eletrosilex's CV by subtracting home-market packing expenses from CV before adding U.S. packing expenses to CV. This was an error, petitioners argue, because the calculated CV did not include home-market packing.

Eletrosilex argues that the inclusion or exclusion of variables in an analysis is not a ministerial act, but an act of judgment. Thus, Eletrosilex argues, the Department should reject petitioners' argument at this stage of the proceeding.

Department's Position

The inclusion or exclusion of variables in an analysis can be intentional or unintentional. Here, the Department inadvertently omitted home-market packing from CV in the computer program used to calculate the margin for some of Eletrosilex's U.S. sales. Therefore, because the omission was unintentional, it is properly considered a ministerial error. In these amended final results of review we have corrected this error.

Comment 13

Petitioners argue that the Department made a clerical error in its margin calculation for Minasligas by converting the cruzeiro value of its U.S. sales into dollars, rather than using the actual U.S. dollar value of the sales. Petitioners argue that this was an error because the selling price of the U.S. sales was denominated in U.S. dollars. Petitioners argue that the Department should have used the dollar-denominated price, rather than the cruzeiro-denominated price, for Minasligas' U.S. sales.

Minasligas argues that it reported its U.S. sales in cruzeiros (as recorded in its books), and that the Department correctly converted them into dollars using the average exchange rate of the month of shipment. This methodology, Minasligas argues, is in accordance with the Department's practice of comparing the U.S. price to the CV or FMV of the month of shipment. Minasligas also argues that the dollar value that the petitioners urge the Department to use is from the section of its questionnaire response where it reported its total home-market, third-country, and U.S. sales volumes and values for the purpose of the viability test. This information, Minasligas states, did not relate to the information Minasligas provided in its U.S. sales listing.

Department's Position

We agree with petitioners. Our practice is to use the actual U.S. price in the currency in which it was originally denominated. We also seek to avoid any unnecessary currency conversions. In this case, we did not intend to convert currencies twice. Therefore, in these amended final results of review we have used the actual sales prices in the currency in which they were originally denominated. This is the same methodology we employed in the final results of the third review of this order. *See Third Review Final Results* at 1961.

Comment 14

Petitioners argue that the Department made a clerical error in its computation of Minasligas' imputed U.S. credit by using the date of shipment from the U.S. port as the start of the credit period, rather than the date of shipment from Minasligas' plant.

Minasligas argues the Department did in fact use the date of shipment from Minasligas' plant as the start of the credit period in the computation of U.S. imputed credit.

Department's Position

We agree with Minasligas. The variable SHIPDTPM used in the imputed credit calculation (line 730 of the final results margin calculation) is the date of shipment from Minasligas' plant. *See* exhibit VII–1 of Minasligas' November 1, 1993 submission.

Comment 15

Petitioners argue that the Department used an incorrect exchange rate in the currency conversion for Minasligas' warehousing expenses. In its final results margin calculation, the Department, petitioners allege, used the exchange rate of the date of shipment from the Brazilian port. Petitioners argue that the Department's practice in hyperinflationary economies is to convert U.S. movement expenses using the exchange rate on the date such expenses were incurred, or, in the absence of such information, on the date on which the respondent shipped the merchandise from its plant. Here, petitioners argue, the record contains no information on when Minasligas incurred the warehousing expenses. Thus, petitioners argue, the Department should have used the exchange rate on the date of shipment from Minasligas' plant in converting warehousing expenses, rather than the exchange rate of the date of shipment from the Brazilian port.

Minasligas argues that the Department's use of the exchange rate for the date of shipment from the port is not a clerical error, and is supported by substantial evidence on the record. It argues that although the record does not indicate when Minasligas paid the warehousing expenses, it does indicate that the expenses were incurred at the port prior to loading on the ship. Accordingly, it was proper, Minasligas argues, for the Department to use the exchange rate for the month of shipment from the port as being the closest in time to the date on which Minasligas incurred the warehousing expenses.

Department's Position

We agree with Minasligas. For the final results we intended to use the exchange rate of the date of shipment from the port. Where the record does not contain the actual dates of payment for export sale movement expenses, and where the Department did not specifically solicit the information, it is reasonable to use the date of shipment from the port in making the currency conversion because it is the closest date on record to the date on which the expenses were incurred. Therefore, in these amended final results of review, we have continued to use the exchange rate of the date of shipment in making currency conversions. This is the same methodology we applied in a similar situation in the final results of the third administrative review of this order. *See Third Review Final Results* at 1962.

Amended Final Results of Review

As a result of this review, we have determined that the following margins exist for the period July 1, 1992 through June 30, 1993:

Producer/manufacturer/exporter	Weighted-average margin (percent)
CBCC	18.71
Minasligas	0.00
Eletrosilex	25.46
RIMA	31.60

The Department shall determine, and the U. S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective upon publication of this notice of amended final results of review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above will be the rates published in the final results of review for the antidumping duty order on silicon metal from Brazil for the period July 1, 1994 through June 30, 1995 (*see Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part* 62 FR 1970 (January 14, 1997) (*Fourth Review Final Results*); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, or the original less-than-fair-value (LTFV) investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these reviews, the cash deposit rate will continue to be 91.06 percent, the ''all others'' rate established in the LTFV investigation. *See Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil,* 56 FR 26977 (June 12, 1991).

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as 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.

These amended final results of review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. § 1675(a)(1)) and section 353.28(c) of the Department's regulations.

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23853 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–820]

Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany: 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 from the respondent, Mannesmannroehren-Werke AG (''MRW'') and Mannesmann Pipe & Steel Corporation (''MPS'') (collectively, ''Mannesmann''), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Germany. This review covers the above manufacturer/exporter of the subject merchandise to the United States. The period of review (POR) is January 27, 1995, through July 31, 1996.

We preliminarily determine the dumping margin for Mannesmann to be 28.69 percent during the POR. Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding should also submit with their arguments (1) a statement of the issues, and (2) a brief summary of the arguments.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Linda Ludwig, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1324 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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 references to the Department's regulations are to 19 CFR part 353, as amended by the Department's interim regulations (April 1, 1997). Where appropriate, we have cited the Department's new regulations, codified at 19 CFR part 351 (May 19, 1997—62 FR 27296). While not binding on this review, the new regulations serve as a restatement of the Department's policies.

Background

On June 19, 1995, the Department published in the **Federal Register** (60 Fed. Reg. 31974) the final affirmative antidumping duty determination on small diameter circular seamless carbon and alloy steel standard, line and pressure pipe from Germany. We published an antidumping duty order and amended final determination on August 3, 1995 (60 FR 39704). On August 12, 1996, the Department published the Opportunity to Request an Administrative Review of this order for the period January 27, 1995 through July 31, 1996 (61 FR 41768). The Department received a request for an administrative review of Mannesmann's exports from Mannesmann itself, a producer/exporter of the subject merchandise. We published a notice of initiation of the review on September 17, 1996 (61 FR 48882).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 5, 1997, the Department published a notice of extension of the time limit for the preliminary results in this case. *See*

Extension of Time Limit for Antidumping Duty Administrative Review, 62 FR 10025 (March 5, 1997).

The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of the Review

The scope of this review includes small diameter seamless carbon and alloy standard, line and pressure pipes (seamless pipes) produced to the American Society for Testing and Materials (ASTM) standards A–335, A–106, A–53 and American Petroleum Institute (API) standard API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this review also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this review, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to this review are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this review, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the ASTM standard A–106 may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent ASTM A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple-certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple-certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However,
A–106 pipes may be used in some boiler applications.

The scope of this review includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this review. Therefore, seamless pipes meeting the physical description above, but not produced to the ASTM A–335, ASTM A–106, ASTM A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this review.

Specifically excluded from this review are boiler tubing and mechanical tubing, if such products are not produced to ASTM A–335, ASTM A–106, ASTM A–53 or API 5L specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished oil country tubular goods (OCTG) are excluded from the scope of this review, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this review are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the verification reports, the public versions of which are available at the Department of Commerce, in Central Records Unit (CRU), Room B099.

Transactions Reviewed

The Department determined the normal value (NV) and constructed export price (CEP) of each sale to the first unaffiliated customer in the United States during the POR.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent, covered by the description in the ''Scope of the Review'' section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire.

Fair Value Comparisons

To determine whether sales of small diameter circular seamless carbon and alloy steel standard, line and pressure pipe by Mannesmann to the United States were made at less than fair value, we compared the CEP to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Date of Sale

The Department's current policy is normally to use the date of invoice as recorded in the exporter or producer's records kept in the ordinary course of business as the date of sale. However, we may use a date other than the date of invoice where appropriate.

For Mannesmann's home-market sales, the company reported and we used invoice date (which is also shipment date) as the date of sale. For Mannesmann's U.S. sales, the company reported the date of order confirmation as the date of sale. In the Department's September 18, 1996 questionnaire to Mannesmann at Appendix I, the Department stated that in no case could the date of sale be later than the date of shipment. Because the date of shipment for Mannesmann's U.S. sales was in all cases earlier than the date of invoice (and thus not reported as date of sale), we have used the shipment date of U.S. sales as date of sale. Since there can be several months between order confirmation and shipment, using shipment date in both markets puts home market and U.S. sales on the same basis for date of sale.

Constructed Export Price

We have preliminarily determined that Mannesmann's U.S. sales reported as export price (EP) sales were CEP sales. Our determination is based on the evidence in the record of this review establishing that U.S. sales were made through Mannesmann's affiliated sales agent, MPS, who, as shown below, was more than a mere conduit, performing only clerical functions, for the producer/exporter.

The Department determines U.S. sales through affiliated sales agents to be EP only if: (1) The merchandise was shipped directly to the unaffiliated buyer, without being introduced into the affiliated selling agent's inventory; (2) this procedure is the customary sales channel between the parties; and (3) the affiliated selling agent located in the United States acts only as a processor of documentation and a communication link between the foreign producer and the unaffiliated buyer. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Duty Administrative Review,* 62 FR 18390, 18389–18391 (April 15, 1997); *Notice of Final Determination of Sales at Less than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, From Germany,* 61 FR 38166, 38174–5 (July 23, 1996); *Certain Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review,* 61 FR 18547, 18551 (April 26, 1996). This test has been approved by the CIT. *Independent Radionic Workers of America* v. *United States,* Slip Op. 95–45 at 2–3 (CIT 1995); *PQ Corp.* v. *United States,* 652 F. Supp. 724, 733–35 (CIT 1987).

In applying the first two criteria to the present review, we found that for the majority of sales, the merchandise was shipped directly to the unaffiliated U.S. customer without being introduced into MPS's inventory. We found that MPS occasionally buys for its own inventory, but we did not find any subject merchandise purchased for inventory during the POR. In addition, several sales were warehoused upon arrival in the U.S. when the original customer canceled its order. MPS could not find a new customer and subsequently sold the merchandise to the original customer. The Department verified that the terms of sale during the POR were CIF, duty paid to a port of entry near the customer's plant, and that MPS did not take physical possession of the shipment, except in the unusual instance described above.

Concerning the third criterion, however, the Department has determined that MPS did act as more than a processor of sales documents and a communications link between the unaffiliated U.S. customer and MRW, the producer in Germany. Although the MRW participates with MPS in meetings with U.S. customers once or twice a year and claims to reserve the right to approve all orders, MPS negotiates each of the sales with the customers, aiming to get the best price the market will allow. MPS admitted it had a small say in the price negotiated but claimed that it is very limited. The Department determined that MPS essentially negotiates all sales. We found no evidence to support Mannesmann's claim that MRW approved of or knew of the final prices on individual sales to U.S. customers. To the contrary, regardless of whether MRW has final approval rights, the record indicated that MPS has significant involvement in the sales process. Further, while MPS admitted that it is allowed to make a small profit on the U.S. sales, we found the price differential between the price from the German sales agent (Mannesmann Handel, a go-between for MRW and MPS) to MPS and the price from MPS to the customer to be unexplained by the small commissions or profits referenced by MPS at verification, nor by the U.S. duties and cash deposits on antidumping duties, which MPS pays as importer of record (*see* Sales Verification Report). Therefore, based on an analysis of all the facts, we find that the selling activities of MPS extend beyond those of a processor of documents or a communications link.

We calculated CEP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for discounts, foreign inland freight, international freight, marine insurance, other transportation expenses, U.S. Customs duties, warranties, credit expense, and other selling expenses that were associated with economic activities occurring in the United States. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

Based on our verification of Mannesmann's sales responses, we made adjustments to credit, quantity, gross unit price, shipment date, and sales date on certain sales, and we also increased other transportation expenses on certain sales to account for unreported unloading expenses. We also rejected as unverifiable reported U.S.

duty, foreign inland freight and international freight. Accordingly, pursuant to section 776(a) of the Act, we used partial facts available. For U.S. duty and foreign inland freight, we used the highest reported U.S. duty and foreign inland freight, respectively, on any individual U.S. sale. For international freight, we added the highest differential between the actual and the reported international freight (from the sales examined at verification) to reported international freight on every U.S. sale.

Mannesmann's response indicated that U.S. credit expense was calculated using the U.S. sales agent's interest rate on inter-company loans from its parent. We compared this to the U.S. prime rate. Since the company did not indicate that it has external borrowings and the prime rate was always higher than the inter-company rate, we recalculated credit expense using the U.S. prime rate.

At verification, the respondent indicated that it had not reported any U.S. sales of ASTM A–333 (although it had reported home market sales of this specification) to the Department because it believed the scope definitively excluded this specification (as low temperature service steels). We note that the scope discussion indicates A–333 (along with several other specifications) is covered by the scope of this review if it is used in a standard, line, or pressure pipe application. The respondent did not address the applications of the A–333 sales during verification. Therefore, as facts available, we are assuming all unreported low temperature steel sales (sourced from the German producer) by MPS to be A–333 and, therefore, subject merchandise. We summed the total quantity of these sales from verification documents and applied Mannesmann's rate from the original investigation as facts otherwise available (*see* ''Use of Facts Otherwise Available'' section below).

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a ''fair'' comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, at the same level of trade as the export price. *See* ''Level of Trade'' section below.

We excluded from our analysis negative quantity observations reported in the database, while leaving in the database the positive quantity observations on the same orders with the negative quantity observations. We found that the products in question would not likely be used in matching to U.S. sales. We also excluded from our analysis NV sales to affiliated home market customers where the weighted-average sales prices to the affiliated parties were less than 99.5 percent of the weighted-average sales prices to unaffiliated parties. *See Usinor Sacilor* v. *United States,* 872 F. Supp. 1000, 1004 (CIT 1994).

On May 5, 1997, Mannesmann requested to be excused from reporting all ''downstream sales'' (sales by affiliated resellers to unaffiliated customers). It based its request on the fact that the sales to the affiliated resellers would pass the arm's-length test or would not be used in the Department's analysis. On May 14, 1997, the Department informed Mannesmann that, based on Mannesmann's portrayal of the information submitted, it did not have to report downstream sales at that time. We preliminarily find that sales to one affiliated reseller pass the arm's-length test, while sales to the other affiliated resellers do not pass the arm's-length test but would not be used for matching purposes.

Where appropriate, we deducted credit expenses, warranties, packing, and certain discounts, and we added interest revenue. We rejected as unverifiable inland freight, ''other adjustments,'' and certain rebates and discounts (*see* Sales Verification Report). We denied deductions from the reported price for each of these items.

The respondent reported credit expense based on a POR-average days outstanding for receivables (all customers) on all sales (including non-subject merchandise), since it indicated that it could only manually provide payment date information on all sales. We compared this overall average days of outstanding payment to the actual days payment was outstanding on the sales examined at verification. We found the actual days between shipment and payment to be consistently lower than the average days used. Therefore, we calculated a simple average days outstanding using actual shipment and payment dates from the sales examined at verification, and we recalculated credit expense using this average figure.

We found that respondent paid commissions in the home market on the foreign like product to affiliated parties. Since there is no benchmark which can be used to determine whether affiliated party commissions are arm's-length values (*i.e.,* the producer does not use an unaffiliated selling agent for sales of the foreign like product), we have assumed that affiliated party commissions were not paid on an arm's-length basis. As a result, we did not make a circumstance-of-sale adjustment for affiliated party commissions in the home market.

For comparison to CEP, we increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action (SAA) accompanying the URAA, to the extent practicable, the Department will calculate normal values based on sales at the same level of trade as the U.S. sales (either EP or CEP). 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, and adjust NV if appropriate. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the level of trade is that of the sales from which we derive selling, general and administrative expenses, and profit.

As the Department explained in *Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 17148, 17156 (April 9, 1997) (''*Cement From Mexico*''), for both EP and CEP, the relevant transaction for the level of trade analysis is the sale from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the EP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses specified in section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by, or on behalf of, the affiliated importer. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade

for the CEP than for the later resale (which we use for the starting price).

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with the good being sold by the producer and extends to the sale to the final user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and the United States, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, retailer or end-user are commonly used by respondents to describe level of trade, but without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed customer categorization levels. Different levels of trade 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. Differences in levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment only if the difference in level of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. *See Granular Polytetrafluorethylene Resin from Italy; Preliminary Results of Antidumping Duty Administrative Review*, 62 FR 26283, 26285 (May 13, 1997); *Cement From Mexico* at 17156. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average percentage difference between these net prices to adjust NV when the level of trade of NV is different from that of the export sale. If there is a pattern of no price differences, then the difference in level of trade does not have a price effect and, therefore, no adjustment is necessary.

Mannesmann sold to end-users and distributors in the U.S. market and in the home market. Mannesmann claimed that sales to end-users and distributors were at separate levels of trade. While Mannesmann's questionnaire response indicated that it provided higher levels of support to end-users than to distributors, Mannesmann did not explain what distinguished high from low support or support these claims at verification. At verification, when asked about levels of trade, Mannesmann merely provided an MWR organization chart, which showed that there was a different sales group for sales to end-users than for sales to distributors. This chart did not indicate a separate subdivision for U.S. sales. The respondent provided no support or information, as requested in the sales verification outline, regarding differences in selling functions for sales to end-users versus distributors and between sales to its home market customers and the CEP level of trade. Thus, our analysis of the information in this case leads us to conclude that sales within each market and between markets are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market are made at the same level of trade. Therefore, all price comparisons are at the same level of trade and no adjustment pursuant to section 773(a)(7) is warranted.

Use of Facts Otherwise Available

We preliminarily determine, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for certain aspects of Mannesmann's response as described in the ''Constructed Export Price'' and ''Normal Value'' sections above. We find that we were unable to verify certain information and that the respondent did not provide the information necessary to make a decision on whether certain unreported U.S. sales should have been reported under the scope of this review.

Furthermore, we determine that, pursuant to section 776(b) of the Act, it is appropriate to make an inference adverse to the interests of this company because it failed to cooperate by not acting to the best of its ability in providing the Department with information. We found that Mannesmann did not act to the best of its ability by not providing information on the uses of certain U.S. sales (A–333 sales). Also, Mannesmann did not provide us with the majority of sales trace verification packages until late on the final day of the home market verification. These packages did not include any supporting documentation for numerous adjustments (as discussed under the ''Normal Value'' section above). Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. In this case, as described above, we have used as facts available Mannesmann's rate from the original investigation, which was based on information from the petition. Although we have not fully corroborated this information in accordance with section 776 (c) of the Act, we will do so for the final results.

Cost of Production Analysis

Petitioners alleged, on December 20, 1996, that Mannesmann sold small diameter circular seamless carbon and alloy steel standard, line and pressure pipe in the home market at prices below cost of production (COP). Based on this allegation, in accordance with Section 773(b) of the Act, the Department determined, on January 31, 1997, that it had reasonable grounds to believe or suspect that Mannesmann had sold the subject merchandise in the home market at prices below COP. *See* Letter to Mannesmann and Decision Memorandum (January 31, 1997). We therefore initiated a cost investigation with regard to Mannesmann in order to determine whether the respondent made home-market sales at prices below its COP within the meaning of section 773(b) of the Act. Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. Based on our verification of Mannesmann's cost response, we adjusted Mannesmann's reported COP to reflect certain adjustments to cost of manufacturing and interest expense as described below. We also have denied a claimed start-up adjustment (as described below) and used reported costs without the start-up adjustment.

1. Major Inputs

Mannesmann purchased the majority of its major inputs, billet rounds, for seamless pipe, from an affiliated party.

Sections 773(f)(2) and (3) of the Act specify the treatment of transactions between affiliated parties for purposes of reporting cost data (for use in determining both COP and CV) to the Department. Section 773(f)(2) indicates that the Department may disregard such transactions if the amount representing that element (the transfer price) does not fairly reflect the amount usually reflected (typically the market price) in the market under consideration (where the production takes place). Under these circumstances, the Department may rely on the market price to value inputs purchased from affiliated parties.

Section 773(f)(3) indicates that, if transactions between affiliated parties involve a major input, then the Department may value the major input based on the COP if the cost is greater than the amount (higher of transfer price or market price) that would be determined under 773(f)(2). Section 773(f)(3) applies if the Department ''has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the COP of such input.'' The Department generally finds that such ''reasonable grounds'' exist where it has initiated a COP investigation of the subject merchandise.

Because a COP investigation is being conducted in this case, the Department requested in its supplemental Section D questionnaire that Mannesmann provide cost of production information for the billet rounds. That cost information was provided by the affiliated party and was verified. In accordance with sections 773(f) (2) and (3), we used the highest of transfer price, cost of production or market value to value the billets. To determine the market value, we compared information on one grade of billets which was obtained from both affiliated and unaffiliated parties during the POR. We applied the percentage price increase paid to unaffiliated parties to affiliated party purchases to reflect market value (*see* Department's September 2, 1997 Analysis Memorandum).

2. Financial (Interest) Expense

In calculating net financial expense in its response, respondent subtracted what it claimed to be financial income from short-term sources. At verification, however, respondent failed to provide support that the income was, in fact, short term in nature (*see* Cost Verification Report). The Department considers financial income from long-term investments as not being related to the production activities of the company and, therefore, does not allow financial income from long-term investments as offsets to financial expense in calculating COP and CV. The Department only allows financial expense to be offset by interest income from short-term sources (*i.e.,* working capital). We have therefore disallowed respondent's claimed offsets.

3. Start-Up Costs

Respondent claimed a start-up adjustment for operations at the Zeithain plant during the first half of 1996. Specifically, these start-up operations were associated with the complete rebuilding and modernization of certain production equipment. Respondent claims that it is eligible for this adjustment because the project represented a major change in the production process and because output was adversely affected by the start-up operations in a manner unrelated to the pressures of market demand and seasonal factors.

Under section 773(f)(1)(C)(ii) of the Act, Commerce may make an adjustment for start-up costs only if the following two conditions are satisfied: (1) A company is using new production facilities or producing a new product that requires substantial additional investment, and (2) production levels are limited by technical factors associated with the initial phase of commercial production.

The SAA at 166 states that ''new production facilities'' includes the substantially complete retooling of an existing plant. Substantially complete retooling involves the replacement of nearly all production machinery or the equivalent rebuilding of existing machinery. The production machinery which was replaced represents only one process in multiple processes according to Mannesmann's internal documentation describing the production process (*see* Department's September 2, 1997 Analysis Memorandum). Thus, it does not meet the requirement that nearly all production machinery be replaced, and does not represent a substantial portion of the overall assets in the facility.

Furthermore, Mannesmann did not demonstrate that production levels were limited by technical factors associated with the initial phase of commercial production. Company records indicate that production and manufacturing activity levels were substantially the same during the January to June 1995 time period as during the alleged start-up period of January to June 1996.

Accordingly, we reject Mannesmann's claim for a start-up adjustment because it did not demonstrate that they were using new production facilities, including substantially complete retooling; nor did they demonstrate that production levels were limited by technical factors associated with the initial phase of commercial production.

B. Test of Home Market Prices

We used the respondent's weighted-average COP, as adjusted (see above), for the period January 1, 1995 to July 31, 1996. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) Within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and discounts.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of Mannesmann's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. We also determined that such sales were also not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, and therefore, we disregarded the below-cost sales. Where all contemporaneous sales of a specific comparison product were at prices below the COP, we calculated NV based on CV.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Mannesmann's cost of materials, fabrication, SG&A, U.S. packing costs, and interest expenses as reported and a calculated profit. As noted above, we recalculated Mannesmann's cost of manufacturing, SG&A, and interest expense based on our verification results. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the

ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Mannesmannroehren-Werke AG	1/27/95–7/31/96	28.69

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 business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs, limited to issues raised in those briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

The following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of small diameter circular seamless carbon and alloy steel standard, line and pressure pipe, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of review; (2) for exporters not covered in this review, but covered in the LTFV investigation or previous review, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation; (3) if the exporter is not a firm covered in this review, a previous review, or the original 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; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 57.72 percent, the ''All Others'' rate made effective by the LTFV investigation. 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 administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23856 Filed 9–8–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–054, A–588–604]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Reviews.

SUMMARY: In response to requests by the petitioner and one respondent, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and of the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers two manufacturers/exporters and two resellers/exporters of the subject merchandise to the United States during the period October 1, 1995 through September 30, 1996. The review of the A–588–604 order covers three manufacturers/exporters and two resellers/exporters, and the period October 1, 1995 through September 30, 1996.

We preliminarily determine that sales of TRBs have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative reviews, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between United States price and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) A brief summary of the argument.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Ranado, Stephanie Arthur, or Valerie Owenby, 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) 482–3518, 6312, or 0145, respectively.

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. In addition, unless otherwise indicated, all citations are to the Department's regulations, 19 CFR part 353 (1997).

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1976, the Treasury Department published in the **Federal Register** (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order on TRBs from Japan (52 FR 37352). On October 1, 1996, the Department published the notice of ''Opportunity to Request Administrative Review'' for both TRBs cases covering the period October 1, 1995 through September 30, 1996 (61 FR 51529).

In accordance with 19 CFR 353.22 (a)(1), on October 31, 1996, the petitioner, the Timken Company (Timken), requested that we conduct a review of Fuji Heavy Industries (Fuji), Koyo Seiko Co., Ltd. (Koyo), MC International (MC), and NSK Ltd. (NSK) in both the A–588–054 and A–588–604 cases. In addition, Timken requested that we conduct a review of NTN Corporation (NTN) in the A–588–604 TRBs case. On October 28, 1996, NSK requested that we conduct a review of its sales in both TRBs cases. On November 15, 1996, we published in the **Federal Register** a notice of initiation of these antidumping duty administrative reviews covering the period October 1, 1995 through September 30, 1996 (61 FR 58513).

Because it was not practicable to complete these reviews within the normal time frame, on March 5, 1997, we published in the **Federal Register** our notice of the extension of the time limits for both the A–588–054 and A–588–604 1994–95 reviews (62 FR 10025). As a result of this extension, we extended the deadline for these preliminary results to September 2, 1997.

Scope of the Reviews

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of the A–588–604 order, except those manufactured by NTN. This merchandise is currently classifiable under HTS item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8483.30.80, 8483.90.20, 8483.90.30, and 8483.90.60. The HTS item numbers listed above for both the A–588–054 finding and the A–588–604 order are provided for convenience and Customs purposes. The written descriptions remain dispositive.

The period for each review is October 1, 1995 through September 30, 1996. The review of the A–588–054 finding covers TRBs sales by two manufacturers/exporters (Koyo and NSK) and two resellers/exporters (Fuji and MC). The review of the A–588–604 order covers TRBs sales by three manufacturers/exporters (Koyo, NTN, and NSK) and two resellers/exporters (Fuji and MC).

No Shipments

Fuji and MC made no shipments of A–588–604 merchandise during the period of review (POR). In addition, neither Fuji nor MC was a party to the A–588–604 less-than-fair-value (LTFV) investigation and neither of these firms has been assigned rates from any prior segment of this proceeding. Because Fuji's and MC's shipments have never been reviewed individually, we have not assigned a rate to either firm for the A–588–604 case. If Fuji or MC begins shipping merchandise subject to the A–588–604 order at some future date, the entries will be subject to cash deposit rates attributable to the manufacturer(s) of the subject merchandise.

Duty Absorption

On December 11, 1996, Timken requested that the Department determine, with respect to all respondents, whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter. The Department's interim regulations do not address this provision of the Tariff Act.

For transition orders as defined in section 751(c)(6)(C) of the Tariff Act, *i.e.*, orders in effect as of January 1, 1995, § 351.213(j)(2) of the Department's new antidumping regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. *See* 62 FR 27394 (May 19, 1997). Because the finding and order on TRBs have been in effect since 1976 and 1987, respectively, they are transition orders in accordance with section 751(c)(6)(C) of the Tariff Act. (*See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31568 (June 10, 1997*). The preamble to the new antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year (62 FR 27317, May 19, 1997). This approach ensures that interested parties will have the opportunity to request a duty-absorption determination prior to the time for sunset review of the order under section 751(c) of the Act on entries for which the second and fourth years following an order have already passed. Since these reviews were initiated in 1996, and a request was made for a determination, we are making duty-absorption determinations as part of these administrative reviews.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In these cases, NTN, Koyo, NSK, and Fuji sold through importers that are affiliated within the meaning of section 751(a)(4) of the Act. Furthermore, we have preliminarily determined that each firm listed below has margins on the noted percentage of its U.S. sales:

Manufacturer/Exporter/Reseller	Percentage of U.S. affiliates' sales with dumping margins
For the A–588–054 Case:	
Koyo Seiko	13.11
Fuji	4.45
NSK	22.76
For the A–588–604 Case:	
Koyo Seiko	97.26
Fuji [1]	
NSK	56.33
NTN	64.47

[1] No shipments or sales subject to this review.

In the case of Koyo, the firm did not respond to our request for further-manufacturing information and we determined the dumping margins for these further-manufactured sales on the

basis of adverse facts available. Lacking other information, we find duty absorption on all such sales of further-processed TRBs. (*See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31568 (June 10, 1997).*) Where Koyo's margins were not determined on the basis of adverse facts available (*i.e.*, for non-further-manufactured sales), we must presume that duties will be absorbed for those sales which were dumped.

With respect to other respondents with affiliated importers (NSK, NTN, and Fuji), for which we did not apply adverse facts available, we must presume that the duties will be absorbed for those sales which were dumped. (*See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31568 (June 10, 1997).*) Our duty-absorption presumptions can be rebutted with evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty. However, there is no such evidence on the record. Under these circumstances, we preliminarily find that antidumping duties have been absorbed by Koyo, NTN, NSK, and Fuji on the percentages of U.S. sales indicated. If interested parties wish to submit evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duties, they must do so no later than 15 days after publication of these preliminary results.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by certain respondents, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Use of Facts Available

In accordance with section 776(a) of the Act, in these preliminary results we have found it necessary to use partial facts available in those instances where a respondent did not provide us with certain information necessary to conduct our analysis. This occurred with respect to certain model-match and constructed value (CV) information omitted from MC's response and certain sales and cost information Koyo declined to report for its sales of U.S. further-manufactured merchandise subject to the A–588–604 order.

MC's questionnaire response contained only limited model match information, which prevented us from finding contemporaneous sales of the foreign like product for comparison to a small number of U.S. sales of subject merchandise. As a result of MC's failure to provide certain information necessary for our determination, in accordance with section 776(a) of the Act, we have resorted to facts available. Because MC was not afforded the opportunity to remedy or explain its deficiencies in accordance with section 782(d) of the Act, for these preliminary results, as partial facts available, we have applied to each unmatched U.S. sale a percentage dumping margin equal to the overall weighted-average percentage margin we calculated for those U.S. transactions reported by MC for which we were able to calculate a margin. However, for our final results, we will provide MC with an opportunity to remedy or explain its deficiencies in accordance with section 782(d) of the Act.

On January 28, 1997, Koyo wrote to the Department requesting a determination that it not be required to submit a response to Section E of our questionnaire regarding its U.S. further-manufactured sales. We informed Koyo in a letter dated February 18, 1997, that it was not required at that time to supply further-manufacturing data, but that we may require such information at a later date based on additional analysis of the company's response. After further review of Koyo's response, we concluded that we would require more information concerning its U.S. further-manufactured sales, and notified Koyo on April 10, 1997, that we required a response to Section E of our questionnaire by May 1, 1997. In response to Koyo's April 29, 1997, request, we subsequently extended the response deadline until June 9, 1997. However, Koyo telephonically notified us on June 9 and in a letter dated June 10, 1997, that it would not file a further-manufacturing response. As a result of Koyo's refusal to file a further-manufacturing response, the Department lacks data necessary for its analysis. Therefore, in accordance with section 776(a) of the Act, we resorted to the use of facts otherwise available in the absence of the necessary further-manufacturing data Koyo failed to provide. The Department is authorized, under section 776(b) of the Act, to use an inference that is adverse to the interest of a party if we find that the party has failed to cooperate by not acting to the best of its ability to comply with our request for information. By refusing our information request, Koyo failed to act to the best of its ability in declining to provide the data we requested. As a result, in accordance with section 776(b) of the Act, we determined that it is appropriate to make an adverse inference with respect to Koyo, and have used the highest rate calculated for Koyo in any prior segment of the A–588–604 proceeding as partial adverse facts available, which is secondary information within the meaning of section 776(c) of the Act.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information used as facts available from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate means simply that the Department will satisfy itself that the secondary information to be used has probative value (*See* H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 49567 (February 22, 1996), where we disregarded the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin).

For these preliminary results, we have examined the history of the A–588–604 case and have determined that 36.21 percent, the rate we calculated for Koyo in the less-than-fair-value

determination, is the highest calculated rate for Koyo in any prior segment of the A–588–604 order (*see Amendment to Final Determination of Sales At Less Than Fair Value and Amendment to Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan*, 52 FR 47955 (December 17, 1987)). In addition, we have examined the circumstances surrounding the calculation of this rate and have determined that there is no reliable evidence on the records for the reviews in which this rate was calculated which indicates that this margin is irrelevant or inappropriate. As a result, for these preliminary results we have applied, as adverse facts available, a margin of 36.21 percent to Koyo's further-manufactured U.S. sales.

Export Price and Constructed Export Price

Because all of Koyo's and NSK's sales and certain of Fuji's and NTN's sales of subject merchandise were first sold to unaffiliated purchasers after importation into the United States, in calculating U.S. price we used constructed export price (CEP) for all of Koyo's and NSK's sales and certain of Fuji's and NTN's sales, as defined in section 772(b) of the Act. We based CEP on the packed, delivered price to unaffiliated purchasers in the United States. We made deductions, where appropriate, for discounts, billing adjustments, freight allowances, and rebates. Pursuant to section 772(c)(2)(A) of the Act, we reduced this price for movement expenses (Japanese pre-sale inland freight, Japanese post-sale inland freight, international air and/or ocean freight, marine insurance, Japanese brokerage and handling, U.S. inland freight from the port to the warehouse, U.S. inland freight from the warehouse to the customer, U.S. duty, and U.S. brokerage and handling). We also reduced the price, where applicable, by an amount for the following expenses incurred in the selling of the merchandise in the United States pursuant to section 772(d)(1): Commissions to unaffiliated parties, U.S. credit, payments to third parties, U.S. repacking expenses, and indirect selling expenses (which included, where applicable, inventory carrying costs, indirect warehouse expenses, indirect advertising expenses, indirect technical services expenses, pre-sale warehousing expenses, and other U.S.-incurred indirect selling expenses). Finally, pursuant to section 772(d)(3) of the Act, we further reduced U.S. price by an amount for profit to arrive at CEP.

Koyo originally claimed an offsetting adjustment to its U.S. indirect selling expenses for interest incurred when financing cash deposits, but during verification retracted its claim. NTN also claimed an offsetting adjustment to U.S. indirect selling expenses to account for the cost of financing cash deposits during the POR. In past reviews we have accepted such an adjustment, mainly to account for the opportunity cost associated with making a deposit (i.e., the cost of having money unavailable for a period of time). However, we have preliminarily determined to change our practice of accepting such an adjustment.

We are not convinced that there are such opportunity costs associated with paying deposits. Moreover, while it may be true that importers sometimes incur an expense if they borrow money in order to pay antidumping duty cash deposits, it is a fundamental principle that money is fungible. If an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost. We find that the calculation of the dumping margin should not vary depending on whether a party has funds available to pay cash deposits or requires additional funds in the form of loans.

Therefore, we find that an adjustment to indirect selling expenses where parties have claimed financing costs is inappropriate and we have denied such adjustments for the preliminary results of these reviews (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31568 (June 10, 1997)).*

Because certain of Fuji's and NTN's sales of subject merchandise, and all of MC's sales of subject merchandise, were made to unaffiliated purchasers in the United States prior to importation into the United States and the constructed export price methodology was not indicated by the facts of record, in accordance with section 772(a) of the Act, we used export price (EP) for these sales. We calculated EP as the packed, delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we reduced this price, where applicable, by Japanese pre-sale inland freight, Japanese post-sale inland freight, international air and/or ocean freight, marine insurance, Japanese brokerage and handling, U.S. brokerage and handling, U.S. duty, and U.S. inland freight.

Where appropriate, in accordance with section 772(d)(2) of the Act, the Department also deducts from CEP the cost of any further manufacture or assembly in the United States, except where the special rule provided in section 772(e) of the Act is applied. Section 772(e) of the Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine CEP. *See* Sections 772(e)(1) and (2) of the Act.

In judging whether the use of identical or other subject merchandise is appropriate, the Department must consider several factors, including whether it is more appropriate to use another ''reasonable basis.'' Under some circumstances, we may use the standard methodology as a reasonable alternative to the methods described in paragraphs 772(e)(1) and (2) of the Act. In deciding whether it is more appropriate to use the standard methodology we have considered and weighed the burden to the Department of applying the standard methodology as a reasonable alternative and the extent to which application of the standard methodology will lead to more accurate results. The burden of using the standard methodology may vary from case to case depending on factors such as the nature of the further-manufacturing process and the finished products. The increased accuracy gained by applying the standard methodology will vary significantly from case to case, depending upon such factors as the amount of value added in the United States and the proportion of total U.S. sales that involve further manufacturing. In cases where the burden is high, it is more likely that the Department will determine that potential gains in accuracy do not outweigh the burden of applying the standard methodology. Thus, the Department will likely determine that application of the standard methodology is not more appropriate than application of paragraphs 772(e)(1) and (2), or some other reasonable alternative methodology. By contrast, if the burden is relatively low and there is reason to believe the standard methodology is

likely to be more accurate, the Department is more likely to determine that it is not appropriate to apply the methods described in paragraphs 772(e)(1) or (2) in lieu of the standard methodology.

Fuji's two U.S. affiliates, Subaru of America (SOA) and Subaru-Isuzu Automotive (SIA), both imported TRBs into the United States which were first purchased by Fuji from Japanese producers in Japan. While SOA imported TRBs during the review period for the sole purpose of reselling the bearings as replacement parts for Subaru automobiles in the United States, SIA imported TRBs for the sole purpose of using them in its production of Subaru automobiles in the United States, the final product sold by SIA to the first unaffiliated customer in the United States

To determine whether the value added in the United States by SIA is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the differences between the averages of the prices charged to the first unaffiliated U.S. customer for the final merchandise sold (the automobiles) and the averages of the prices paid for the subject merchandise (the imported TRBs) by the affiliated party. Based on this analysis and information on the record, we determined that the value of the TRBs further processed by SIA in the United States was a minuscule amount of the price charged by SIA to the first unaffiliated customer for the automobiles it sold in the United States. Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise.

Next, we examined whether sales of non-further-manufactured merchandise were made in sufficient quantity. They were. Finally, we considered whether it would be appropriate to apply alternatives provided in paragraphs 772(e) (1) and (2) of the Act with respect to those TRBs imported by SIA. As indicated above, because SIA further manufactures TRBs into finished automobiles, the value of the imported TRBs is a miniscule amount of the price SIA charges for the finished automobile and, therefore, also a miniscule amount of the value added by SIA to the imported TRBs. In light of this, a calculation of the dumping margins for TRBs imported by SIA using our standard methodology would require the actual calculation of the enormous value added by SIA and the deduction of these costs, plus an apportioned profit, from the price charged by SIA for a finished automobile. Not only would such a calculation be overwhelmingly burdensome to the Department, but the extent and complexity of the calculation would most likely generate inaccurate results. The legislative history of the URAA and the SAA make it clear that the special rule provision is intended to reduce just such a burden on the Department. Given this, along with the relatively low proportion of Fuji's further-manufactured U.S. merchandise to its non-further-manufactured U.S. merchandise, we have preliminarily determined that it is appropriate to apply the alternatives under paragraphs 772(e)(1) and (2) with respect to SIA's imports of TRBs. Therefore, in accordance with section 772(e) of the Act, for the purpose of determining dumping margins for the TRBs entered by SIA and used in the production of automobiles, we have used the weighted-average dumping margins we calculated on sales of identical or other subject merchandise sold by SOA as replacement TRBs to unaffiliated persons in the United States.

NTN and Koyo also imported subject merchandise (TRBs parts) which was further processed in the United States. However, both companies further manufactured the imported scope merchandise into merchandise of the same class or kind as merchandise within the scope of the A–588–604 order and A–588–054 finding (finished TRBs). Based on information provided by both firms, we first determined whether the value added in the United States was likely to exceed substantially the value of the subject merchandise. We estimated the value added based on the differences between the averages of the prices charged to the first unaffiliated U.S. customer for the final merchandise sold (finished TRBs) and the averages of the prices paid for the subject merchandise (imported TRBs parts) by the affiliated party and determined that, for both firms, the value added was likely to exceed substantially the value of the imported TRBS parts.

We then examined whether it would be appropriate to use sales of non-further-manufactured merchandise as a basis for comparison, under paragraphs 772(e)(1) and (2) of the Act, with respect to NTN's and Koyo's imported TRBs parts. In contrast to Fuji, the finished merchandise sold by NTN and Koyo to the first unrelated U.S. customer was of the same class or kind as merchandise within the scope of the TRBS order and finding. Moreover, the Department has experience in calculating dumping margins for Koyo's and NTN's further-manufactured TRBs numerous times in past reviews using our standard methodology. These facts indicate that the use of the standard calculation with respect to NTN or Koyo would not be unduly burdensome to the Department. However, based on the information provided by NTN, we determined that the proportion of its further-manufactured merchandise to its total imports of subject merchandise was relatively low. Therefore, we have preliminarily determined that, in NTN's case, any potential gains in accuracy from examining NTN's further-manufactured sales are outweighed by the burden of the applying the standard methodology and that it would be appropriate to apply one of the methodologies specified in the statute with respect to NTN's imported TRBS parts. Furthermore, other sales are in sufficient quantity. Therefore, for the purpose of determining dumping margins for NTN's imported TRBs which were further manufactured in the United States prior to resale, we have used the weighted-average dumping margins we calculated on NTN's sales of non-further-manufactured TRBs.

In contrast to NTN, information on the record establishes that Koyo's imported and further-manufactured merchandise is a relatively high proportion of its total imports of subject merchandise. In addition, as noted above, the calculation of Koyo's imported TRBs parts using our standard methodology would not pose an undue burden. For these reasons we determined that the potential gains in accuracy did outweigh the burden of applying the standard methodology. Therefore, it was not appropriate to apply the methodologies enumerated in the statute to Koyo's imported TRBs parts in this review. Therefore, we requested that Koyo respond to the further-manufacturing section of our questionnaire. (For further explanation of Koyo's further manufacturing, refer to ''Facts Available'' section.) No other adjustments were claimed or allowed.

Normal Value

A. Viability

Based on (1) our comparison of the aggregate quantity of home market and U.S. sales, (2) the absence of any information that a particular market situation in the exporting country does not permit a proper comparison, and (3) the fact that each company's quantity of sales in the home market was greater than five percent of its sales to the U.S. market, we determined that the quantity of the foreign like product, for all respondents except MC, sold in the exporting country was sufficient to permit a proper comparison with the sales of subject merchandise to the

United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in the exporting country.

MC is an exporter of TRBs which did not sell TRBs in the exporting country. Rather, MC only sold TRBs in the U.S. market and in three third-country markets: the United Kingdom (UK), Germany, and Canada. In order to determine which third-country market provided the proper basis for comparison, in accordance with section 773(a)(1)(C) of the Act, we compared the quantity of MC's sales in the United States to the quantity in the UK and Germany. Absent any information that a particular market situation does not permit a proper comparison, we determined that the aggregate quantity of MC's sales of the foreign like product in the UK and Germany were sufficient to permit a proper comparison with the sales of subject merchandise in the United States because the quantity of MC's sales in the U.K. and Germany was greater than 5 percent of the aggregate quantity of MC's sales of subject merchandise in the United States.

Because both the UK and German markets were viable, we next examined whether the merchandise sold in either one of these two markets, in comparison to the other market, was more similar to the merchandise sold in the United States. Our examination revealed that the identical foreign like products were sold in both markets such that neither market, in comparison to the other, had sales of subject merchandise more similar to the U.S. merchandise. Therefore, we compared the volume of sales of the foreign like product in the UK and German markets and found that the UK market had a greater aggregate volume of sales of the foreign like product. As a result, we based NV on the prices at which the foreign like products were first sold for consumption in the United Kingdom.

B. Arm's-Length Sales

For NTN, Koyo, NSK, and Fuji we have excluded from our analysis those sales made to affiliated customers in the home market which were not at arm's length. *See* Section 773(a)(1)(B) of the Act. We determined the arm's-length nature of home market sales to affiliated parties by means of our 99.5 percent arm's-length test in which we calculated, for each model, the percentage difference between the weighted-average prices to the affiliated customer and all unaffiliated customers and then calculated, for each affiliated customer, the overall weighted-average percentage difference in prices for all models purchased by the customer. If the overall weighted-average price ratio for the affiliated customer was equal to or greater than 99.5 percent, we determined that all sales to this affiliated customer were at arm's length. Conversely, if the ratio for a customer was less than 99.5 percent, we determined that all sales to the affiliated customer were not at arm's length because, on average, the affiliated customer paid less than unaffiliated customers for the same merchandise. Therefore, we excluded all sales to the affiliated customer from our analysis. Where we were unable to calculate an affiliated customer ratio because identical merchandise was not sold to both affiliated and unaffiliated customers, we were unable to determine if these sales were at arm's length and, therefore, excluded them from our analysis (*see Stainless Steel Wire Rod from France: Preliminary Results of Antidumping Duty Administrative Review* (61 FR 8915 (March 6, 1996)).

C. Cost-of-Production Analysis

Because we disregarded sales below the cost of production (COP) in our last completed A–588–054 review for Koyo and NSK, and in our last completed A–588–604 review for NTN, Koyo, and NSK, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act (*see Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 62 FR 11840 (March 13, 1997)). Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Koyo and NSK in both TRBs cases and for NTN in the A–588–604 case.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home market sales and COP information provided by Koyo, NTN, and NSK except in those instances where the data was not appropriately quantified or valued (*see* the company-specific COP/CV preliminary results memoranda).

After calculating COP, we tested whether home market sales of TRBs were made at prices below COP within an extended period of time in substantial quantities and whether such prices permit the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because they are 1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

The results of our cost tests for Koyo, NTN, and NSK indicated that for certain home market models, less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of the model in our analysis and used them as the basis for determining NV. Our cost test for these respondents also indicated that, within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain home market models more than 20 percent of the home market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

D. Product Comparisons

For all respondents except MC we compared U.S. sales with contemporaneous sales of the foreign like product in the home market. We considered bearings identical on the basis of nomenclature and determined most similar TRBs using our sum-of-the-deviations model-match methodology which compares TRBs according to the following five physical criteria: inside diameter, outside diameter, width, load rating, and Y2 factor. For Koyo, NTN, and NSK we used a 20 percent

difference-in-merchandise (difmer) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and home market variable costs of manufacturing divided by the U.S. total cost of manufacturing. Because Fuji, a reseller, was unable to provide the variable and total costs of manufacturing for the TRBs it purchased from Japanese producers, it instead provided its acquisition cost for each TRB model purchased from Japanese producers. As a result, consistent with our practice in past TRBs reviews for Fuji, we used these acquisition costs as the basis for our 20-percent difmer cap (*see, e.g., Tapered Roller Bearings and Part Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Administrative Reviews and Termination in Part,* 61 FR 25200 (May 20, 1996)). For MC, we compared U.S. sales with contemporaneous sales of the foreign like product in the UK, a third-country market. Because MC provided us with limited model-match information, we were unable to find matches for a small number of U.S. sales. Therefore, for those sales for which we were unable to find matches due to MC's failure to provide necessary information, we resorted to facts available (refer to the ''Facts Available'' section above).

E. Level of Trade

To the extent practicable, we determine NV for sales at the same level of trade as the U.S. sales (either EP or CEP). *See* Section 773(a)(1)(B)(i) of the Act. When there are no sales at the same level of trade, we compare U.S. sales to home market (or, if appropriate, third-country) sales to a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the level of trade is that of the sales from which we derive SG&A and profit. (*See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31571 (June 10, 1997*).)

For both EP and CEP, the relevant transaction for the level-of-trade analysis is the sale (or constructed sale) from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses under section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by the affiliated importer. Because the expenses deducted under section 772(d) of the Act represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade for the CEP than for the later resale (which we use for starting price). Movement charges, duties, and taxes deducted under section 772(c) of the Act do not represent activities of the affiliated importer, and we do not remove them to obtain the CEP level of trade.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States the respondents' sales are generally to an importer, whether independent or affiliated. We review and compare the distribution system in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, original equipment manufacturers (OEM) , or wholesaler are commonly used by respondents to describe levels of trade, but, without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if levels of trade are normally the same, the selling functions performed should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Different levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them. (*See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.; Preliminary Results of Antidumping Administrative Review, 62 FR 31571 (June 10, 1997*).)

When we compare U.S. sales to home market sales at a different level of trade, we make a level of trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differentials between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is based on a level of trade different from that of the U.S. sale. If there is a pattern of no price differences, the difference in levels of trade does not affect price and, therefore, no adjustment is necessary.

Section 773 of the Act provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between the CEP and NV affects the comparability of their prices. This later situation can occur when there is no home market level of trade equivalent to the U.S. sales level or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(a)(7)(B) of the Act and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price used to calculate CEP.

The CEP offset is not automatic each time we use CEP. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

We determined that for respondents Koyo and NSK, there were two home market levels of trade and one U.S. level of trade (*i.e.*, the CEP level of trade). For Fuji, we determined that one level of trade existed in the home market and three distinct levels of trade existed in

the U.S. market (the CEP level of trade, and two EP levels of trade). Because there was no home market level of trade equivalent to the U.S. level of trade for Fuji, NSK, and Koyo, and because NV for these firms was more remote from the factory than the CEP, we made a CEP offset adjustment to NV.

We determined that for MC, a single level of trade existed in the third-country market, and that a single EP level of trade existed in the U.S. market. Based on our comparison of the U.S. EP level of trade to the third-country level of trade, we have determined that the third-country level of trade was the same as the EP level of trade.

For NTN we found that there were three home market levels of trade and two (EP and CEP) levels of trade in the U.S. Because there were no home market levels of trade equivalent to NTN's CEP level of trade, and because NV for NTN was more remote from the factory than the CEP, we made a CEP offset adjustment to NV. We also determined that NTN's EP level of trade was equivalent to one of its levels of trade in the home market. Because we determined that there was a pattern of consistent price differences, we made a level-of-trade adjustment to NV for NTN. For a company-specific description of our level-of-trade analysis, see the preliminary analysis memoranda to John Kugelman, on file in Import Administration's Central Records Unit, Room B–099 of the Main Commerce building.

F. Home Market Price

While we disregarded below-cost home market sales for Koyo, NTN, and NSK, these respondents' remaining home market sales were sufficient to serve as the basis for NV.

For all respondents except MC we based home market prices on the packed, ex-factory or delivered prices to affiliated purchasers (where an arm's-length relationship was demonstrated) and unaffiliated purchasers in the home market. For MC, we based NV on the prices at which the foreign like products were first sold for consumption in the United Kingdom, a third-country market. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. For comparison to EP we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments to NV by deducting home market direct selling expenses and, where applicable, adding U.S. direct selling expenses, except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP calculations. No other adjustments were claimed or allowed.

In accordance with section 773(a)(4) of the Act, we based NV on CV if 1) sale of a U.S. model matched to a home market model for which no sales were above cost, or 2) we were unable to find a contemporaneous home market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, and profit. In accordance with 772(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. To the extent possible, we calculated CV by level of trade, using the selling expenses and profit determined for each level of trade in the comparison market. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 353.56 for COS adjustments and level-of-trade differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset commissions in EP and CEP comparisons.

Preliminary Results of Review

As a result of our reviews, we preliminarily determine the following weighted-average dumping margins exist for the period October 1, 1995 through September 30, 1996:

Manufacturer / Exporter / Reseller	Margin (percent)
For the A–588–054 Case:	
Koyo Seiko	8.78
Fuji	.34
NSK	1.85
MC International	1.05
For the A–588–604 Case:	
Fuji	(1)
MC International	(1)
Koyo Seiko	23.26
NTN	27.80
NSK	9.70

[1] No shipments or sales subject to this review. These firms have no rate from any prior segment of this proceeding.

Parties to these proceedings may request disclosure within five days of the date of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no 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 no later than 37 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of issuance of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We will calculate importer-specific *ad valorem* duty-assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between NV and U.S. price, by the total U.S. price value of the sales compared and adjusting the result by the average difference between U.S. price and customs value for all merchandise examined during the POR.) While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as basis of the assessment rate permits the Department

to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results if these administrative reviews for all shipments of TRBs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act:

(1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in these reviews, a prior review, or the LTFV investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 case will be 18.07 percent, and 36.52 percent for the A–588–604 case *(see Preliminary Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan and Tapered Roller Bearings, Four Inches or less in Outside Diameter, and Components Thereof, From Japan,* 58 FR 51061 (September 30, 1993)).

This notice 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. These administrative reviews and this 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 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23852 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–810]

Certain Welded Stainless Steel Pipe From Korea; Termination of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: In response to a request from petitioners, the Department of Commerce (the Department) published in the **Federal Register** (62 FR 9413, March 3, 1997) the notice of initiation of the administrative review of the antidumping duty order on certain welded stainless steel pipe from Korea, for the period December 1, 1995 through November 30, 1996. On May 6, 1997, we received a request for withdrawal of this review from petitioners. Because this request was timely submitted and because no other interested party requested a review, we are terminating this review.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, AD/CVD Enforcement, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

Applicable Regulations: Unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

On December 31, 1996, petitioners [1] requested an administrative review pursuant to 19 CFR 353.22(a) with respect to the following manufacturers/exporters: Hyundai Pipe Co., Ltd.; L.G. Metals; Pusan Steel Pipe Co., Ltd.; and SEAH Steel Corporation. On March 3, 1997, in accordance with 19 CFR 353.22(c), we initiated an administrative review of this order. On May 6, 1997, we received a timely withdrawal of request for review from petitioners.

Pursuant to 19 CFR 353.22(a)(5) of the Department's regulations, the Department may allow a party that requests an administrative review to withdraw such request not later than 90 days after the date of publication of the notice of initiation of the administrative review.

Because petitioners' request for termination was submitted within the 90-day time limit and there were no requests for review from other interested parties, we are terminating this review.

This termination of administrative review and notice are in accordance with 19 CFR 353.22(a)(5).

Dated: September 3, 1997.

Roland L. MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–23854 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

[1] Avesta Sheffield Inc.; Bristol Metals; Damascus Tube Division, Damascus-Bishop Tube Co.; Trent Tube Division, Crucible Materials Corporation; and United Steelworkers of America (AFL–CIO/CLC).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–404]

Live Swine From Canada; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on live swine from Canada for the period April 1, 1995 through March 31, 1996. For information on the net subsidy for all producers covered by this order, see the *Preliminary Results of Review* section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. *See Public Comment* section of this notice.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Lorenza Olivas, Office

CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1985, the Department published in the **Federal Register** (50 FR 32880) the countervailing duty order on live swine from Canada. On August 12, 1996, the Department published a notice of ''Opportunity to Request Administrative Review'' (61 FR 41768) of this countervailing duty order. We received timely requests for review and we initiated the review, covering the period April 1, 1995 through March 31, 1996, on September 17, 1996 (61 FR 48884).

The Department has determined that it is not practicable to conduct a company-specific review of this order because a large number of producers and exporters requested the review. Therefore, pursuant to section 777A(e)(2)(B) of the Tariff Act of 1930, as amended (the Act), we are conducting a review of all producers and exporters of subject merchandise covered by this order on the basis of aggregate data. This review covers 26 programs.

On April 28, 1997, we extended the period for completion of the preliminary results pursuant to section 751(a)(3) of the Act. *See Live Swine from Canada; Extension of Time Limit for Countervailing Duty Administrative Review,* 62 FR 23220. Therefore, the deadline for these preliminary results is no later than September 2, 1997, and the deadline for the final results of this review is no later than 120 days from the date on which these preliminary results are published in the **Federal Register**.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The merchandise covered by this order is live swine, except U.S. Department of Agriculture (USDA) certified purebred breeding swine, slaughter sows and boars, and weanlings, (weanlings are swine weighing up to 27 kilograms or 59.5 pounds) from Canada. The merchandise subject to the order is classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 0103.91.00 and 0103.92.00. The HTS item numbers are provided for convenience and U.S. Customs Service (Customs) purposes. The written description of the scope remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information submitted by the Government of Canada (GOC) and the Government of Quebec (GOQ) related to their claim for ''green box'' treatment pursuant to section 771(5B)(F) of the Act, of the programs covered by the Canada/Quebec Subsidiary Agreement on Agri-Food Development (Agri-Food) (see discussion under ''Analysis of Programs'' section below). We followed standard verification procedures, including meeting with government officials and examining relevant accounting and financial records and other original source documents. Our verification results are outlined in the public version of the *Verification Report,* dated August 27, 1997, which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Analysis of Programs

Allocation Methodology

In *British Steel plc.* v. *United States,* 879 F. Supp. 1254 (February 9, 1995) (*British Steel*), the U.S. Court of International Trade (the Court) ruled against the allocation period methodology for non-recurring subsidies that the Department has employed for the past decade, a methodology that was articulated in the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria (General Issues Appendix*), 58 FR 37217, 37226 (July 9, 1993) (*General Issues Appendix*). In accordance with the Court's decision on remand, the Department determined that the most reasonable method of deriving the allocation period for non-recurring subsidies is a company-specific average useful life (AUL). This remand determination was affirmed by the Court on June 4, 1996. *British Steel,* 929 F. Supp. 426, 439 (CIT 1996). Accordingly, the Department has decided to acquiesce to the *British Steel* decision where reasonable and practicable. In *Live Swine from Canada; Preliminary Results of Countervailing Duty Administrative Review* (62 FR 52426; October 7, 1996) and *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review* (62 FR 18087; April 14, 1997) (*Swine Tenth Review Results*), the Department determined that it is not reasonable and practicable to allocate non-recurring subsidies using company-specific AUL data because it is not possible to apply a company-specific AUL in an aggregate case (such as the case at hand). Accordingly, in this review, the Department has continued to use as the allocation period the average useful life of depreciable assets used in the swine industry, as set forth in the U.S. Internal Revenue Service (IRS) Class Life Asset Depreciation Range System (*see Swine Tenth Review Results*). We invite the parties to comment on the selection of this methodology and to provide any other reasonable and practicable approaches for complying with the Court's ruling.

Calculation Methodology for Assessment and Cash Deposit Purposes

For the period of review (POR), we calculated the net subsidy on a country-wide basis by determining the subsidy rate for each program subject to the administrative review in the following manner. We first calculated the subsidy rate on a province by province basis; we then weight-averaged the rate received by each province using the province's share of total Canadian exports to the United States of market hogs (which excludes slaughter sows and boars). We then summed the individual provinces' weight-averaged rates to determine the subsidy rate of each program. To obtain the country-wide rate, we then summed the subsidy rates from all programs.

Respondents' Claim for ''Green Box'' Treatment of the Canada/Quebec Subsidiary Agreement on Agri-Food Development (Agri-Food Agreement)

On November 5, 1996, the GOQ made a submission pursuant to section 771(5B)(F) of the Act claiming that the Agri-Food Agreement met the criteria for ''green box'' treatment under Annex 2 of the Agreement on Agriculture of the World Trade Organization (WTO). On January 21, 1997, the GOQ indicated that the GOC also supported the green box claim.

Under section 771(5B)(F) of the Act, the domestic support measures provided with respect to the agricultural products listed in Annex 1 to the 1994 WTO Agreement on Agriculture shall be treated as non-countervailable if the Department determines that the measures conform fully with the provisions of Annex 2. Accordingly, the GOQ and the GOC posited that funding under the Agri-Food Agreement should be noncountervailable pursuant to section 771(5B)(F) of the Act.

The initial Agri-Food Agreement was signed on February 17, 1987 and remained in effect from 1987 to 1991. On August 26, 1993, a new Agri-Food Agreement was enacted by the governments of Canada and Quebec covering the period April 1, 1993 through March 31, 1998. Funding for this agreement is shared 50/50 by the federal and provincial governments. Through this Agreement, grants are made to private businesses and academic organizations to fund projects under the following program areas:

(1) *Research:* The purpose of this program area is to increase and diversify scientific and technical expertise, in both the area of industrial production and in university-based studies. Specific areas of expertise to be covered include: food production, processing, storage and marketing.

(2) *Technology Innovation:* The purpose of this program area is to speed up the rate of adoption and dissemination of technologies and innovation and the development of new products. This program operates through awarding financial assistance and technical support to groups wishing to carry out testing projects or develop new technologies to promote agri-food development.

(3) *Support for Strategic Alliances:* The purpose of this program area is to stimulate cooperation and promote strategic activities intended to improve competitiveness in domestic and foreign markets. Funding for projects is made available to an ''industry network'' (which includes all stakeholders in an agri-food industry, from the producer of the raw material to the final processor), through an application and approval process.

The Department has previously examined each of the three components under the Agri-Food Agreement (Research, Technology Innovation, and Support for Strategic Alliances) as three separate programs. *See Swine Tenth Review Results* (62 FR 52433). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of that finding.

With regard to the GOQ's and the GOC's claim from green box treatment, we preliminarily determine that it is not necessary to reach a decision on whether the Agri-Food Agreement and its component programs qualify for green box status, and are, therefore, non-countervailable because none of the component programs has any impact on the overall subsidy rate attributable to the subject merchandise during the POR.

Specifically, with regard to the Research program under the Agri-Food Agreement, as discussed below in the section II. A., we have preliminarily determined that this program does not confer countervailable subsidies because the results of the research are publicly available. As such, there is no need to address whether it is non-countervailable in the context of section 771(5B)(F). Further, with regard to the Technology Innovation program, although we found this program to be specific in the last administrative review (see section I.A.2.c. below), the benefit under this program is so small (Can$ 0. 00000045 per kilogram) that it has no impact on the overall subsidy rate calculated for this POR. Similarly, even though we have never made a decision with regard to the specificity of the Support for Strategic Alliance (SSA) program (see section II.B. below), any benefit to the subject merchandise under the SSA program would be so small (Can$ 0.00000055 per kilogram) that there would be no impact on the overall subsidy rate. Because neither the Technology Innovations program nor the Support for Strategic Alliances program (either separately or collectively) affect the overall subsidy rate calculated for this review, there is no reason to consider whether these two programs meet the green box criteria pursuant to section 771(5B)(F).

Under these circumstances, an analysis of whether the programs under the Agri-Food Agreement qualify for green box treatment is not warranted because any decision we would render would not change the overall subsidy rate. *(See, e.g., Certain Carbon Steel Products from Sweden; Preliminary Results of Countervailing Duty Administrative Review* (61 FR 64062, 64065; December 3, 1996) and *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review* (62 FR 16549; April 7, 1997); *Final Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring (''LHF'') From Canada* (62 FR 5201; February 4, 1997); *Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review* (61 FR 28845; June 6, 1996) and *Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review* (61 FR 53351; October 11, 1996).

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Federal Program: Feed Freight Assistance Program

The Feed Freight Assistance Program (FFA) is administered by the Livestock Feed Board of Canada (the Board) under the Livestock Feed Assistance Act of 1966 (LFA). The Board acts to ensure: (1) The availability of feed grain to meet the needs of livestock feeders; (2) the availability of adequate storage space in Eastern Canada to meet the needs of livestock feeders; (3) reasonable stability in the price of feed grain in Eastern Canada to meet the needs of livestock feeders; and (4) equalization of feed grain prices to livestock feeders in Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories. Although this program is clearly designed to benefit livestock feeders, FFA payments are also made to grain mills that transform the feed grain into livestock feed whenever these mills are the first purchasers of this grain. The Board makes payments related to the cost of feed grain storage in Eastern Canada, and payments related to the cost of feed grain transportation to, or for the benefit of, livestock feeders in Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories, in accordance with the regulations of the LFA.

In *Live Swine from Canada; Preliminary Results of Countervailing Duty Administrative Review* (55 FR 20812; May 21, 1990) and *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review* (56 FR 10410; March 12, 1991) (*Swine Second and Third Review Results*), the Department found this program *de jure* specific, and thus countervailable, because, based on the language of the LFA, benefits are only available to a specific group of enterprises or industries (livestock feeders and feed mills). Subsequently, a U.S.-Canada Free Trade Agreement binational panel (*see In the Matter of Live Swine From Canada*, USA–91–1904–03 (June 11, 1993) at 33–36) affirmed the Department's determination in *Live Swine from Canada; Preliminary Results of Countervailing Duty Administrative Review* (56 FR 29224; June 26, 1991), and *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review* (56 FR 50560; October 7, 1991) (*Swine Fifth Review Results*), regarding the countervailability of this program. No new information or evidence of changed

circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To determine the FFA benefit in the POR, we first calculated a benefit per kilogram of live swine within each province eligible for FFA assistance using each province's total production. Next, we adjusted each province's rate per kilogram based on each province's share of total Canadian exports of market hogs to the United States during the POR. Finally, these individual provincial rates were summed to obtain a total rate for the FFA program. On this basis, we preliminarily determine the net subsidy for this program to be less than Can$0.0001 per kilogram for the POR.

The FAA was terminated effective January 9, 1996. The last date for which a producer could claim benefits was February 15, 1996, and the last date by which payments could be received was March 31, 1996. Therefore, we consider this program terminated. Moreover, there is no evidence on the record which would indicate that residual benefits are being bestowed or that a substitute program has been implemented. Accordingly, because of this program-wide change, the cash deposit rate will be adjusted to zero for this program. *See e.g., Swine Tenth Review Results* at 18098 and *Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey*, 61 FR 30366, 30370; June 14, 1996 (*Pasta from Turkey*).

2. *Federal/Provincial Programs*

a. *National Tripartite Stabilization Scheme for Hogs*

The National Tripartite Stabilization Program (NTSP) was created in 1985 by an amendment to the Agricultural Stabilization Act (ASA). This amendment, codified at section 10.1 of the ASA, provides for the introduction of cost-sharing tripartite or bipartite stabilization schemes involving the producer, the federal government, and the provinces. Pursuant to this amendment, federal and provincial ministers signed NTSP agreements covering specific commodities.

The general terms of the NTSP for Hogs are as follows: all participating hog producers receive the same level of support per market-hog unit; the cost of the scheme is shared equally between the federal government, the provincial government, and the producers; producer participation in the scheme is voluntary; the provinces may not offer separate stabilization plans or other *ad hoc* assistance for hogs (with the exception of Quebec's Farm Income Stabilization Insurance Program); the federal government may not offer compensation to swine producers in a province not party to an agreement; and the scheme must operate at a level that limits losses but does not stimulate over-production.

Stabilization payments are made when the market price falls below the calculated support price. The difference between the support price and the market price is the amount of the stabilization payment. Hogs eligible for stabilization payments under NTSP must index above 80 on a hog carcass grading scale.

In Live Swine From Canada; Preliminary Results of Countervailing Duty Administrative Review (58 FR 54112; October 20, 1993) and *Live Swine From Canada; Final Results of Countervailing Duty Administrative Review* (59 FR 12243; March 16, 1994) (*Swine Sixth Review Results*), the Department determined that NTSP was *de facto* specific. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

NTSP Agreement Amendment No. 3 terminated the plan as of July 2, 1994, but allowed provinces to terminate their participation in the plan effective April 2, 1994. The plan ended with a surplus. Under the terms of the NTSP, this surplus was to be distributed in equal shares (33.3 percent) among the federal and provincial governments and the producers, because each was to have contributed one-third of the funds.

In *Swine Tenth Review Results,* we examined the NTSP—Hogs Schedule of Operations (Schedule of Operations) which showed the federal and provincial governments' and the producers' contributions to the NTSP Hog Plan for the period January 1986 through May 29, 1996. This Schedule of Operations showed that the federal government contributed 36.6 percent and the producers and provinces contributed 31.7 percent each, of the total tripartite contributions during this ten-year period. Thus, the producers received a share of the surplus which is in excess of their actual contributions to the plan.

Accordingly, the Department found that the retroactive surplus payments constitute a benefit conferred under NTSP in the form of a grant to producers in the amount of the difference between what the producers actually are receiving, 33.3 percent of the surplus, and what they should have received, 31.7 percent of the surplus (the percentage producers actually contributed to NTSP). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding. During the POR, producers received NTSP surplus payments in the following provinces which exported live swine: Alberta, Manitoba, and Quebec.

To calculate the subsidy, we used the methodology applied in *Swine Tenth Review Results* (61 FR 52426). We subtracted the amount that the producer should have received (31.7 percent) from the amount that they actually received (33.3 percent). The difference is the amount of the grant. The Department's policy with respect to grants is (1) to expense recurring grants in the year of receipt, or (2) to allocate non-recurring grants over the average useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.50 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy) in the year in which the grants were received. (*See General Issues Appendix* at 37226). In determining whether a grant is recurring or non-recurring, we apply a test set out in the *General Issues Appendix* at 37226. We consider grants to be non-recurring if the benefits are exceptional, the recipient cannot expect to receive benefits on an ongoing basis from POR to POR, and the provision of funds by the government must be approved every year. In *Swine Tenth Review Results,* the Department found that this grant is non-recurring because the benefit is exceptional, and the recipient cannot expect to receive benefits on an ongoing basis. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

During this review, the benefit received from this program was less than 0.50 percent of the value of total live swine sales in those provinces receiving benefits under this program. On this basis, we are allocating the benefit to the year of receipt (*See General Issues Appendix* 58 FR 37226). We divided each province's benefit by the total weight of market hogs produced in that province. We used only the weight of market hogs because only market hogs were eligible to receive NTSP payments. We then weight-averaged the benefits by each province's share of total Canadian exports of market hogs to the United States during the POR and then summed the weighted averages. On this basis, we preliminarily determine the net subsidy for this program to be less than Can$0.0001 per kilogram for the POR. Because the NTSP program has been

terminated, there is no evidence on the record which would indicate that residual benefits continue to be provided or received, and there is no evidence that a substitute program has been implemented, the cash deposit rate will continue to be zero for this program.

b. *National Transition Scheme for Hogs*

After termination of the NTSP for Hogs in July 1994, hog producers became eligible to participate in the National Transition Scheme for Hogs (Transition Scheme), which provided for one-time payments to producers of hogs marketed between April 3, 1994 through December 31, 1994. The Transition Scheme provided payments to hog producers of Can$1.50 per hog from the federal government and a matching Can$1.50 from the provincial government.

In *Swine Tenth Review Results,* the Department found this program to be *de jure* specific, and thus countervailable, because the Transition Scheme Agreement expressly limits its availability to a specific industry (swine). We determined that the amounts provided by both the federal and provincial governments to the hog producers during the POR under the Transition Scheme represent a grant. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

During the POR, the following provinces received benefits under this program: Alberta, Manitoba, New Brunswick, Ontario, Quebec, and Saskatchewan. In *Swine Tenth Review Results,* the Department found that these grants are non-recurring because the transitional payments are exceptional, the recipient cannot expect to receive benefits on an ongoing basis from POR to POR, and the government has approved funding under the Transition Scheme for one year only. During this review, the amount received under this program by live swine producers was greater than 0.50 percent of the value of total live swine sales in the provinces receiving benefits under this program. On this basis, we allocated the benefit from this grant over three years, which is the average useful life of depreciable assets used in the swine industry, as set out in the IRS Class Life Asset Depreciation Range System. For purposes of this review, we are continuing to calculate the discount rate using the same methodology applied in *Swine 7,8,9 Review Results.* We used, as a discount rate, the simple average of the monthly medium-term corporate bond rates (for the eleventh POR, during which the write-off occurred) from the *Bank of Canada Review Autumn (1996),* published by the Bank of Canada. We applied our standard grant methodology to calculate each province's benefit. We then calculated each province's total weight of market hogs produced, and calculated a benefit per kilogram for each province. We used only the weight of market hogs because only market hogs were eligible to receive NTSP benefits. We then weight averaged the benefits by each province's share of total Canadian exports of market hogs to the United States during the POR and summed the weighted averages. On this basis, we preliminarily determine the net subsidy for this program to be Can$0.0047 per kilogram for the POR.

For the province of Quebec, both the GOC and the GOQ paid the portion of the benefits accrued under the National Transition Scheme for Quebec producers enrolled in FISI to the Regie des Assurances Agricoles du Quebec (Regie) , as instructed by the producers. The GOC also paid the portion of the benefits accrued to producers not enrolled in FISI directly to the producers. The payments to the Regie involved monies that were due to producers according to the provisions of the NTSP agreement (See Questionnaire Response of the GOC (December 23, 1996), Appendix 27). As the record indicates, the producers simply chose to devolve these payments directly to the Regie rather than receive cash payments. Therefore, we have countervailed these payments as payments attributable to producers.

The Transition Scheme program has been terminated. This termination does not constitute a program-wide change, however, because residual benefits may continue to accrue. Therefore, the cash deposit rate will not be adjusted as a result of the termination of this program.

c. Technology Innovation Program Under the Agri-Food Agreement

In *Swine Tenth Review Results,* we determined that the federal contributions to this program are specific because this assistance is provided to industries located within a designated geographical region of Canada (i.e., Quebec). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

In *Swine Tenth Review Results,* we also determined that the grants received under this program are non-recurring because they are exceptional, the government must approve the grants every year, and the recipient cannot expect to receive benefits on an ongoing basis. However, because the amount received by live swine producers in this POR is less than 0.50 percent of the value of live swine sales in this province, we are allocating the benefit to the year of receipt (*See General Issues Appendix* 58 FR 37226). We divided the total grant amount provided to swine producers during the POR by the total weight of live swine produced in Quebec during the POR. We then weight-averaged the results by Quebec's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine that the subsidy rate is less than Can$0.0001 per kilogram for this program for the POR.

3. Provincial Income Stabilization Programs

a. Saskatchewan Hog Assured Returns Program (SHARP)

SHARP was established in 1976, pursuant to the Saskatchewan Agricultural Returns Stabilization Act which authorized provincial governments to establish stabilization plans for any agricultural commodity. SHARP provided income stabilization payments to hog producers in Saskatchewan when market prices fell below a designated ''floor price,'' calculated quarterly. The program was administered by the Saskatchewan Pork Producers' Marketing Board (the Board) on behalf of the Saskatchewan Department of Agriculture. The program was funded by levies from participating producers on the sale of hogs and were matched by the provincial government. When the balance in the SHARP account was insufficient to cover payments to producers, the provincial government provided financing on commercial terms. The principal and interest on these loans was to be repaid by the Board from the producer and provincial contributions. After the NTSP for Hogs was implemented on July 1, 1986, SHARP payments were reduced by the amount of the NTSP payments.

In *Live Swine From Canada; Preliminary Results of Countervailing Duty Administrative Review* (53 FR 22192; June 14, 1988) and *Live Swine From Canada; Final Results of Countervailing Duty Administrative Review* (54 FR 651; January 9, 1989) *(Swine First Review Results),* the Department found the SHARP program to be *de jure* specific, and thus countervailable, because the legislation expressly made the program available only to a single industry (hog producers). No new information or

evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

In accordance with the NTSP agreement, SHARP was terminated on March 31, 1991. At the time of termination, the SHARP fund had a sizeable deficit because of the cumulation over the operating years of loans from the provincial government. During the 1993–94 POR, the government canceled the outstanding SHARP deficit. To calculate the benefit from the loan forgiveness, we treated one-half of the amount written off, plus interest accrued during the 1993–94 POR, as a grant. *See Swine 7,8,9 Review Results* (61 FR 26879, 26884; May 29, 1996). We took into account only half of the amount because this was the share of the outstanding loans that the producers were responsible for repaying.

In *Swine 7,8,9 Review Results*, the Department determined that the write-off of the SHARP deficit is a non-recurring grant because debt forgiveness is exceptional, and it is a one-time event. On this basis, we allocated the benefit from this grant over three years, which is the average useful life of depreciable assets used in the swine industry, as set out in the IRS Class Life Asset Depreciation Range System. We used, as a discount rate, the simple average of the monthly medium-term corporate bond rates (for the ninth POR, the POR during which the write-off occurred) from the *Bank of Canada Review (1993–1994)*, published by the Bank of Canada.

To calculate the benefit for the POR, we divided the benefit amount allocated to the POR under the grant allocation methodology by the total weight of market hogs produced in Saskatchewan during the POR to obtain the average benefit per kilogram. We then weight averaged the per kilogram benefit by Saskatchewan's share of total Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the net subsidy to be Can$0.0015 per kilogram for the POR.

Because the SHARP program has been terminated, there is no evidence on the record which would indicate that residual benefits continue to be provided or received, and there is no evidence that a substitute program has been implemented, the cash deposit rate will continue to be zero for this program. *(See Swine Tenth Review Results).*

b. Quebec Farm Income Stabilization Insurance Program (FISI)

FISI was established in 1976 under the ''Loi sur l'assurance-stabilisation des revenues agricoles.'' The program is administered by the Regie. The purpose of the program is to guarantee a positive net annual income to participants when their income falls below the stabilized net annual income. Since Quebec joined the federal government's NTSP for Hogs in February 1989, the FISI scheme for hogs has been covering only the difference between payments made under the NTSP for Hogs and what FISI payments would have been in the absence of the NTSP. There are two FISI schemes which provide payments to the subject merchandise, the FISI scheme for Hogs and the FISI scheme for Piglets.

Two-thirds of the funding for the FISI program is provided by the provincial government and one-third by producer assessments. Participation in FISI is voluntary. However, once enrolled in the program, a producer must make a five-year commitment. Each farmer may insure a maximum of 5,000 feeder hogs and 400 sows. Whenever the balance in the FISI account is insufficient to make payments to participants, the provincial government lends the needed funds to the program at market rates. The principal and interest on these loans are repaid by the Regie using the producer and provincial contributions.

In *Swine Sixth Review Results* (58 FR 54112), we determined FISI to be *de facto* specific, and thus countervailable. Moreover, in *Swine 7,8,9 Review Results*, we found that the FISI program is not integrally linked to the crop insurance and supply management programs. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of these findings.

During the POR, the GOQ contributed additional funds to the FISI program for the swine plans. The GOQ did not stipulate any conditions of repayment regarding these funds. This additional infusion of funds by the GOQ changes the two-to-one provincial to producer ratio of the contribution of funds to the FISI program. Therefore, any future payouts to producers from the FISI program for the hog sector will reflect a provincial contribution of more than two thirds. We preliminarily determine that this additional infusion of funds to the FISI program by the GOQ is a grant and is *de jure* specific, and thus countervailable, because benefits are only available to a specific group of enterprises or industries (swine producers). Furthermore, we preliminarily determine that it is a non-recurring grant because the availability of these additional provincial funds to FISI is exceptional, and it is a one-time event. (*See General Issues Appendix* at 37226.) Since this amount was greater than 0.50 percent of the value of total live swine sales in Quebec during the POR, we are allocating the benefit from this grant over three years, which is the average useful life of depreciable assets used in the swine industry, as set out in the IRS Class Life Asset Depreciation Range System. We used, as a discount rate, the simple average of the monthly medium-term corporate bond rates (for the eleventh POR, during which the write-off occurred) from the *Bank of Canada Review Autumn (1996)*, published by the Bank of Canada.

Using our standard grant methodology, we calculated the benefit amount from this grant during the POR. To this amount, we added the benefit received by swine producers from standard FISI payments during the POR. To calculate the benefit from standard FISI payments, we used the methodology applied in *Swine Sixth Review Results* and subsequent reviews. We multiplied the total payments made under both the piglet and feeder hog schemes during the POR by two thirds (representing the provincial contribution). We then divided the total benefit amount by the total weight of market hogs and sows produced in Quebec during the POR, to get the average benefit per kilogram. We then weight-averaged the benefit by Quebec's share of total Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit from this program to be Can$0.0008 per kilogram for the POR.

4. Other Provincial Programs

a. Alberta Crow Benefit Offset Program (ACBOP)

This program, administered by the Alberta Department of Agriculture, is designed to compensate producers and users of feed grain for market distortions in feed grain prices, created by the federal government's policy on grain transportation. Assistance is provided for feed grain produced in Alberta, feed grain produced outside Alberta but sold in Alberta, and feed grain produced in Alberta to be fed to livestock on the same farm. The government provides ''A'' certificates to registered feed grain users and ''B'' certificates to registered feed grain merchants to use as partial payments for grain purchased from grain producers. Feed grain producers who feed their grain to their own

livestock submit a Farm Fed Claim directly to the government for payment.

Hog producers receive benefits in one of three ways: hog producers who do not grow any of their own feed grain receive ''A'' certificates which are used to cover part of the cost of purchasing grain; hog producers who grow all of their own grain submit a Farm Fed Claim to the government of Alberta for direct payment; and hog producers who grow part of their own grain but also purchase grain receive both ''A'' certificates and direct payments.

In *Swine Second and Third Review Results* (56 FR 10412), the Department found this program to be *de jure* specific, and thus countervailable, because the legislation expressly makes it available only to a specific group of enterprises or industries (producers and users of feed grain). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To determine the benefit to swine producers from this program, we followed the methodology used in *Swine Tenth Review Results.* Using the Alberta *Supply and Disposition Tables,* we first estimated the quantity of grain consumed by livestock in Alberta during the POR. Then we multiplied the number of swine produced in Alberta during the POR by the estimated average grain consumption per hog, and divided the result by the amount of total grains used to feed livestock during the POR. We thus calculated the percentage of total livestock consumption of all grains in Alberta attributable to live swine during the POR. We then multiplied this percentage by the total value of ''A'' certificates and farm-fed claim payments received by producers during the POR. We divided this amount by the total weight of live swine produced in Alberta during the POR. We then weight-averaged this per-kilo benefit by Alberta's share of total Canadian exports of market hogs to the United States. On this basis, we preliminarily determine the benefit to be less than Can$0.0001 per kilogram for the POR.

ACBOP was terminated on March 31, 1994. Benefits for ''A'' certificates had to be claimed by June 30, 1994, and benefits tied to farm-fed grains had to be claimed by August 31, 1994. The original deadline for any payment of benefits under the program was March 31, 1996, however, producers could receive payments until May 17, 1996. Since no payments could be received after the publication of these preliminary results, we consider this program terminated. Moreover, there is no evidence on the record which would indicate that residual benefits are being provided or received or that a substitute program has been implemented. Accordingly, because of this program-wide change, the cash deposit rate will be adjusted to zero for this program.

b. Ontario Livestock and Poultry and Honeybee Compensation Program

This program, administered by the Farm Assistance Programs Branch of the Ontario Ministry of Agriculture, Food, and Rural Affairs, provides assistance in the form of grants which compensate producers for livestock and poultry injured or killed by wolves, coyotes, or dogs. Swine producers apply for and receive compensation through the local municipal government. The Ontario Ministry of Agriculture, Food, and Rural Affairs reimburses the municipality.

In *Swine Fifth Review Results* (56 FR 29227), the Department found this program to be *de jure* specific, and thus countervailable, because the legislation expressly makes it available only to a specific group of enterprises or industries (livestock, poultry farmers, and beekeepers). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit, we used the methodology applied in *Swine Sixth Review Results* (58 FR 54119) and subsequent reviews. We divided the total payment to hog producers during the POR by the total weight of live swine produced in Ontario. We then weight-averaged the result by Ontario's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit from this program to be less than Can$0.0001 per kilogram for the POR.

c. Ontario Bear Damage to Livestock Compensation Program

This program, administered by the Farm Assistance Programs Branch of the Ontario Ministry of Agriculture, Food, and Rural Affairs, provides compensation for the destruction of, or injury to, certain types of livestock by bears. Swine producers apply for compensation through their local Ontario Ministry of Agriculture, Food, and Rural Affairs office. Local personnel then evaluate the damage and prepare a report. Based on this report and the farmer's application, the Livestock Commissioner may pay a grant to compensate for the amount of damage. Grants for damage to live swine cannot exceed Can$200 per head.

In *Swine Tenth Review Results,* we found this program to be *de jure* specific, and thus countervailable, because the legislation expressly makes it available only to livestock producers, a specific group of enterprises or industries (cattle, goats, horses, sheep, swine, and poultry). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit, we divided the total payment to hog producers during the POR by the total weight of live swine produced in Ontario. We then weight-averaged the result by Ontario's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit from this program to be less than Can$0.0001 per kilogram for the POR.

d. Saskatchewan Livestock Investment Tax Credit

Saskatchewan's 1984 Livestock Tax Credit Act provides tax credits to individuals, partnerships, cooperatives, and corporations who owned and fed livestock marketed or slaughtered by December 31, 1989. Claimants had to be residents of Saskatchewan and pay Saskatchewan income taxes. Eligible claimants received credits of Can$3 for each hog. Although this program was terminated on December 31, 1989, tax credits are carried forward for up to seven years. In *Swine First Review Results* (53 FR 22198), the Department found this program to be *de jure* specific, and thus countervailable, because the program's legislation expressly made it available only to livestock producers. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit for the POR, we used the methodology applied in *Swine Sixth Review Results* (58 FR 54120) and subsequent reviews (*see Swine Tenth Review Results*). In the questionnaire responses, the GOC provided estimates of the amount of tax credits used by hog producers in Saskatchewan during the POR, since the actual amounts cannot be determined. We divided the amount of benefit by the total weight of live swine produced in Saskatchewan during the POR. We then weight-averaged the result by Saskatchewan's share of total exports of market hogs to the United States. On this basis, we preliminarily determine the benefit from this program to be Can$0.0001 per kilogram for the POR.

The Saskatchewan Livestock Investment Tax Credit was terminated on December 31, 1989 and the last year for disbursement of benefits was fiscal year 1996 (that is, April 1, 1995 through

March 31, 1996). Therefore, we consider this program terminated. Moreover, there is no evidence on the record which would indicate that residual benefits are being provided or received or that a substitute program has been implemented. Accordingly, because of this program-wide change, the cash deposit rate will be adjusted to zero for this program.

e. Saskatchewan Livestock Facilities Tax Credit

This program, which was terminated on December 31, 1989, provided tax credits to livestock producers based on their investments in livestock production facilities. The tax credits can only be used to offset provincial taxes and may be carried forward for up to seven years or until no later than fiscal year 1996 (that is, April 1, 1995 through March 31, 1996). Livestock covered by this program includes cattle, horses, sheep, swine, goats, poultry, bees, fur-bearing animals raised in captivity, or any other designated animals; covered livestock can be raised for either breeding or slaughter. Investments covered under the program include new buildings, improvements to existing livestock facilities, and any stationary equipment related to livestock facilities. The program pays 15 percent of 95 percent of project costs, or 14.25 percent of total costs.

In *Swine Second and Third Review Results* (55 FR 20820), the Department found this program to be *de jure* specific, and thus countervailable, because the program's legislation expressly made it available only to livestock producers. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit, we used the methodology applied in *Swine Sixth Review Results* (58 FR 54121) and subsequent reviews (*see Swine Tenth Review Results*). In the questionnaire responses, the GOC provided estimates of the amount of tax credits used by hog producers in Saskatchewan, since the actual amounts cannot be determined. We divided the amount of benefit by the total weight of live swine produced in Saskatchewan during the POR. We then weight-averaged the result by Saskatchewan's share of total exports of market hogs to the United States. On this basis, we preliminarily determine the benefit from this program to be less than Can$0.0001 per kilogram for the POR.

The Saskatchewan Livestock Facilities Tax Credit was terminated on December 31, 1989 and the last year for use of tax credits was fiscal year 1996 (that is, April 1, 1995 through March 31, 1996). Therefore, we consider this program terminated. Moreover, there is no evidence on the record which would indicate that residual benefits are being provided or received or that a substitute program has been implemented. Accordingly, because of this program-wide change, the cash deposit rate will be adjusted to zero for this program.

f. New Brunswick Livestock Incentives Program

This program, which operates under the Livestock Incentives Act, provides loan guarantees to livestock producers purchasing cattle, sheep, swine, foxes, and mink for breeding purposes, and for feeding and finishing livestock for slaughter. Loans, in amounts ranging from Can$1,000 to Can$90,000, are granted by commercial banks or credit unions and guaranteed by the Government of New Brunswick (GONB) to an individual, partnership, corporation or incorporated co-operative association engaged in farming in New Brunswick. Swine producers submit an application for a loan under this program to a bank. The bank evaluates the loan application based upon standard loan criteria and either approves or rejects the application. A consideration for obtaining the loan is the presentation to the GONB of a farm plan established at the time the loan is taken out. For loans given for the purchase of animals for breeding purposes, the term of the loan is not more than seven years and the first payment of the principal is due two years after the date on which the loan was given. For loans given for the purchase of animals for feeding purposes, the loan is due when the animals have been sold which shall not exceed a period of eighteen months. The interest rate for these loans is set at the prime rate plus one percentage point.

At the end of three years after loans are issued, the GONB may give 20 percent of the loan amount to the farmer in the form of a grant. To be eligible for this grant, the farmer had to have implemented, in a satisfactory manner, the farm plan established at the time the loan was taken out. The grant portion of this program was terminated for loans issued after July 15, 1992. However, grants were still being provided during the POR.

In *Swine Second and Third Review Results* (55 FR 20817), the Department found this program to be *de jure* specific, and therefore countervailable, because the program's legislation expressly made it available only to livestock producers. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

In accordance with section 771(5)(E)(iii) of the Act, a benefit from a loan obtained with a government guarantee shall normally be treated as conferred ''if there is a difference, after adjusting for any difference in guarantee fees, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority.'' While there are no guarantee fees, the recipients are paying interest at the rate of prime rate plus one percentage point. In *Swine Tenth Review Results,* we found that the predominant lending rates in Canada for comparable long-term variable-rate loans are based on the prime rate plus a one or two-point spread. Therefore, in accordance with the *Swine Tenth Review Results* methodology, as our benchmark during the POR, we used the prime rate as published by the Bank of Canada in the *Bank of Canada Review Autumn,* (1996) plus one and one-half percentage points. This rate represents the simple average of the spread above prime charged by commercial banks on comparable loans. Comparing the benchmark interest rate to the interest rate charged on these loans, we preliminarily determine that the amount the recipient paid on these loans is less than the recipient would have paid on a comparable commercial loan.

We calculated the benefit from the loan portion of this program as follows. For loans outstanding during the POR, either without repayments or paid off during the POR, we followed the methodology outlined in *Swine Tenth Review Results.* Specifically, for loans outstanding during the POR, we determined the amount of the benefit attributable to the POR by calculating the difference between what the recipient paid during the POR under loans guaranteed by the GONB and what the recipient would have paid during the POR under the benchmark loan. We divided the benefit from all outstanding loans and loans paid off during the POR by the total weight of live swine produced in New Brunswick during the POR. We then weight-averaged the benefit by New Brunswick's share of Canadian exports of market hogs to the United States during the POR.

During the POR, loans to live swine producers were written-off by the GONB under this program. We have added to the total amount of written-off loans, the amount of interest accrued from the beginning of the POR until the date on

which the loans were written-off. (*See Swine Tenth Review Results.*) The Department determines that the amount written off and interest accrued during the POR is a non-recurring grant because debt forgiveness is exceptional, and it is a one-time event. (See *General Issues Appendix*, 58 FR at 37226 and *Swine Tenth Review Results*).

In addition, swine producers received grants under the grant portion of this program. We determine that the grants received under this program are non-recurring because the recipient cannot expect to receive benefits on an ongoing basis from year to year. (See *General Issues Appendix* at 37226 and *Swine Tenth Review Results*). We summed the amount of the written-off loans and the amount of the grants. Because the result is less than 0.50 percent of the value of live swine sales from this province, we are allocating the benefit to the year of receipt. (See *General Issues Appendix* at 37226.) Therefore, we divided the total amount of the grants and forgiven loans provided during the POR by the total weight of live swine sold in New Brunswick during the POR. We then weight-averaged the result by the New Brunswick's share of total exports of market hogs to the United States during the POR.

To calculate the total benefit to live swine producers under this program, we summed the weight-averaged benefit calculated for the loans and grants. On this basis, we preliminarily determine the net subsidy from this program to be less than Can$0.0001 per kilogram.

h. New Brunswick Swine Industry Financial Restructuring and Agricultural Development Act—Swine Assistance Program

The Swine Assistance program was established in fiscal year 1981–82, by the Farm Adjustment Board, under the Farm Adjustment Act, to provide interest subsidies on medium-term loans to hog producers. The program was available only to hog producers who entered production or underwent expansion after 1979. In 1985, the Farm Adjustment Act changed to the Agricultural Development Act. In 1984–85, this program was combined with the Swine Industry Financial Restructuring program under the New Brunswick Regulation 85–19. At that time, all obligations and outstanding loans under the Swine Assistance program were rolled over into the Swine Industry Financial Restructuring program.

The Swine Industry Financial Restructuring program was created by the Farm Adjustment Act (OC 85–98) and became effective April 1, 1985. Under this program the Government of New Brunswick granted hog producers indebted to the Board a rebate of the interest on that portion of their total debt (the residual debt) that, on March 31, 1984, exceeded the ''standard debt load.'' The standard debt load is defined in the program's regulations as the amount of debt which the farmer, in the opinion of the Board, can reasonably be expected to service. The residual debt does not begin to accrue interest again until the debt load is no longer ''excessive.''

In *Swine Second and Third Review Results* (55 FR 20816, 20817), the Department examined these two programs separately. The Department found: (1) The Swine Assistance program to be countervailable because loans were provided to a specific industry on terms inconsistent with commercial considerations, and (2) the New Brunswick Swine Industry Financial Restructuring program to be countervailable because it was limited to a specific industry and the government's rebate of interest and the interest repayment holiday were loan terms inconsistent with commercial considerations. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

In *Swine Tenth Review Results,* we found that no new loans were provided for the past ten years, and that there was no recent activity on the outstanding loans. The loans given to producers were ''set aside'' in a provincial account and were not accruing any interest. The Department found that interest not accruing on the outstanding loan balance constituted a benefit to live swine producers. No changes to this program were reported in the instant review.

To calculate the benefit from this program, we multiplied the total outstanding debt at the beginning of the POR by the benchmark interest rate. We used, as a benchmark interest rate, the prime rate, as published by the Bank of Canada in the *Bank of Canada Review Autumn* (1996), plus one and one-half percentage points. This rate represents the simple average of the commercially available rates for comparable loans. (*See Swine Tenth Review Results*). Next, we divided the benefit by the total weight of live swine produced in New Brunswick during the POR. We then weight-averaged the benefit by New Brunswick's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit to be less than Can$0.0001 per kilogram for the POR.

i. New Brunswick Swine Assistance Policy on Boars

The New Brunswick Swine Assistance Policy on Boars program is administered by the New Brunswick Department of Agriculture and Rural Development, Animal Industry Branch, for the purpose of encouraging breeding stock producers to produce quality boars at reasonable prices for use in commercial swine herds. This program provides assistance in the form of grants to swine producers for the purchases of boars. Eligible producers are entitled to receive up to Can$110 for the purchase of boars.

In *Swine Second and Third Review Results* (55 FR 20817), the Department found this program to be specific. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit, we used the grant methodology applied in *Swine Sixth Review Results* (58 FR 54119) and *Swine Tenth Review Results* (61 FR 52426). In *Swine Tenth Review Results,* the Department found that the grants received under this program are non-recurring because the recipient cannot expect to receive benefits on an ongoing basis from review period to review period. In the prior review, grants were less than 0.50 percent, therefore, they were allocated to the years of receipt. (*See Swine Tenth Review Results*) During this POR, the amount received by live swine producers is also less than 0.50 percent of the value of live swine sales in this province as such, we are allocating the grant to the year of receipt. (*See General Issues Appendix* at 37226). We divided the total payment to hog producers during the POR by the total weight of live swine produced in New Brunswick during the POR. We then weight-averaged the result by New Brunswick's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit from this program to be less than Can$0.0001 per kilogram for the POR.

j. Nova Scotia Improved Sire Policy

This program is administered by the Nova Scotia Department of Agriculture and Marketing Livestock Services Branch, for the purpose of improving the quality of hog production. The program provides grants to purebred and commercial swine producers for the purchase of boars. Qualifying animals measure at least 90 on an Estimated Breeding Value Index (this index estimates growth, back fat thickness and days to market weight). Qualifying

animals must be used for breeding stock purposes. Producers file an application on prescribed forms with the Department of Agriculture and Marketing. The boars are then inspected and, if approved, assistance is provided in the form of a premium. The higher the Estimated Breeding Value Index, the higher the premium. In *Swine Second and Third Review Results* (55 FR 20817), the Department found this program to be countervailable because this program is limited to a specific industry. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

To calculate the benefit, we divided the total payment to hog producers during the POR by the total weight of live swine produced in Nova Scotia. We then weight-averaged the result by Nova Scotia's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit from this program to be less than Can$0.0001 per kilogram for the POR.

k. Nova Scotia Swine Herd Health Policy

The Nova Scotia Department of Agriculture and Marketing administers a herd health program whereby it reimburses veterinarians for house calls made to producers of commercial and purebred breeding livestock. The purpose of this program is to upgrade herd health through the use of herd inspection, prevention and eradication techniques. All farmers registered under the Farm Registration Act may participate in the program. Once approved for the program, farmers are required to follow specified health practices and to maintain health records of all their hogs. The government designates a veterinarian to oversee the enrolled herd and the veterinarian is responsible for making at least six visits annually, performing any and all necessary examinations and informing the farmers of their findings. The veterinarian is paid by the farmer for each visit, and also receives payment from the government. During the POR, veterinarians were paid by the government for services provided under the program.

In *Swine Second and Third Review Results* (55 FR 20817), the Department found this program not to be countervailable because this program is limited to producers of commercial and/or purebred breeding livestock. At that time, we determined that breeding livestock were not covered by the order on live swine. Since these reviews, the scope of the order has been clarified to exclude only USDA-certified purebred breeding swine (*See, e.g., Swine Tenth Review Results*.) Commercial breeding swine are covered by the order.

During the POR, producers of the subject merchandise used this program. Because the legislation for this program indicates that it is only available to live swine producers, we preliminarily determine this program to be *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act.

To calculate the benefit, we divided the total payment to hog producers during the POR by the total weight of live swine produced in Nova Scotia. We then weight-averaged the result by Nova Scotia's share of Canadian exports of market hogs to the United States during the POR. On this basis, we preliminarily determine the benefit from this program to be less than Can$0.0001 per kilogram for the POR.

The Nova Scotia Swine Herd Health Policy was terminated on March 31, 1996, however, benefits under the program will continue until March 31, 1998. Because benefits will continue to be bestowed under this program, the cash deposit rate will not be adjusted.

II. Programs Preliminarily Determined Not To Confer Subsidies

A. Research Program Under the Agri-Food Agreement

In *Swine Tenth Review Results,* we found that none of the research projects funded under this program had been completed. We were therefore unable to determine whether or not the results of the research were publicly available due to their incomplete status. At verification, we found that five projects related to live swine were completed during the POR. We examined official documentation from the GOQ that indicates that the results of these research projects were made publicly available. (*See* Verification Report, dated August 27, 1997). Because the research results are publicly available, we preliminarily determine that the Research program did not confer countervailable subsidies to live swine during the POR. (*See e.g., Certain Cut-to-Length Carbon Steel Plate from Sweden; Preliminary Results of Countervailing Duty Administrative Review,* 62 FR 51683 (October 3, 1996) at 51683 and *Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Countervailing Duty Administrative Review,* 62 FR 16551 (April 7, 1997).

B. Support for Strategic Alliances Program Under the Agri-Food Agreement

The Support for Strategic Alliances (SSA) program is administered by the GOC. The objective of this program is to stimulate cooperation and strategic alliance among the various stakeholders in an agri-food ''industry network'' through activities intended to improve efficiency and competitiveness in domestic and foreign markets. The GOC indicated in its questionnaire response that no payments were made to producers under this program (*See* Response of the Government of Canada, May 13, 1997, at p. 16). However, we found at verification that some payments had been made under this program during the POR for projects that benefitted the swine industry as a whole (*See Verification Report*, (August 27, 1997) at p. 6). Therefore, we have determined that this program was used during the POR. However, we preliminarily determine that any benefit provided by this program during the POR is so small as to have no measurable impact on the overall subsidy rate for the POR. Therefore, we need not reach a decision on the countervailability of this program in this review.

III. Programs Preliminarily Determined To Be Not Used

We also examined the following programs and preliminarily determined that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under these programs during the POR:

A. Western Diversification Program;

B. Federal Atlantic Livestock Feed Initiative;

C. Agricultural Products Board Program;

D. Ontario Export Sales Aid Program;

E. Ontario Rabies Indemnification Program;

F. Ontario Swine Sales Assistance Policy;

G. Newfoundland Hog Price Support Program;

H. Newfoundland Weanling Bonus Incentive Policy;

I. Newfoundland Hog Price Stabilization Program.

IV. Programs Preliminarily Determined To Be Terminated

We have examined the following programs and preliminarily determine they were terminated prior to the beginning of the POR (April 1, 1995), and there is no evidence on the record which would indicate that residual benefits are being bestowed or that a

substitute program has been implemented:

A. Prince Edward Island Hog Price Stabilization Program

B. Canada/British Columbia Agri-Food Regional Development Subsidiary Agreement;

C. Canada/Manitoba Agri-Food Development Agreement;

D. New Brunswick Agricultural Development Act-Swine Assistance Program.

Preliminary Results of Review

We preliminarily determine the total net subsidy on live swine from Canada to be Can$0.0071 per kilogram for the period April 1, 1995 through March 31, 1996. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the Customs to assess countervailing duties as indicated above.

Due to the program-wide changes noted above, the cash deposit rate will be Can$0.0055 per kilogram which is *de minimis*. Accordingly, for all shipments of the subject merchandise from Canada, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, the cash deposits of estimated countervailing duties will be zero.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. 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. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38, are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: September 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–23850 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Reserve System

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of proposed boundary expansion for the Elkhorn Slough National Estuarine Research Reserve.

SUMMARY: The Sanctuaries and Reserves Division of OCRM is considering a request by the California Department of Fish and Game to include a 54.56 acre parcel that is adjacent to the current northern boundary of the Elkhorn Slough National Estuarine Research Reserve (ESNERR) within the ESNERR boundary. The parcel, currently in state ownership and located in the unincorporated area of Elkhorn in Monterey County, California, is primarily salt marsh habitat (90%) with a small amount of upland habitat (10%). This parcel of land supports important foraging, roosting, and nesting habitat for wetland-dependent birds.

FOR FURTHER INFORMATION CONTACT: Becky Christianson, Acting Manager, Elkhorn Slough National Estuarine Research Reserve, 1700 Elkhorn Road, Watsonville, CA 95076; Phone (408) 728–2822 or Nina Garfield, Sanctuaries and Reserves Division, National Oceanic and Atmospheric Administration, SSMC4, 11th Floor, Silver Spring, MD 20910; Phone (301) 713–3141 ext. 171.

TEXT: SUPPLEMENTARY INFORMATION: The Elkhorn Slough National Estuarine Research Reserve (ESNERR) was designated in 1979 pursuant to section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The ESNERR includes more than 1400 acres including oak woodland, salt marsh, grassland, mudflats, freshwater ponds, Monterey pine groves and coastal scrub.

The State of California requested NOAA approval to amend the ESNERR's boundary to include the state-owned parcel adjacent to the northern boundary of the ESNERR. The land was purchased by the state in 1993 for inclusion in the Moss Landing Wildlife Area. However, the state now believes that this parcel is better suited for inclusion in the ESNERR.

The ESNERR expansion would enhance the opportunities for research, monitoring, and education, as well as enhancing the State's resource protection efforts in the Elkhorn Slough watershed.

The expansion proposes inclusion of 54.56 acres of land at the northern end of the ESNERR boundary. This property is dominated by saltmarsh (90%) and some upland habitat (10%).

Any person wishing to comment on the proposed boundary expansion may forward written comments to Ms. Nina Garfield, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, 1305 East West Highway, SSMC4, 11th Floor, Silver Spring, MD 20910. Comments must be submitted no later than thirty (30) calendar days from issuance of this notice.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Research Reserves.

Dated: August 28, 1997.

Nancy Foster,

Assistant Administrator, NOS.

[FR Doc. 97–23782 Filed 9–8–97; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090297B]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Executive and Information and Education Committees will hold a public meetings.

DATES: The meetings will be held on September 23–25, 1997. See SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: These meetings will be held at the Radisson Hotel Philadelphia Airport, 500 Stevens Drive, Philadelphia, PA; telephone: 610–521–5900.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: On Tuesday, September 23, 1997, the Information and Education Committee will meet from 8:00 a.m. until 9:30 a.m.; the Council will meet from 9:30 a.m. until 4:00 p.m. jointly with the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Board and the Executive Committee will meet from 4:00 p.m. until 6:00 p.m. On Wednesday, September 24, 1997, the Council will meet from 8:00 a.m. until noon jointly with the Atlantic States Marine Fisheries Commission Summer Flounder, Scup, and Black Sea Bass Board; the full Council will meet from 1:00 p.m. to 5:00 p.m., and there will be a scoping meeting for the Dogfish Fishery Management Plan beginning at 7:00 p.m. On Thursday, September 25, 1997, the full Council will begin meeting at 8:00 a.m. and is scheduled to adjourn at approximately noon.

The purpose of these meetings is to review the Council's information and education program; to adopt recommended recreeational harvest limits, commercial quotas, and other commercial fishery management measures for 1998 for summer flounder, scup, and black sea bass; to review and possibly revise the Council's surfclam quota recommendation for 1998; adopt the Council's budget request for 1998; possibly adopt a Council policy for adopting quota recommendations; possibly adopt interim management measures for the monkfish fishery; hold a scoping meeting for the dogfish fishery management plan; and other fishery management matters.

The above agenda items may not be taken in the order in which they appear and are subject to change as necessary; other items may be added. This meeting may also be closed at any time to discuss employment or other internal administrative matters.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: September 3, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–23735 Filed 9–8–97; 8:45 am]

BILLING CODE 23735–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080597C]

Marine Mammals; Scientific Research Permit PHF# 782–1384

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that National Marine Fisheries Service, Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Seattle, WA 98115 (Principal Investigator: Dr. Howard Braham; Co Investigators: Dr. Thomas R. Loughlin and Mr. David E. Withrow), has been issued a permit to take gray whales (*Eschrichtius robustus*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115 (tel: 206/526–6150).

SUPPLEMENTARY INFORMATION: On June 30, 1997, notice was published in the **Federal Register** (62 FR 35156) that a request for a scientific research permit to take gray whales had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Dated: September 4, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–23776 Filed 9–8–97; 8:45 am]

BILLING CODE 23776–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

September 3, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for carryforward and swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 48889, published on September 17, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral, but are designed to assist only in the

implementation of certain of its provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 3, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the period which began on October 1, 1996 and extends through December 31, 1997.

Effective on September 9, 1997, you are directed to adjust the limits for the following categories, as provided for in the agreement between the Governments of the United States and the Former Yugoslav Republic of Macedonia dated August 6, 1996:

Category	Adjusted fifteen-month limit [1]
433	23,876 dozen.
434	13,250 dozen.
435	37,150 dozen.
443	228,938 numbers.
448	65,861 dozen.

[1] The limits have not been adjusted to account for any imports exported after September 30, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[Doc.97–23847 Filed 9–8–97; 8:45 am]

BILLING CODE 23847–DR–F

DEPARTMENT OF EDUCATION

National Committee of Foreign Medical Education and Accreditation

ACTION: Notice of meeting.

DATE AND TIME: Thursday, October 9, 1997, 8:30 a.m. until 5:30 p.m., Friday, October 10, 1997, 8:30 a.m. until 5:30 p.m.

PLACE: The Embassy Suites Hotel, 1250 22nd Street, N.W., Washington, D.C. 20037. The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an accommodation to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested accommodations may not be available because of insufficient time to arrange it.

STATUS: Parts of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The standards of accreditation applied to medical schools by a number of foreign countries and the comparability of those standards to the standards of accreditation applied to United States medical schools. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific determinations of comparability are closed to the public in order that each country may be properly notified of the decision.

SUPPLEMENTARY INFORMATION: Pursuant to section 481 of the Higher Education Act of 1965, as amended in 1992 (20 U.S.C. § 1088), the Secretary established within the Department of Education the National Committee on Foreign Medical Education and Accreditation. The Committee's responsibilities are to (1) evaluate the standards of accreditation applied to applicant foreign medical schools; and (2) determined the comparability of those standards for accreditation applied to United States medical schools.

FOR FURTHER INFORMATION CONTACT:

Carol F. Sperry, Executive Director, National Committee on Foreign Medical Education and Accreditation, 7th and D Streets, S.W., Room 3082, ROB #3, Washington, D.C. 20202–7563. Telephone: (202) 260–3636. Beginning September 22, 1997, you may call to obtain the identity of the countries whose standards are to be evaluated during this meeting.

Dated: September 2, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–23733 Filed 9–8–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 97–40–NG]

Coenergy Trading Company; Order Granting Long-Term Authorization to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting CoEnergy Trading Company (CoEnergy) long-term authorization to import up to 80,000 Mcf per day (29.9 Bcf annually) of natural gas from Canada. The term of the authorization is for a period of 10 years commencing November 1, 1998, or for 10 years after the commencement of deliveries if deliveries begin after November 1, 1998. This gas may be imported from Canada at the proposed interconnection of the Trans Quebec and Maritimes Pipeline and the Portland Natural Gas Transmission System near Pittsburg, New Hampshire, or the existing interconnection of TransCanada PipeLines Limited and Great Lakes Gas Transmission Limited Partnership located near Noyes, Minnesota.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities docket room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., August 12, 1997.

Cliff Tomaszewski,

Director, Office of Natural Gas, Office of Fossil Energy.

[FR Doc. 97–23824 Filed 9–8–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–155]

Application to Export Electric Energy to Canada; ProMark Energy, Inc.

AGENCY: Office of Fossil Energy, DOE

ACTION: Notice of Application.

SUMMARY: ProMark Energy, Inc. (ProMark), a power marketer, has submitted an application to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before October 9, 1997.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On August 27, 1997, ProMark, a wholly-owned subsidiary of The Consolidated Edison Company of New York, Inc., applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy, as a power marketer, to Canada, pursuant to section 202(e) of the FPA. Specifically, ProMark has proposed to transmit to Canada electric energy purchased from electric utilities and other suppliers within the U.S.

ProMark would arrange for the exported energy to be transmitted to Canada over the international facilities owned by Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, New York Power Authority, Niagara Mohawk Power Corporation, and Vermont Electric Transmission Company. Each of the transmission facilities, as more fully described in these applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with Kenneth Bekman, ProMark Energy, Inc., 555 Theodore Fremd Avenue, Suite B–100, Rye, New York, 10580 *AND* Steven J. Ross, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW, Washington, DC 200361–1795.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on September 2, 1997.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 97–23825 Filed 9–8–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2701–000]

Allegheny Power Service Corporation; Notice of Filing

September 3, 1997.

Take notice that on August 7, 1997, Allegheny Power Service Corporation tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23760 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–494–000]

ANR Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective September 1, 1997:

Twenty-fifth Revised Sheet No. 8
Twenty-seventh Revised Sheet No. 9
Twenty-sixth Revised Sheet No. 13
Twenty-seventh Revised Sheet No. 16
Thirty-second Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately $2.5 million of above-market costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR also advises that the proposed changes would increase current quarterly Above-Market Dakota Cost recoveries from $2.0 million to $2.5 million based upon higher net costs incurred from May, 1997 through July, 1997.

Any person desiring to be heard or to protest this 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 and Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23799 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–495–000]

ANR Storage Company; Notice of Proposed Changes In FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, ANR Storage Company (ANR Storage) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2, tariff sheets listed on Appendix A to the filing, to be effective September 1, 1997.

ANR Storage states that this filing is being made to implement changes to its Volume 1 and Volume 2 tariff to conform with the revisions made to Part 154 of the Commission's regulations pursuant to Order Nos. 582 and 582–A. ANR has requested a waiver of the thirty (30) day notice period to allow the tariff sheet to become effective on September 1, 1997.

ANR Storage states that copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23800 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–502–000]

Blue Lake Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Blue Lake Gas Storage Company (Blue Lake) tendered for filing as part of its FERC GAs Tariff, First Revised Volume No. 1, Title Page and Original Sheet No. 2A, to be effective September 1, 1997.

Blue Lake states that this filing is being made to implement changes to its tariff to conform with the revisions made to Part 154 of the Commission's regulations pursuant to Order Nos. 582 and 582–A. Blue Lake has requested a waiver of the thirty (30) day notice period to allow the tariff sheets to become effective on September 1, 1997.

Blue Lake states that copies of the filing were served upon the company's jurisdictional customer.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23807 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–499–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

2nd Revised 14th Revised Sheet No. 31
Thirtieth Revised Sheet No. 32
Thirtieth Revised Sheet No. 33
2nd Revised 15th Revised Sheet No. 35
2nd Revised 15th Revised Sheet No. 36

CNG requests an effective date of October 1, 1997, for its proposed tariff sheets.

CNG states that the purpose of this filing is to enable CNG to recover the costs associated with Texas Eastern Transmission Corporation (Texas Eastern) Rate Schedule FT–1/N.C., as permitted by the June 1995 Stipulation and Agreement, in light of the Commission's March 13, 1997 ''Order on Remand and Reconsideration'' in the instant proceeding.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23804 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–485–000]

Colorado Interstate Gas Company; Notice of Tariff Compliance Filing

September 3, 1997.

Take notice that on August 27, 1997, Colorado Interstate Gas Company (''CIG''), Post Office Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 270 and First

Revised Sheet No. 271 to be effective September 26, 1997.

CIG states it is making this filing to comply with the Order No. 636–C (78 FERC ¶61,186) issued February 26, 1997 (Order). Specifically CIG states these sheets are filed to comply with ordering paragraph (B) of the Order which states ''Within 180 days of the issuance of this order, any pipeline with a right of first refusal tariff provision containing a contract term cap longer than five years must revise its tariff consistent with the new cap adopted herein.''

CIG further states that copies of this filing have been served on CIG's jurisdictional customers and public bodies and that the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23791 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–488–000]

Colorado Interstate Gas Company; Notice of Proposed Changes In FERC Gas Tariff

September 3, 1997.

Take notice that on August 28, 1997, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 325 to be effective September 30, 1997.

CIG states it is making this filing to modify Section 9.6 of the General Terms and Conditions of its tariff to allow it to increase the acceptable range of its ''input factor'' (BTU divided by the square root of specific gravity) to 6.2% on a daily basis and to 7.8% on an hourly basis.

CIG further states its Watkins Station is a major pipeline junction on CIG's System and the point where gas from CIG's Northern, Central and Southern Systems, as well as gas from Fort Morgan Storage is blended. Air injection facilities were Installed at Watkins Station for the thermal control required to maintain the input factor within the limit of plus or minus 6% to satisfy customer orifice requirements on CIG's Valley Line which supplies gas to the City of Denver, the City of Colorado Springs and other towns along Colorado's Front Range. Valley Line customers are also required to purchase certain low BTU gas on the southern part of CIG's System in order for CIG to meet the input factor conditions

CIG states that for the last several years it has been having an increasingly difficult time in meeting input factor requirements as the low Btu volumes are depleting on the southern part of its system.

CIG states it has had meetings with Valley Line customers over a long period of time to reach a consensus on the long term actions needing to be taken to meet orifice requirements on the Valley Line. As part of this process, and as a interim solution, CIG's customers have agreed to increase the limits to the input factor. Therefore, CIG is requesting herein to change the limit of the input factor to plus or minus 6.2% on a daily basis, and to plus or minus 7.8% on an hourly basis.

CIG further states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23794 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–140–006 and RP97–491–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following original tariff sheets to become effective October 1, 1997:

Original Sheet No. 99M
Original Sheet No. 99N

Pursuant to the prior agreements of the parties following Columbia's first filing to recover Accrued-But-Not-Paid Gas Costs, this filing should be sub-docketed under the RP96–140 docket number.

Columbia states that the instant filing is being submitted pursuant to Article VII, Section C, Accrued-But-Not-Paid Gas Costs, of the ''Customer Settlement'' in Docket No. GP94–02, et al., approved by the Commission on June 15, 1995 (71 FERC ¶ 61,337 (1995)). The Customer Settlement became effective on November 28, 1995, when the Bankruptcy Court's November 1, 1995 order approving Columbia's Plan of Reorganization became final. Under the terms of Article VII, Section C, Columbia is entitled to recover amounts for Accrued-But-Not-Paid Gas Costs. As directed by Article VII, Section C, the tariff sheets contained herein are being filed in accordance with Section 39 of the General Terms and Conditions of the Tariff, to direct bill the Accrued-But-Not-Paid Gas Costs that have been paid subsequent to November 28, 1995. The instant filing reflects Accrued-But-Not-Paid Gas Costs in the amount of $179,316.85 plus applicable FERC interest of $3,324.29. This is Columbia's sixth filing pursuant to Article VII, Section C, and Columbia reserves the right to make the appropriate additional filings pursuant to that provision. The allocation factors on Appendix F of the Customer Settlement were used as prescribed by Article VII, Section C.

Columbia states that copies of its filing have been mailed to all parties on the Commission's service list in Docket No. RP96–140 and RP96–140–002, and to each of Columbia's firm customers, interruptible customers, and affected state commissions. Columbia also agrees to make available for this filing the data that it was required to provide in its June 13, 1996 compliance filing in Docket No. RP96–140–002 pursuant to a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests 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. A copy of this filing is on file with the Commission and is available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23788 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3914–000]

Commonwealth Electric Company; Notice of Filing

September 3, 1997.

Take notice that on August 26, 1997, Commonwealth Electric Company tendered for filing its quarterly report of transactions for the period April 1, 1997 through June 30, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23762 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on August 28, 1997 certain revised tariff sheets in the above captioned docket as part of its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of October 1, 1997.

The revised tariff sheets included herein are being filed pursuant to Section 25 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect an increase of the ACA charges to $0.0022 per MMBtu (currently effective ACA surcharge is $0.0019) based on the Commission's Annual Charge Billing for Fiscal Year 1997 (as corrected on August 20, 1997 by the Commission).

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 of the Commission's Regulations. All such motions or protests must be filed as provided in Section 154.210 of the 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23770 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

September 3, 1997.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing on August 28, 1997 certain revised tariff sheets in the above captioned docket as part of its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of October 1, 1997.

The purpose of the instant filing is to revise Eastern Shore's Rate Schedule CWS and CFSS Demand Rates, respectively, to track the cost of storage service purchased from Columbia Gas Transmission Corporation (Columbia) under their Rate Schedules FSS and SST, the costs of which are included in the rates payable under Eastern Shore's Rate Schedule CWS and CFSS.

Eastern Shore states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23771 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–363–006]

El Paso Natural Gas Company; Notice of Subsequent Technical Conference

September 3, 1997.

Pursuant to an order issued June 20, 1997, in Docket No. RP95–363–006, concerning El Paso Natural Gas Company's (El Paso) fuel charges a technical conference was held on Thursday, July 10, 1997. At that conference it was agreed that, if necessary, another technical conference would be held after certain data was received.

Take notice that the technical conference will be held on Wednesday, September 10, 1997, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23786 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–487–000]

Garden Banks Gas Pipeline, LLC; Notice of Filing

September 3, 1997.

Take notice that on August 28, 1997, Garden Banks Gas Pipeline, LLC (''GBCP'') tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, revised tariff sheet nos. 89 and 90, to become effective July 1, 1997.

GBGP states that the purpose of this filing is to update the tariff to reflect an accurate index listing, since Natural Gas Intelligence Gas Price Index for ''South Louisiana Region, Interstate Avg. (Off)'' has been discontinued. The tariff has been changed to state a posting of ''South Louisiana Region, Tennessee Line 500'' effective July 1, 1997.

GBGP submits that the Commission should grant it all waivers necessary to change this index effective July 1, 1997.

Any person desiring to be heard or to protest this 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 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions and 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23793 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–4–000]

Granite State Gas Transmission Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 28, 1997, Granite State Gas Transmission, Inc. (Granite State) tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, Third Revised Volume No. 1, for effectiveness on October 1, 1998:

Fourth Sub. Eighth Revised Sheet No. 21
Fourth Sub. Ninth Revised Sheet No. 22
Second Sub. Eighth Revised Sheet No. 23

According to Granite State, the revised tariff sheets reflect two tracking adjustments to its rates for transportation services: the Power Cost Adjustment (PCA) and the Annual Charges Adjustment (ACA) for the fiscal year 1998. Granite State further states, that through the PCA, it receives recovery for certain incremental electric power costs for which it is billed by Portland Pipe Line Corporation pursuant to the terms of a lease of pipeline owned by Portland Pipe Line. Granite State states that the PCA tracking procedure which was approved by the Commission in Docket No. RP97–300 provides for quarterly adjustments to recover the incremental electric costs. It is also stated the Commission has notified interstate pipelines that the ACA charge effective during fiscal 1998 is $0.0022 per dekatherm, which is shown on the revised tariff sheets.

Granite State further states that copies of its filing have been served on its firm and interruptible customers, and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to intervene 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 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Granite State's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23769 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–143–043]

Great Lakes Gas Transmission Limited Partnership; Notice of Revenue Sharing Report—Past Period Charges

September 3, 1997.

Take notice that on August 27, 1997, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed its Fourth Interruptible/Overrun (I/O) Revenue Sharing Report related to past period charges with the Federal Energy Regulatory Commission (Commission), in accordance with the Stipulation and Agreement (Settlement) filed on September 24, 1992, and approved by the Commission's February 3, 1993 order issued in Docket No. RP91–143–000, et al.

Great Lakes states that this report was prepared and submitted in accordance with Article IV of the Settlement, as modified by Commission order issued in Great Lakes' restructuring proceeding in Docket No. RS92–63 on October 1, 1993. This fourth report reflects application of the revenue sharing mechanism and further remittances made to firm shippers for I/O revenue related to past period charges collected from I/O shippers resulting from the return to rolled-in pricing for the period November 1, 1991 through September 30, 1995. Such remittances were made

to Great Lakes' firm shippers on July 30, 1997.

Great Lakes states that copies of this fourth report were sent to its firm customers, parties to this proceeding and the Public Service Commissions of the States of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. 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 Commission's Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23818 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4168–000]

Griffin Energy Marketing, L.L.C., Notice of Filing

September 3, 1997.

Take notice that on August 12, 1997, Griffin Energy Marketing, L.L.C. tendered for filing an original Market Rate Sales and Resale Transmission Tariff and Code of Conduct and requested the standard authorizations and waivers to operate as a power marketer. Griffin requested waiver of any regulations that may be required to permit this tariff to become effective on October 12, 1997. Sixty (60) days from the date of filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 2046, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1997. 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23768 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–65–000]

K N Interstate Gas Transmission Co.; Notice of Tariff Filing

September 3, 1997.

Take notice that on August 28, 1997, K N Interstate Gas Transmission Co. (KNI) tendered for filing an original and five copies of the following tariff sheets, to be effective September 28, 1997:

Third Revised Volume No. 1–A

First Revised Sheet No. 0
First Revised Sheet No. 2
First Revised Sheet No. 3.

These tariff sheets are being filed pursuant to part 154.204 of the Federal Energy Regulatory Commission's regulations. KNI is submitting changes to the Preliminary Statement and Map sections of the tariff to include the Pony Express Pipeline.

Copies of the filing were served upon KNI's jurisdictional customers, interested public bodies and all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Regulations. 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 to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23785 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–81–004]

K N Interstate Gas Transmission Company; Notice of Tariff Filing

September 3, 1997.

Take notice that on August 28, 1997 K N Interstate Gas Transmission Co. (KNI) tendered for filing an original and six copies of the following revised tariff sheets, to be effective September 1, 1997, and October 1, 1997, respectively:

Third Revised Volume No. 1–A

Second Revised Sheet No. 4–G
Third Revised Sheet No. 4–G

Second Revised Sheet No. 4–G, effective September 1, 1997, reflects a negotiated rate contract for September, 1997. Third Revised Sheet No. 4–G, effective October 1, 1997, reflects the removal of September specific negotiated rate information and reserves the tariff sheet for future use. The above referenced tariff sheets are being filed pursuant to Third Revised Volume No. 1–B, Section 36 of KNI's FERC Gas Tariff, and the procedures prescribed by the Commission in its December 31, 1996 ''Order Accepting Tariff Filing Subject to Conditions'', in Docket Nos. RP97–81 (77 FERC ¶ 61,350) and the Commission's Letter Order dated March 28, 1997 in Docket No. RP97–81–001.

Copies of the filing were served upon KNI's mainline jurisdictional customers, interested public bodies, and all parties to the proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with

the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23787 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–97–497–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC GAs Tariff

September 3, 1997.

Take notice that on August 29, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective October 1, 1997.

2nd Rev Nineteenth Revised Sheet No. 20
3rd Rev Sixteenth Revised Sheet No. 21
3rd Rev Seventeenth Revised Sheet No. 22
2nd Rev Nineteenth Revised Sheet No. 24

Koch states that the above listed tariff sheets are being submitted to reflect the removal of its Sea Robin Pipeline Company Account No. 858 surcharges from its currently effective tariff sheets. Koch is requesting an October 1, 1997 effective date, which corresponds with the end of the approved two year collection period.

Koch also states that it has served copies of this filing upon each affected customer, state commission, and other interested parties.

Any person desiring to be heard or to protest this 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 and regulations. All such motions or protests must be filed as provided by Section 154.210 of the Commission's rules and 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 part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23802 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–124–000]

Michigan Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 28, 1997, Michigan Gas Storage Company (MGS) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the Sixth Revised Sheet No. 5, to be effective October 1, 1997. MGS states that the purpose of this filing, which is made in accordance with Section 154.402 of the Commission's Regulations, is to reflect the Federal Energy Regulatory Commission's change in the unit rate for the Annual Charge Adjustment surcharge to be applied to rates in FY 1998 for recovery of Annual Charges pursuant to Order No. 472 in Docket No. RM87–3–000. The new surcharge is $0.0021 per Dt. of natural gas transported.

MGS states that copies of this filing are being served on all affected customers and applicable state regulatory agencies as well as on those on the official service list in RP96–290–000.

Any person desiring to be heard or to protest this 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 Regulations. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23816 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–25–000]

Mississippi River Transmission Corporation; Notice of 1997 ACA Rate

September 3, 1997.

Take notice that on August 28, 1997, Mississippi River Transmission Corporation (''MRT''), tendered for filing Twelfth Revised Sheet No. 10 to its FERC Gas Tariff Third Revised Volume No. 1.

MRT states that the purpose of the instant filing is to place into effect the new FERC approved ACA surcharge of $0.0022 per MMBtu, effective October 1, 1997 in accordance with Section 23 of MRT's FERC Gas Tariff.

Any person desiring to be heard or protest the subject 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 385.211 and 385.214 of the Commission's Regulations. All such motions and protests should be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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 available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23811 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–489–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Second Revised Sheet No. 8, with a proposed effective date of October 1, 1997.

National states that this filing reflects the quarterly adjustment to the reservation component of the EFT rate

pursuant to the Transportation and Storage Cost Adjustment (TSCA) provision set forth in Section 23 of the General Terms and Conditions of National's FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23795 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–3098–000]

New York State Electric & Gas Corporation; Notice of Filing

September 3, 1997.

Take notice that on August 22, 1997, New York State Electric & Gas Corporation tendered for filing a letter requesting withdrawal of its September 11, 1996 filing in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 16, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23761 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. RP97–496–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets with an effective date of October 1, 1997:

Thirty-Seventh Revised Sheet No. 50
Thirty-Seventh Revised Sheet No. 51
Thirty-Six Revised Sheet No. 53

Northern states that the filing revises the current Stranded Account No. 858 and Stranded Account No. 858-Reverse Auction surcharges, which are designed to recover costs incurred by Northern related to its contracts with third-party pipelines.

Northern states that copies of this filing were served upon the Company's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23801 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM 98–1–64–000]

Pacific Interstate Offshore Company, Notice of Change in Rate

September 3, 1997.

Take notice that on August 28, 1997, Pacific Interstate Offshore Company (''PIOC'') submitted for filing, to be part of its FERC Gas Tariff, the following tariff sheet:

Second Revised Volume No. 1

Fourth Revised Sheet No. 6

PIOC states the purpose of this filing is to set forth the applicable Annual Charge Adjustment (ACA) surcharge of .21 cents per Dth, effective October 1, 1997.

A copy of this filing has been served on PIOC's sole customer, the Southern California Gas Company and the Public Utilities Commission of the State of California and other interested parties.

Any persons 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 385.211 and 385.214 of the Commission's Regulations. All such motions or protests should 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23813 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–41–000]

Paiute Pipeline Company; Notice of Change in Annual Charge Adjustment

September 3, 1997.

Take notice that on August 28, 1997, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheet, to become effective October 1, 1997:

Seventh Revised Sheet No. 10

Paiute states that the purpose of this filing is to revise its annual charge adjustment surcharge in order to recover the Commission's annual charges for the 1997 fiscal year.

Paiute states that copies of this filing have been mailed to all jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23812 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–500–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective October 1, 1997.

Panhandle states that this filing removes from Panhandle's currently effective rates the Miscellaneous Stranded Cost Reservation Surcharge applicable to Rate Schedules FT, EFT, SCT and LFT, and the Miscellaneous Stranded Cost Volumetric Surcharge applicable to Rate Schedules IT and EIT established by Section 18.14 of the General Terms and Conditions of Panhandle's tariff which was the subject of Panhandle's filing in Docket No. RP94–384–000.

Panhandle states that copies of its filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this 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 and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23805 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3930–000]

PPM Five LLC; Notice of Filing

September 3, 1997.

Take notice that on July 25, 1997, PPM Five LLC tendered for filing FERC Rate Schedule No. 1 in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 15, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23766 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3926–000]

PPM One LLC; Notice of Filing

September 3, 1997.

Take notice that on July 25, 1997, PPM One LLC tendered for filing FERC Rate Schedule No. 1 in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 15, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23763 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3931–000]

PPM Six LLC; Notice of Filing

September 3, 1997.

Take notice that on July 25, 1997, PPM Six LLC tendered for filing FERC Rate Schedule No. 1 in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 15, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23767 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3928–000]

PPM Three LLC; Notice of Filing

September 3, 1997.

Take notice that on July 25, 1997, PPM Three LLC tendered for filing FERC Rate Schedule No. 1 in the above-referenced docket.

Any person desiring to be heard or to protest 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 15, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23765 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3927–000]

PPM Two LLC; Notice of Filing

September 3, 1997.

Take notice that on July 25, 1997, PPM Two LLC tendered for filing FERC Rate Schedule No. 1 in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 15, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23764 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–79–000]

Sabine Pipe Line Company; Notice of Proposed Changes in FERC GAs Tariff

September 3, 1997.

Take notice that on August 28, 1997, Sabine Pipeline Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet proposed to be effective October 1, 1997:

Fifth Revised Sheet No. 20

Sabine state that its filing reflects an Annual Charge Adjustment (ACA) unit charge of $.0022/Dth to be applied to rates for the annual period commencing October 1, 1997.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties. In accordance with the provisions of § 154.2(d) of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Sabine's offices at 1111 Bagby Street in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23814 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–493–000]

Southern Natural Gas Company; Notice of GSR Revised Tariff Sheets

September 3, 1997.

Take notice that on August 29, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of September 1, 1997:

Tariff Sheets Applicable to Contesting Parties

Thirtieth Revised Sheet No. 14
Fifty-First Revised Sheet No. 15
Thirtieth Revised Sheet No. 16
Fifty-First Revised Sheet No. 17
Thirty-Fourth Revised Sheet No. 29

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN GSR Surcharge, due to an increase in GSR billing units effective September 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in those proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23798 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–504–000]

Southern Natural Gas Company; Notice of GSR Cost Recovery Filing

September 3, 1997.

Take notice that on August 29, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of October 1, 1997.

Tariff Sheets Applicable to Contesting Parties

Thirty-Second Revised Sheet No. 14
Fifty-Third Revised Sheet No. 15
Thirty-Second Revised Sheet No. 16
Fifty-Third Revised Sheet No. 17
Twenty-Ninth Revised Sheet No. 18
Thirty-Fifth Revised Sheet No. 29

Tariff Sheets Applicable to Supporting Parties

Seventeenth Revised Sheet No. 14a
Twenty-Third Revised Sheet No. 15a
Seventeenth Revised Sheet No. 16a
Twenty-Third Revised Sheet No. 17a

Southern sets forth in the filing its revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSR costs associated with the payment of price differential costs under unrealigned gas supply contracts as well as sales function costs during the period May 1, 1997 through July 31, 1997. These GSR costs have arisen as adirect result of customers' elections during restructuring to terminate their sales entitlements under Order No. 636.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23809 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–498–000]

Steuben Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2, tariff sheets listed on Appendix A to the filing, to be effective September 1, 1997.

Steuben states that this filing is being made to implement changes to its Volume 1 and Volume 2 tariff to conform with the revisions made to Part 154 of the Commissions regulations pursuant to Order Nos. 582 and 582–A. Steuben has requested a waiver of the thirty (30) day notice period to allow the tariff sheet to become effective on September 1, 1997.

Steuben states that copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23803 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–492–000]

Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets

September 3, 1997.

Take notice that on August 29, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheet:

First Revised Sheet No. 221

Texas Gas states that the purpose of this filing is to comply with the Commission's Order No. 636–C issued February 27, 1997, in Docket No. RM91–11–006, et al. Texas Gas states that it has revised its right-of-first-refusal tariff provisions to reduce the term cap for matching a competitive bid from twenty (20) years to five (5) years.

Texas Gas states that copies of the tariff sheets are being served upon Texas Gas jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23797 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–18–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 28, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets contained in Appendix A of the filing.

The revised tariff sheets are being filed pursuant to Section 23 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, which affords Texas Gas the right to recover the costs billed to Texas Gas by the Federal Energy Regulatory Commission via the FERC ACA Unit Charge method. That unit charge, as determined by the Commission, is $.0022/MMBtu as set forth on Texas Gas's Annual Charges Bill for fiscal year 1997, to be effective October 1, 1997.

Copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Secs. 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23810 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–18–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 28, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Fifth Revised Sheet No. 14

The tariff sheet is being filed to establish a revised Effective Fuel Retention Percentage (EFRP) under the provisions of Section 16 ''Fuel Retention'' as found in the General Terms and Conditions of Texas Gas FERC Gas Tariff, First Revised Volume No. 1. The revised EFRP may be in effect for the annual period November 1, 1997, through October 31, 1998. The instant filing generally results in net reductions of fuel retention percentages versus the percentages for the annual period beginning November 1, 1996.

Texas Gas Requests an effective date of November 1, 1997, for the proposed tariff sheet.

Copies of the tariff sheet are being mailed to Texas Gas affected customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Secs 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23817 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–501–000]

Texas-Ohio Pipeline, Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Texas-Ohio Pipeline, Inc. (TOP), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 66, with a proposed effective date of October 1, 1997.

TOP states that the purpose of this filing is to comply with the Commission's Order No. 636–C, issued February 27, 1997 in Docket No. RM91–11–006, et al. TOP states that it has revised its right of first refusal tariff provisions to reduce the contract term for matching a competitive bid from twenty years to five years.

TOP states that copies of its filing were served on all jurisdictional customers.

Any person desiring to be heard or to protest this 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 Section 385.214 and Section 385.211 of the Commission's Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23806 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–490–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that on August 29, 1997, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part

of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet Nos. 112 and 113, to be effective October 1, 1997.

Trailblazer states that the filing was made to modify the provisions in Trailblazer's Tariff relating to its allocation and scheduling of capacity for firm service at secondary points when there is a constraint on the secondary path as opposed to the secondary point.

Trailblazer requested whatever waivers are necessary to permit the tariff sheets to become effective October 1, 1997.

Trailblazer states that a copy of the filing has been mailed to its customers and interested regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23796 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–82–000]

Viking Gas Transmission Company; Notice of Filing

September 3, 1997.

Take notice that on August 27, 1997, Viking Gas Transmission Company (''Viking'') tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheets to become effective October 1, 1997:

Ninth Revised Sheet No. 6
First Revised Sheet No. 6A

The purpose of this filing is to increase Viking's Annual Charge Adjustment (''ACA'') from $0.0020 per dekatherm to $0.0022 per dekatherm as permitted by Sections 154.204 and 154.402 of the Commission's Rules and Regulations, 18 CFR §§ 154.205, 154.402 (1997). Viking's authority to make this filing is set forth in Article XIX of the General Terms and Conditions of Viking's FERC Gas Tariff, First Revised Volume No. 1.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or the protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Secretary.

[FR Doc. 97–23815 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No RP97–484–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 3, 1997.

Take notice that Williams Natural Gas Company (WNG) on August 27, 1997, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 214, Fourth Revised Sheet No. 254 and Second Revised Sheet No. 255, to be effective September 25, 1997.

WNG states that the purpose of this filing is to comply with Order No. 636–C, issued February 27, 1997. Paragraph (B) of the order directed that within 180 days of the issuance of the order, any pipeline with a right-of-first-refusal tariff provision containing a contract term longer than five years must revise its tariff consistent with the new cap therein. Ordering Paragraph (C) directed pipelines which have filed to recover GSR costs before the date of the order, and whose GSR recovery proceedings have not been resolved by settlement or final and non-appealable Commission order, to file a proposed allocation of GSR costs to its interruptible customers. WNG has proposed a 5% allocation of GSR costs to interruptible customers. The above listed tariff sheets are being filed in compliance with the order.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23790 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–483–006]

Wyoming Interstate Company Ltd.; Notice of Tariff Compliance Filing

September 3, 1997.

Take notice that on August 27, 1997, Wyoming Interstate Company Ltd. (''WIC''), Post Office Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 2, First Revised Sheet No. 61 and First Revised Sheet No. 62 to be effective September 26, 1997.

WIC states is it making this filing to comply with the Order No. 636–6 (78 FERC ¶ 61,186) issued February 26, 1997 (Order). Specifically WIC states these sheets are filed to comply with ordering paragraph (B) of the Order which states ''Within 180 days of the issuance of this order, any pipeline with a right of first refusal tariff provision containing a contract term cap longer

than five years must revise its tariff consistent with the new cap adopted herein.''

WIC further states that copies of this filing have been served on WIC's jurisdictional customers and public bodies and that the filing is available for public inspection at WIC's offices in Colorado Springs, Colorado.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23789 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–503–000]

Wyoming Interstate Company; Notice of Tariff Filing

September 3, 1997.

Take notice that on August 29, 1997, Wyoming Interstate Company (WIC), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1 and Second Revised Volume No. 2 tariff, the tariff sheets listed in Appendix A to the filing, to be effective October 1, 1997.

WIC states as a result of implementing a posted fuel percentage retention for quantities received a WIC's transmission system coupled with the current tariff requirement of billing on receipt quantities, shippers can be billed overrun charges on the FL&U percentage. This can occur if the shippers nominate to deliver their full contract entitlement at the delivery point(s). Therefore WIC is proposing to modify its tariff to base entitlements and invoice shippers based on Point of Delivery Quantities. This will simplify the administration of WIC's firm contracts and will make WIC's tariff consistent with the tariff of Colorado Interstate Gas Company which acts as operator of WIC.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23808 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–486–000]

Young Gas Storage Company Ltd.; Notice of Tariff Compliance Filing

September 3, 1997.

Take notice that on August 27, 1997, Young Gas Storage Company Ltd. (''Young''), Post Office Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC gas tariff, Original Volume No. 1, Second Revised Sheet No. 71 to be effective September 26, 1997.

Young states it is making this filing to comply with the Order No. 636–C (78 FERC ¶ 61,186) issued February 26, 1997 (Order). Specifically Young states that sheet is filed to comply with ordering paragraph (B) of the Order which states ''Within 180 days of the issuance of this order, any pipeline with a right of first refusal tariff provision containing a contract term cap longer than five years must revise its tariff consistent with the new cap adopted herein.''

Young further states that copies of this filing have been served on Young's jurisdictional customers and public bodies and that this filing is available for public inspection at Young's offices in Colorado Springs, Colorado.

Any person desiring to protest this 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 Section 385.214 and Sections 385.211 of the Commission's Regulations. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23792 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–82–000, et al.]

Auburndale Power Partners, et al.; Electric Rate and Corporate Regulation Filings

September 3, 1997.

Take notice that the following filings have been made with the Commission:

1. Auburndale Power Partners, Limited Partnership

[Docket No. EG97–82–000]

On August 22, 1997, Auburndale Power Partners, Limited Partnership, Suite 200, 12500 Fair Lakes Circle, Fairfax, Virginia 22033, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as added by section 711 of the Energy Policy Act of 1992.

The applicant is a corporation that is engaged directly and exclusively in owning and operating an eligible facility located in Polk County, Florida, near the town of Auburndale. The facility consists of a 158.8 MW (net) topping-cycle cogeneration facility fueled by natural gas.

Comment date: September 23, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Sierra Pacific Power Company

[Docket No. ER97–4156–000]

Take notice that on August 11, 1997, Sierra Pacific Power Company (''Sierra''), tendered for filing Service Agreements (''Service Agreements'') with the following entities for Non-Firm Point-to-Point Transmission Service under Sierra's Open Access Transmission Tariff (''Tariff''):

1. Western Resources
2. Pacific Gas & Electric Company

Sierra filed the executed Service Agreements with the Commission in compliance with Section 14.4 of the Tariff and applicable Commission regulations. Sierra also submitted revised Sheet Nos. 148 and 148A (Attachment E) to the Tariff, which is an updated list of all current subscribers. Sierra requests waiver of the Commission's notice requirements to permit and effective date of August 11, 1997 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Rochester Gas and Electric Corporation

[Docket No. ER97–4157–000]

Take notice that on August 11, 1997, Rochester Gas and Electric Corporation (RG&E), filed a Service Agreement between RG&E and the PSE&G(Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of July 29, 1997 for the PSE&G Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Electric Power Company

[Docket No. ER97–4159–000]

Take notice that on August 12, 1997, Wisconsin Electric Power Company (''Wisconsin Electric''), tendered for filing two Transmission Service Agreement between itself and National Gas & Electric L.P.(''NG&E''), and between Wisconsin Electric and Allegheny Power System. The first Transmission Service Agreement allows NG&E to receive short term firm transmission service under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission acceptance in Docket No. OA97–578. The second Transmission Service Agreement allows APS to receive non-firm transmission service under the same tariff.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on NG&E, APS, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Public Service Company

[Docket No. ER97–4160–000]

Take notice that on August 12, 1997, Central Illinois Public Service Company (''CIPS''), submitted two umbrella short-term firm transmission service agreements, dated April 1, 1997, July 11, 1997 and July 21, 1997, establishing the following as customers under the terms of CIPS' Open Access Transmission Tariff: Cinergy Services, Inc., The Power Company of America, L.P., and New York State Electric & Gas Corporation.

CIPS requests an effective date of July 21, 1997 for the service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served on the three customers and the Illinois Commerce Commission.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER97–4161–000]

Take notice that on August 12, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Market Responsive Energy, Inc.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Market Responsive Energy, Inc. pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of July 14, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Interstate Power Company

[Docket No. ER97–4162–000]

Take notice that on August 12, 1997, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Wisconsin Power and Light (WPL). Under the Transmission Service Agreement, IPW will provide firm point-to-point transmission service to WPL.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER97–4163–000]

Take notice that on August 12, 1997, Northeast Utilities Service Company (''NUSCO''), tendered for filing, a Service Agreement with Market Responsive Energy Inc., under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to the Market Responsive Energy, Incorporated.

NUSCO requests that the Service Agreement become effective July 24, 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. The Detroit Edison Company

[Docket No. ER97–4164–000]

Take notice that on August 12, 1997, The Detroit Edison Company tendered for filing its report of transactions for the second calendar quarter of 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Northeast Utilities Service Company

[Docket No. ER97–4165–000]

Take notice that on August 12, 1997, Northeast Utilities Service Company (''NUSCO''), tendered for filing, a Service Agreement with the Public Service Electric and Gas Company under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to the Public Service Electric and Gas.

NUSCO requests that the Service Agreement become effective July 25, 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Southern Company Energy Marketing, L.P.

[Docket No. ER97–4166–000]

Take notice that on August 12, 1997, Southern Company Energy Marketing L.P. (''SCEM''), filed an application requesting acceptance of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed tariff would authorize SCEM to engage in sales of capacity and energy to eligible customers at market-based rates as a power marketer.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Company

[Docket No. ER97–4167–000]

Take notice that on August 12, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the ''CSW Operating Companies'') submitted for filing a service agreement under which the CSW Operating Companies will provide firm point-to-point transmission service to SWEPCO in accordance with the CSW Operating Companies' open access transmission service tariff.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. New York State Electric & Gas Corporation

[Docket No. ER97–4169–000]

Take notice that on August 12, 1997, New York State Electric & Gas Corporation (NYSEG), filed a Service Agreement between NYSEG and Engage Energy US, L.P. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on May 28, 1997, in docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of July 15, 1997 for the Engage Energy US, L.P. Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket No. ER97–4170–000]

Take notice that on August 12, 1997, New York State Electric & Gas Corporation (''NYSEG''), filed a Service Agreement between NYSEG and ENRON Power Marketing, Inc. (''Customer''). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on May 28, 1997 with revised sheets effective on June 11, 1997, in Docket No. OA97–571–000 and OA96–195–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of July 14, 1997 for the ENRON Power Marketing, Inc. Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. New York State Electric & Gas Corporation

[Docket No. ER97–4171–000]

Take notice that on August 12, 1997, New York State Electric & Gas Corporation (''NYSEG''), filed a Service Agreement between NYSEG and NP Energy Inc. (''Customer''). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on May 28, 1997 with revised sheets effective on June 11, 1997, in Docket No. OA97–571–000 and OA96–195–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of July 25, 1997 for the NP Energy Inc. Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER97–4172–000]

Take notice that on August 12, 1997, Southern Company Services, Inc. (''SCS''), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as ''Southern Companies'') filed four (4) service agreements for firm point-to-point transmission service and four (4) service agreements for non-firm point-to-point transmission service under Part II of the Open Access Transmission Tariff of Southern Companies. Two (2) of the agreements for firm transmission service are between SCS, as agent for Southern Companies, and Electric Clearinghouse, Inc., and the other two agreements for firm service are between SCS, as agent for Southern Companies, and (i) Aquila Power Corporation, and (ii) Vitol Gas & Electric LLC. The four (4) non-firm transmission service agreements are between SCS, as agent for Southern Companies, and (i) The Energy Authority, Inc., (ii) New York State Electric and Gas Corporation, (iii) Minnesota Power and Light Company, and (iv) Pennsylvania Power and Light Company.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER97–4174–000]

Take notice that on August 13, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and GPU Energy (GPU).

Cinergy and GPU are requesting an effective date of August 1, 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER97–4175–000]

Take notice that on August 13, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Seminole Electric Cooperative, Inc. (Seminole).

Cinergy and Seminole are requesting an effective date of July 15, 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER97–4176–000]

Take notice that on August 13, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff)

entered into between Cinergy and Southern Company Services, Inc. (Southern).

Cinergy and Southern are requesting an effective date of August 15, 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. New England Power Pool

[Docket No. ER97–4177–000]

Take notice that on August 13, 1997, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by ProMark Energy, Inc. (''ProMark''). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit ProMark to join the over 120 Participants that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make ProMark a Participant in the Pool. NEPOOL requests an effective date on or before September 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by ProMark.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Central Vermont Public Service Corporation

[Docket No. ER97–4178–000]

Take notice that on August 13, 1997, Central Vermont Public Service Corporation (''Central Vermont''), tendered for filing a Service Agreement with Virginia Power Company under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's regulations to permit the service agreement to become effective on August 11, 1997.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Montaup Electric Company

[Docket No. ER97–4179–000]

Take notice that on August 13, 1997, Montaup Electric Company, tendered for filing a form of service agreement providing for Short-Term Firm Point-to-Point Transmission Service to itself under its open access tariff.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Wisconsin Public Service Corporation

[Docket No. ER97–4180–000]

Take notice that on August 13, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing an executed Transmission Service Agreement between WPSC and itself. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Iowa Power Partners I, LLC

[Docket No. ER97–4222–000]

On August 15, 1997, Iowa Power Partners I, LLC (''Iowa Power Partners''), organized under the laws of the State of Iowa, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, an initial rate schedule for sales to IES Utilities Inc. and a request for waivers and pre-approvals under the Federal Power Act.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Duquesne Light Company

[Docket No. OA96–56–001]

Take notice that on August 14, 1997, Duquesne Light Company (DLC) tendered for filing an index of customers served under the DLC Open Access Transmission Tariff since July 9, 1996.

Comment date: September 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23783 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4133–000, et al.]

Southwestern Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

September 2, 1997.

Take notice that the following filings have been made with the Commission:

1. Southwestern Electric Power Company, West Texas Utilities Company

[Docket No. ER97–4133–000]

Take notice that on August 8, 1997, Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) tendered for filing: (1) Amendment No. 1, dated July 31, 1997, to the Service Agreement between WTU and Tex-La Electric Cooperative of Texas, Inc. (Tex-La), dated August 2, 1993; (2) Amendment No. 1, dated July 31, 1997, to the Power Supply Agreement between SWEPCO and East Texas Electric Cooperative, Inc. (ETEC), dated February 10, 1993; and (3) a new ERCOT Power Supply Agreement between SWEPCO and Tex-La, dated July 31, 1997.

SWEPCO and WTU state that a copy of this filing has been served on ETEC, Tex-La and the Public Utility Commission of Texas.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER97–4134–000]

Take notice that on August 11, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements under APS'' FERC Electric Tariff, Original Volume No. 3 with LG&E Energy Marketing, Inc. (LG&E), Rocky Mountain Generation Cooperative, Inc. (Rocky Mtn), Entergy Power Marketing Corp. (Entergy), Idaho Power Company (''Idaho''), The Power Company of America (The Power Co.), e prime, inc. (e prime), and Cinergy Services, Inc. (Cinergy).

A copy of this filing has been served on the Arizona Corporation Commission, LG&E, Rocky Mtn,

Entergy, Idaho, The Power Co., e prime, and Cinergy.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Madison Gas and Electric Company

[Docket No. ER97–4135–000]

Take notice that on August 11, 1997, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with:

- American Electric Power Service Corporation.
- AYP Energy, Inc.
- Electric Clearinghouse, Inc.
- Engage Energy US, L.P.
- Minnesota Power and Light Company.
- Northern Indiana Public Service Company.
- Rainbow Energy Marketing Corporation.

MGE requests an effective date of August 11, 1997.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER97–4136–000]

Take notice that on August 11, 1997, New England Power Company (NEP) filed a Service Agreement with NP Energy, Inc. for non-firm, point-to-point transmission service under NEP's open access transmission tariff, FERC Electric Tariff, Original Volume No. 9.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power & Light Company

[Docket No. ER97–4137–000]

Take notice that on August 11, 1997, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Equitable Power Services Company for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 21, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's regulations.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Union Electric Company

[Docket No. ER97–4138–000]

Take notice that on August 11, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between UE and Central Illinois Public Service Company, Rainbow Energy Marketing Corporation, Sikeston Board of Municipal Utilities and Sonat Power Marketing L.P. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. UtiliCorp United Inc.

[Docket No. ER97–4139–000]

Take notice that on August 11, 1997, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Northern Indiana Public Service Company for service under its non-firm point-to-point open access service tariff for its operating divisions Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: Saeptember 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Power Service Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER97–4140–000]

Take notice that on August 11, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 31 to add one (1) new customer to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available as of August 8, 1997, to Constellation Power Source, Inc.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–4141–000]

Take notice that on August 11, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Delmarva Power & Light Company (DPL), dated August 7, 1997. This Service Agreement specifies that DPL has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU Energy and DPL to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of August 7, 1997 for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Power Service, Corporation, on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER97–4142–000]

Take notice that on August 11, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 23 to add Engage Energy US, L.P., Virginia Electric and Power Company and Vitol Gas & Electric LLC to Allegheny Power Open Access Transmission Service Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000. The proposed effective date under the Service Agreements is August 8, 1997 for Engage Energy US, L.P. and Virginia Electric and Power Company,

and July 17, 1997 for Vitol Gas & Electric LLC.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER97–4143–000]

Take notice that on August 11, 1997, American Electric Power Service Corporation (AEPSC), on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company (collectively, the AEP Operating Companies) tendered for filing with the Federal Energy Regulatory Commission its Wholesale Market Tariff, FERC Electric Tariff. Under the tariff, the AEP Operating Companies may enter into service agreements for the sale at wholesale of electric capacity and/or energy at negotiated rates and may conduct transactions pursuant to such service agreements.

AEPSC requests an effective date of October 10, 1997, or the date of approval by the Commission, whichever comes earlier.

AEPSC has served its filing on the Public Service Commission of West Virginia, the Tennessee Public Service Commission, the Kentucky Public Service Commission, the Michigan Public Service Commission, the Indiana Utility Regulatory Commission, the Virginia State Corporation Commission, and the Public Utilities Commission of Ohio.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Rochester Gas and Electric Corporation

[Docket No. ER97–4144–000]

Take notice that on August 11, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the Williams Energy Services Company (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of August 1, 1997 for the Williams Energy Services Company Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Sigma Energy, Inc.

[Docket No. ER97–4145–000]

Take notice that on August 11, 1997, Sigma Energy, Inc. (Sigma) petitioned the Commission for acceptance of Sigma Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Sigma intends to engage in wholesale electric power and energy purchases and sales as a marketer. Sigma is not in the business of generating or transmitting electric power. Sigma is a wholly-owned Corporation by its two principals, Mario Martini and Raymond M. Cooper, and is also engaged in utility contract analysis for its clients.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Illinois Power Company

[Docket No. ER97–4146–000]

Take notice that on August 11, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which New York State Electric and Gas Corporation will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 4, 1997.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Tucson Electric Power Company

[Docket No. ER97–4147–000]

Take notice that on August 11, 1997, Tucson Electric Power Company (TEP), tendered for filing two (2) service agreements for firm point-to-point transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requests waiver of notice to permit the service agreements to become effective as of the earliest date service commenced under any of these agreements. The service agreements are as follows:

1. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc. dated July 28, 1997.

2. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc. dated July 21, 1997.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Illinois Power Company

[Docket No. ER97–4148–000]

Take notice that on August 11, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which Constellation Power Source, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1997.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER97–4149–000]

Take notice that on August 11, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Archer Daniels Midland Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1997.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Illinois Power Company

[Docket No. ER97–4150–000]

Take notice that on August 11, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which Northern Indiana Public Service Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1997.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Entergy Services, Inc.

[Docket No. ER97–4151–000]

Take notice that on August 11, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Louisiana, Inc. (Entergy Louisiana), tendered for filing an Interconnection and Operating Agreement between Entergy Gulf States, Inc. and PanEnergy Lake Charles Generation.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Power and Light Company

[Docket No. ER97–4152–000]

Take notice that on August 11, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing Form Of Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service establishing PECO Energy Company—Power Team as a point-to-point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of July 15,1997, and; accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. PECO Energy Company

[Docket No. ER97–4153–000]

Take notice that on August 11, 1997, PECO Energy Company (PECO), filed a Service Agreement dated August 4, 1997 with NP Energy, Inc. (NP ENERGY) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds NP ENERGY as a customer under the Tariff.

PECO requests an effective date of August 4, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to NP ENERGY and to the Pennsylvania Public Utility Commission.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. PECO Energy Company

[Docket No. ER97–4154–000]

Take notice that on August 11, 1997, PECO Energy Company (PECO) filed a Service Agreement dated August 5, 1997 with Tenaska Power Services Co. (TENASKA) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TENASKA as a customer under the Tariff.

PECO requests an effective date of August 5, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to TENASKA and to the Pennsylvania Public Utility Commission.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Wisconsin Power and Light Company

[Docket No. ER97–4155–000]

Take notice that on August 11, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing Form Of Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service establishing PacifiCorp as a point-to-point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of July 15,1997, and; accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: September 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–23784 Filed 9–8–97; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice

September 3, 1997.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: September 10, 1997, 10:00 a.m.

Place: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

Status: Open.

Matters to be Considered: Agenda.

* Note—Items listed on the agenda may be deleted without further notice.

Contact Person for More Information: Lois D. Cashell secretary telephone (202) 208–0400 for a Recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; However, all public documents may be examined in the Reference and Information Center.

Consent Agenda—HYDRO

681st Meeting—September 10, 1997

Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–2113, 064, Wisconsin Valley Improvement Company

CAH–2.
Docket# P–271, 049, Entergy Corporation

CAH–3.
Docket# P–2381, 037, Pacificorp

CAH–4.
Docket# P–2570, 026, Ohio Power Company

CAH–5.
Docket# P–9974, 029, Rough and Ready HYDRO Company

CAH–6.
Docket# P–7115, 013, Municipal Electric Authority of Georgia
Other#S P–7115, 019, Municipal Electric Authority of Georgia;
P–7115, 022, Municipal Electric Authority of Georgia;
P–7115, 023, Municipal Electric Authority of Georgia;
P–7115, 026, Municipal Electric Authority of Georgia;
P–7115, 027, Municipal Electric Authority of Georgia

Consent Agenda—Electric

CAE–1.
Docket# ER97–3561, 000, Virginia Electric and Power COMPANY

CAE–2.

Docket# EC97–39, 000, Boston Edision Company and BEC Energy
CAE–3.
Docket# ER97–2822, 000, Washington Water Power Company
CAE–4.
Docket# ER97–3200, 000, Montaup Electric Company
CAE–5.
Docket# ER97–3299, 000, Wisconsin Electric Power Company
CAE–6.
Docket# ER97–3553, 000, Rochester Gas and Electric Corporation
Other#S ER97–3556, 000, Roxdel
CAE–7.
Docket# ER97–964, 000, Consumers Energy Company
CAE–8.
Docket# EC97–42, 000, Boston Edison Company
CAE–9. Docket# ER95–760, 000, Duke Power Company
Other#S ER96–110, 000, Duke Power Company
CAE–10. Docket# ER96–929, 000, Potomac Electric Power Company
CAE–11. Docket# EL96–38, 000, MidAmerican Energy Company
Other #S OA96–42, 000, MidAmerican Energy Company
CAE–12.
Docket # ER91–150, 000, Southern Company Services, Inc.
Other #S ER91–326, 000, Southern Company Services, Inc.;
ER91–570, 000, Southern Company Services, Inc.
CAE–13.
Docket # TX96–6, 001, Montana Power Company
CAE–14.
Docket # ER97–2220, 001, Boston Edison Company
CAE–15.
Docket # EL95–33, 001, *Louisiana Public Service Commission* versus *Entergy Services, Inc.*
CAE–16.
Docket # ER96–360, 001, Utilicorp United, Inc.
CAE–17.
Docket # ER97–963, 001, Consumers Power Company D/B/A Consumers Energy Company
Other #S ER97–1386, 001, Consumers Energy Company
CAE–18.
Docket # EL93–35, 001, *City of Cleveland, Ohio* versus *Cleveland Electric Illuminating Company*
Other #S EL96–9, 001, Cleveland Electric Illuminating Company;
EL96–21, 001, *Cleveland Public Power of the City of Cleveland, Ohio* versus *Cleveland Electric Illuminating Company*
ER96–501, 001, Ohio Power Company
CAE–19.
Docket # EL97–34, 001, *Long Island Lighting Company* versus *Northeast Utilities Service Company*
Other #S ER97–2746, 001, Northeast Utilities Service Company
CAE–20.
Docket # AI96–2, 001, Accounting requirements under open access transmission tariffs
CAE–21.
Docket # FA92–9, 002, Central Louisiana Electric Company, Inc.
CAE–22.
Docket # ER96–2571, 002, Delmarva Power & Light Company
CAE–23.
Docket # EG97–80, 000, CEA Bhilai Energy Company Ltd.
CAE–24.
Docket # SC97–4, 000, City of Alma, Michigan
CAE–25.
Docket # EL97–26, 000, *Louisiana Public Service Commission* versus *Entergy Services, Inc.*
CAE–26.
Docket # EL96–62, 000, *Rochester Gas and Electric Corporation* versus *Niagara Mohawk Power Corporation*
CAE–27.
Docket # EL94–77, 000, Old Dominion Electric Cooperative
CAE–28.
Docket # EL95–43, 000, *California Department of Water Resources* versus *NEVADA Power Company*
CAE–29.
Docket # EL96–45, 000, MODESTO IRRIGATION District
CAE–30.
Omitted
CAE–31.
Docket # EL97–41, 000, *Madison Gas and Electric Company* versus *Wisconsin Power & Light Company*

Consent Agenda—Gas and Oil

CAG–1.
Docket # RP97–429, 001, Ozark Gas Transmission System
CAG–2.
Docket # RP97–447, 000, Northern Natural Gas Company
CAG–3.
Docket # RP97–451, 000, QUESTAR Pipeline Company
CAG–4.
Docket # PR97–10, 000, Red River Pipeline, L.P.
CAG–5.
Docket # PR96–2, 000, Transok, Inc.
Other #S PR96–2, 001, Transok, Inc.
CAG–6.
Docket # PR97–4, 000, Pontchartrain Natural Gas System
CAG–7.
Docket # RP93–166, 002, Tennessee Gas Pipeline Company
Other #S RP93–166, 003, Tennessee Gas Pipeline Company
CAG–8.
Docket # RP94–203, 002, Tennessee Gas Pipeline Company
Other #S RP94–203, 001, Tennessee Gas Pipeline Company
CAG–9.
Docket # RP97–58, 006, East Tennessee Natural Gas Company
CAG–10.
Docket # RP97–59, 007, Midwestern Gas Transmission Company
CAG–11.
Docket # RP97–60, 007, Tennessee Gas Pipeline Company
CAG–12.
Docket # RP97–181, 005, CNG Transmission Corporation
CAG–13.
Docket # RP97–207, 001, Distrigas of Massachusetts Corporation
CAG–14.
Docket # RP97–346, 001, Equitrans, L.P.
Other #S RP97–346, 002, Equitrans, L.P.
CAG–15.
Docket # RP97–359, 001, Texas Eastern Transmission Corporation
Other #S RP97–359, 002, Texas Eastern Transmission Corporation
CAG–16.
Docket # RP97–395, 001, Texas Eastern Transmission Corporation
CAG–17.
Docket # RP97–435, 000, Southern Natural Gas Company
CAG–18.
Docket # GT95–11, 000, Williams Natural Gas Company
Other #S GT95–11, 001, Williams Natural Gas Company
CAG–19.
Docket # RP96–51, 004, Panhandle Eastern Pipe Line Company
CAG–20.
Docket # RP96–189, 001, Ozark Gas Transmission System
CAG–21.
Docket # RP96–225, 000, Natural Gas Pipeline Company of America
CAG–22.
Docket # RP97–116, 005, Koch Gateway Pipeline Company
CAG–23.
Omitted
CAG–24.
Omitted
CAG–25.
Docket # RP97–313, 000, Ozark Gas Transmission System
CAG–26.
Docket # RP97–336, 001, Trailblazer Pipeline Company
Other #s RP97–336, 002, Trailblazer Pipeline Company
CAG–27.
Docket # RP97–427, 000, Williams Natural Gas Company
CAG–28.
Omitted
CAG–29.
Docket # RP97–275, 006, Northern Natural Gas Company
Other #S TM97–2–59, 004, Northern Natural Gas Company
CAG–30.
Docket # RP96–388, 001, *Brooklyn Union Gas Company* versus *Transcontinental Gas Pipe Line Corporation*
CAG–31.
Omitted
CAG–32.
Docket # RP97–161, 006, Iroquois Gas Transmission System, L.P.
Other #S RP97–329, 003, Iroquois Gas Transmission System, L.P.
CAG–33.
Docket # CP96–492, 004, CNG Transmission Corporation
CAG–34.

Docket # CP96–583, 001, Midcon Texas Pipeline Operator, Inc.
CAG–35.
Docket # CP97–675, 000, U.S. General Services Administration
CAG–36.
Omitted
CAG–37.
Docket # CP96–268, 000, Mississippi River Transmission Corporation
CAG–38.
Docket # CP87–132, 015, Tennessee Gas Pipeline Company
Other #S CP88–171, 032, Tennessee Gas Pipeline Company; CP89–629, 033, Tennessee Gas Pipeline Company
CAG–39.
Docket # CP97–279, 000, Warren Transportation, Inc.
Other #S CP97–280, 000, Warren Transportation, Inc.; CP97–281, 000, Warren Transportation, Inc.
CAG–40.
Docket # CP97–313, 000, Columbia Gas Transmission Corporation
CAG–41.
Docket # CP97–359, 000, National Fuel Gas Supply Corporation
CAG–42.
Docket # CP97–538, 000, Koch Gateway Pipeline Company
CAG–43.
Docket # CP96–495, 000, *GPM Gas Corporation* versus *Continental Natural Gas, Inc.*
CAG–44.
Docket # CP96–577, 000, *Plant Owners* versus *Continental Natural Gas, Inc.*
CAG–45.
Docket # CP97–509, 000, Barnes Transportation Company, Inc.
CAG–46.
Docket # MG96–14, 001, K N Wattenberg Transmission, L.L.C.

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket # EL97–36, 000, Southern California Edison Company

Declaratory order on request for jurisdictional interpretation concerning sales through the California Power Exchange.

Oil and Gas Agenda

I. Pipeline Rate Matters
PR–1.
Docket # RP97–369, 000, Public Service Company of Colorado and Cheyenne Light Fuel and Power Company
Other #s GP97–3, 000, Amoco Production Company, Anadarko Petroleum Corporation, Mobil Oil Corporation and Oxy USA, Inc., et al.; GP97–4, 000, Kansas Small Producer Group; GP97–5, 000, Mesa Operating Company

Order on requests for adjustment and refunds.
II.
Pipeline Certificate Matters
PC–1.
Omitted

Lois D. Cashell,

Secretary.

[FR Doc. 97–23908 Filed 9–4–97; 5:07 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5890–3]

Establishment of the Children's Health Protection Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Establishment of Federal Advisory Committee.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.II. section 9(a)(2), we are giving notice that the Environmental Protection Agency is establishing the Children's Health Protection Advisory Committee. The purpose of this balanced, broad-based committee is to advise the Agency on children's environmental health issues as it develops regulations, guidance and policies; communicates with the public; and conducts research.

Copies of the Committee Charter will be filed with the appropriate committees of Congress and the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Persons needing further information should contact Paula R. Goode, Office of Children's Health Protection, USEPA (G 50), 401 M Street SW., Washington, DC 20460, (202) 260–3356, goode.paula@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Background: Children face significant and unique health threats from a range of environmental hazards. They are often more heavily exposed and more vulnerable than adults to toxins in the environment, from asthma-exacerbating air pollution and lead-based paint in older homes, to treatment-resistant microbes in drinking water, and to persistent chemicals that may cause cancer or induce developmental changes, or may affect an individual's ability to reproduce as a healthy adult. Children's developing immune and nervous systems can be highly vulnerable to disruption by toxins in the environment and the consequences may be lifelong.

The Environmental Protection Agency has created a new Office of Children's Health Protection (OCHP) and its mission is to make the protection of children's health a fundamental goal of public health and environmental protection in the United States. This goal will be achieved by setting strong standards to protect children's health, conducting scientific research to better understand environmental threats to children's health, and by increasing public education and community outreach on children's issues. This Office will help implement the President's Executive Order to Protect Children from Environmental Health and Safety Threats, which was signed on April 21, 1997.

The creation of an advisory committee on children's environmental health will provide the structured environment for meaningful information exchanges and consensus building discussions.

The Committee will be composed of approximately 25 members. OCHP will ensure that there is a balanced, broad-based representation among the membership of this advisory committee.

PARTICIPANTS: EPA anticipates that the committee will include representatives of public health and health practitioner communities, academia, State and local government, other Federal agencies, environmental and public interest groups, industry, and the general public.

Dated: September 2, 1997.

E. Ramona Trovato,

Director, Office of Children's Health Protection.

[FR Doc. 97–23844 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5889–7]

Investigator-Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of the fiscal year 1998 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedule are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research area within the solicitation and are listed below.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW., Washington,

DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa.

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Exploratory Research, (2) Indicators of Global Climate Change, and (3) Interindividual Variation in Human Susceptibility to Environmentally-caused Disease. Applications must be received as follows: December 16, 1997, for the human health and environmental chemistry areas of exploratory research; February 12, 1998, for Indicators of Global Climate Change and Interindividual Variation in Human Susceptibility to Environmentally-caused Disease; March 12, 1998, for the physics and environmental engineering areas of exploratory research; and March 31, 1998, for the environmental biology area of exploratory research.

The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact person for the Exploratory Research RFA is Clyde Bishop (bishop.clyde@epamail.epa.gov), telephone 202–564–6914; for Indicators of Global Change, Barbara Levinson (levinson.barbara@epamail.epa.gov), telephone 202-564–6911; and for Interindividual Variation in Human Susceptibility to Environmentally-caused Disease, David Reese (reese.david@epamail.epa.gov), telephone 202–564–6919.

Dated: August 28, 1997.

Approved for publication:

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–23838 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5889–6]

Fellowships for Graduate Environmental Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of the fiscal year 1998 Science to Achieve Results (STAR) Fellowships for Graduate Environmental Study Program announcement, in which the scientific disciplines of interest, eligibility and submission requirements, evaluation criteria, and implementation schedule are set forth. Fellowships will be competitively awarded following peer review.

DATES: Closing date for receipt of pre-applications is November 14, 1997.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW, Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa.

SUPPLEMENTARY INFORMATION: In its announcement for the STAR Fellowships for Graduate Environmental Study Program the Environmental Protection Agency (EPA) invites fellowship pre-applications the advance education (masters and doctoral levels) in 27 fields of study relevant to environmental science and policy. Pre-applications must be received no later than 4:00 p.m. on November 14, 1997.

The announcement provides relevant background information, identifies eligible fields of study, and describes the application and review process.

The contact person for the STAR Fellowships Program is Virginia Broadway (broadway.virginia@epamail.epa.gov), telephone 202–564–6923.

Dated: August 29, 1997.

Approved for publication:

Henry L. Longest, II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–23837 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5890–5]

Notice of Availability of Final Draft Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of the document ''Final Draft Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs'' and the Agency's request for stakeholder comment on both aspects of the document, i.e., the final draft guidance and the site screening or designation process. In this document, the U.S. Environmental Protection Agency is encouraging its Regions to develop partnerships with States by negotiating MOAs that delineate roles and responsibilities for the cleanup of hazardous substance sites, such as Brownfields, that do not pose the type of risk usually addressed by Federal Superfund National Priorities List (NPL) cleanups. These MOAs are designed to facilitate the expeditious cleanup of these lower risk sites under State voluntary cleanup programs. This document sets out baseline criteria that EPA will use to evaluate State voluntary cleanup programs. This evaluation will be part of the negotiation of an MOA, or work planning document. As explained more fully in the draft guidance, for those sites included within the scope of the MOA, EPA will not exercise cost recovery authority and does not generally anticipate taking removal or remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund) at these sites except under the limited circumstances detailed in the draft guidance.

DATES: Written comments must be postmarked or submitted by hand or electronically by October 24, 1997. Due to the previous stakeholder discussions on this guidance, including the February 27, 1997 open meeting noticed in the February 13, 1997 **Federal Register**, this comment period is not expected to be extended, and thus, this is likely to be the final opportunity for public comment on this guidance.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number SFMOA, located at the Superfund Docket. The official address is: U.S. EPA, Superfund Docket (MC5202G), 401 M Street, N.W., Washington, D.C. 20460. Hand-delivered comments should be taken to: U.S. EPA, Superfund Docket, 1235 Jefferson Davis Highway, Crystal Gateway 1, First Floor, Arlington, VA 22202. (Also, see the section under ''Supplementary Information'' regarding the paperless office effort for submitting public comments.) The Superfund Docket is open for public inspection and copying of supporting information from 9:00 a.m.–4:00 p.m., Eastern Time,

except for Federal holidays. The public must make an appointment to review docket materials by calling 703–603–9232. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: Linda Garczynski, Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, Mail Stop 5101, 401 M Street, N.W., Washington, D.C. 20460, phone: (202) 260–4039, or Linda Boornazian, Policy and Program Evaluation Division, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, Mail Stop 2273A, 401 M Street, N.W., Washington, D.C. 20460, phone: (202) 564-5144.

AVAILABILITY OF DOCUMENT: The Final Draft Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs follows this notice. In addition, the document can be accessed electronically through the U.S. Environmental Protection Agency's homepage at http://www.epa.gov/brownfields.

BACKGROUND INFORMATION: States are developing voluntary cleanup programs to speed up the cleanup of non-National Priorities List sites, which, generally speaking, pose a lower risk than those sites listed on the National Priorities List (NPL). These voluntary cleanup programs pose an alternative to the conventional CERCLA or State Superfund-like enforcement approach to cleaning up contaminated sites. Through State voluntary cleanup programs, site owners and developers identify and clean up sites by using less extensive administrative procedures. The site owners and developers may then obtain some relief from future state liability for past contamination. This approach encourages cleanup of sites, such as Brownfields, that might otherwise not be cleaned up because of limited Federal and State resources.

In addition, financial and real estate sectors are sometimes reluctant to support the redevelopment of brownfields and lower risk sites because they are concerned about potential liability under CERCLA. Some developers have also expressed concern that the uncertainty that can arise from potentially overlapping Federal/State cleanup authorities can become a disincentive to cleanup and redevelopment of these sites. This guidance addresses this concern by clarifying EPA and State roles and responsibilities, which helps reduce such uncertainty and promotes the cleanup and redevelopment of lower risk sites such as Brownfields. As of August 1997, eleven States and EPA Regions have signed Memoranda of Agreement clarifying their respective roles at certain sites being addressed under State voluntary cleanup programs.

This draft guidance includes a draft site designation or screening process and proposes that this new process be used in conjunction with the guidance to designate sites as either Tier II (lower risk sites that are eligible for inclusion within the scope of an MOA concerning a State voluntary cleanup program) or Tier I (higher risk sites of the type that historically have been listed on the National Priorities List). Tier I sites are not eligible for inclusion within the scope of an MOA concerning a State voluntary cleanup program.

The Agency is requesting comment on both the draft guidance and the site designation or screening process. EPA would like to receive comments of both a general nature, e.g., on the usefulness of the MOA approach to clarifying roles and responsibilities; the feasibility and ease of implementation of the site designation or screening process; as well as specific suggestions as to how the guidance or site tiering process could be improved. In particular, EPA would appreciate feedback and comment in the following areas:

Draft Guidance

1. Does the final draft guidance represent an appropriate balance among assuring protective site cleanups; the appropriate level of State, Federal and community involvement at voluntary cleanup sites; and, encouraging cleanup and redevelopment of these sites, particularly in the following areas?

a. Universe of sites eligible for inclusion within scope of MOA

b. Criteria for evaluating State voluntary cleanup programs

c. Level of Federal involvement (including provision of technical or financial assistance), if any, in State voluntary cleanup programs

d. Level of Federal involvement, if any, in specific sites being addressed under State voluntary cleanup programs

e. Methods for determining the protectiveness of voluntary cleanups at lower risk sites.

f. Role of the community in voluntary cleanups

Site Designation and Screening Process

2. What type and amount of information is needed at each stage in the decision process to reach a Tier I or Tier II decision?

3. Are the screening steps in the best logical sequence?

4. If there are nearby populations or sensitive environments, how could EPA ensure that private parties would evaluate them to account for changes in land use in the near or long-term?

5. What information/tools (e.g., software) are currently available to the public that would allow them to collect the requested information?

6. What are the resource implications for stakeholders who use these tools at each step of the process, i.e., how much is the estimated cost (in dollars and time) of conducting each step of the process?

7. Are there preferred alternative mechanisms for screening sites? If so, please describe briefly.

SUPPLEMENTARY INFORMATION:

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ACSII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the name of the commenter. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. Rather, EPA is experimenting with this procedure as an attempt to expedite our internal review and response to comments. This expedited procedure is in conjunction with the Agency's ''Paperless Office'' campaign.

Dated: August 29, 1997.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

Steven A. Herman,

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Oswer Directive _____

Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs

This document gives guidance to EPA staff on how to draft MOAs with States on State voluntary cleanup programs. It is not a regulation, and does not create legally binding obligations on any person, including States and EPA. Whether or not EPA follows

the guidance in any particular case will depend on the circumstances. EPA may change the guidance in the future.

I. Purpose

This guidance will assist the U.S. Environmental Protection Agency's (EPA) Regions and States in developing or amending Memoranda of Agreement (MOA)[1] regarding EPA/State relationships with respect to sites being addressed by State voluntary cleanup programs. Regions should use this guidance in determining whether to acknowledge the adequacy of a State voluntary cleanup program through an MOA. For those sites included within the scope of the MOA, Regions and States can agree that EPA will not exercise cost recovery authority and does not generally anticipate taking a removal or remedial action[2] at certain sites being addressed by a State's voluntary cleanup program except under limited circumstances. The decision to sign an MOA is discretionary upon the part of the Regional Administrator.

II. Introduction

State Voluntary Cleanup Programs

A State voluntary cleanup program is an alternative to the conventional CERCLA or State Superfund-like enforcement approach to cleaning up contaminated sites. States are developing voluntary cleanup programs to speed up the cleanup of non-National Priorities List sites, which, generally speaking, pose a lower risk than those sites listed on the National Priorities List (NPL).[3] These voluntary cleanup programs are designed to achieve results that are acceptable to the State in terms of costs and protection of the environment and human health.

Many States have established voluntary cleanup programs. The key ingredients of a documented State voluntary cleanup program include established authority, investigative and remedial procedures, cleanup targets appropriate to sites, State sign-off conditions and procedures, and liability provisions. These voluntary cleanup programs allow volunteers, such as site owners and developers, to identify and clean up sites, to use less extensive administrative procedures, and to obtain some relief from future state liability for past contamination. These sites might otherwise not be cleaned up because of their relatively low priority, and because these sites are too numerous for other State or Federal cleanup programs to address within a reasonable time frame.

State-established voluntary cleanup programs allow private parties to initiate and proceed with a cleanup with varying levels of State oversight and enforcement conditions. This guidance is intended to be flexible enough to accommodate variability among State voluntary cleanup programs; however, the guidance does describe a minimum set of criteria that a State voluntary cleanup program should meet before EPA signs an MOA with the State concerning its voluntary cleanup program.

In this guidance, EPA uses the term ''voluntary'' to mean ''private party-initiated.'' It does not imply a lack of State oversight and/or approval of cleanup activities. Some State voluntary cleanup programs require the ''voluntary'' party to enter into an enforceable consent agreement.

III. Implementation

A. Scope and Applicability

The principles outlined in this policy may apply to all sites, except as specified below.

1. Those sites designated as Higher Risk (or Tier I) sites,[4] either under the screening process described in the Attachment to this guidance, or under an alternative screening process or mechanism proposed by the State and approved by EPA Headquarters, are not eligible for inclusion within the scope of an MOA.

2. Those sites proposed for or listed on the National Priorities List (NPL); or, those sites where ranking packages proposing their inclusion on the National Priorities List (NPL) are submitted to EPA Headquarters, are not eligible for inclusion within the scope of the MOA.

3. Those sites for which an order or other enforcement action is issued or entered under CERCLA or sections 3008(h), 3013(a), or 7003(a) of RCRA, and is still in effect, are not eligible for inclusion within the scope of an MOA.

4. Those sites undergoing RCRA corrective action pursuant to RCRA sections 3004(u), 3004(v) or 3008(h) are not eligible for inclusion within the scope of an MOA. (However, see below for details on certain situations where exceptions may be made to this restriction for facilities or portions of facilities where correction action has not yet been initiated under an order or permit.)

The Region and the State may agree to apply the principles of the MOA to voluntary cleanups that have already begun if the State's voluntary cleanup program met the requirements of this guidance at the time those voluntary cleanups commenced. The MOA should clarify that EPA is not waiving its claims for past costs under CERCLA or other relevant authority (to the extent EPA has incurred such costs), and the MOA does not affect EPA's ability to recover these costs.

B. Site Designation

Generally, sites that are included within the scope of the MOA will be those types of sites that are often less-contaminated or that pose lower risk to public health, welfare or the environment; these types of sites are not typically addressed by EPA CERCLA cleanup actions. For purposes of this guidance, EPA will designate these sites as Lower Risk (or Tier II) sites. EPA's expectation for Lower Risk (Tier II) sites covered by an EPA/State MOA concerning State voluntary cleanup programs is that EPA cleanup actions should be necessary only under very limited circumstances, and that the contact for cleanup of Lower Risk (or Tier II) sites is the State.

EPA has developed a site designation and screening mechanism that distinguishes Higher Risk (or Tier I) and Lower Risk (or Tier II) sites (See Attachment). The MOA should explain that States or volunteering parties will use this screening mechanism, which is attached, to designate a site as Higher Risk (Tier I) or Lower Risk (Tier II). A State may propose to EPA Headquarters an alternative screening process or mechanism for designating sites as Higher Risk (or Tier I) or Lower Risk (or Tier II). The State should demonstrate that the proposed alternative screening mechanism achieves results consistent with the results of the process described in the Attachment. If EPA Headquarters approves the alternative site tiering process, the MOA should attach the description of the alternative screening process. The MOA should also

[1] These MOAs are developed under the National Contingency Plan definition of a Superfund Memorandum of Agreement (SMOA), which is a nonbinding, written document executed by an EPA Regional Administrator and the head of a State agency to establish the nature and extent of EPA and State interaction during the removal, pre-remedial, remedial, and/or enforcement response process. The SMOA generally defines roles and responsibilities; it is not a site-specific document although attachments may address specific sites.

[2] EPA may obtain access, conduct site assessment or information gathering as necessary to determine whether an imminent and substantial endangerment exists.

[3] The NPL means the list, compiled by EPA pursuant to CERCLA section 105, of uncontrolled hazardous substance releases in the United States that are priorities for long-term remedial evaluation and response.

[4] Higher Risk (or Tier I) sites are sites that, while not currently proposed for listing on the NPL, have greater potential for being addressed under CERCLA authorities.

recognize that alternative method as a way to designate sites as Higher Risk (or Tier I) or Lower Risk (or Tier II).

The MOA should state that documentation of the decision designating a site as Higher Risk (or Tier I) or Lower Risk (or Tier II) should be kept in the file maintained by the State voluntary cleanup program, and be made available to EPA upon request. The MOA should also specify that the State is responsible for the site designations. If EPA subsequently determines that a site was improperly designated as Lower Risk (Tier II), the provisions of section III. D. ''EPA CERCLA Action'' do not apply to that site. The sites addressed through a State voluntary cleanup program that do not have documentation establishing a site as Lower Risk (Tier II), should not be eligible for inclusion within the scope of an MOA concerning EPA CERCLA cleanup actions.

C. Applicability to Facilities subject to RCRA Requirements

This guidance is also applicable to CERCLA actions at sites subject to RCRA requirements, subject to the restrictions in section III. A., above, and as discussed below. Generally, this guidance could apply to two types of sites subject to RCRA: (1) sites at which there are only generators of hazardous waste; and (2) hazardous waste treatment, storage or disposal facilities (TSDFs).

Generators

Sites at which there are only generators of hazardous waste are typically cleaned up by State cleanup programs (or, in some cases, the Federal CERCLA program) and are within the scope of the MOA unless otherwise excluded by the restrictions in Section III.A., above.

TSDFs

Hazardous waste treatment, storage or disposal facilities (TSDFs) are typically cleaned up by EPA or authorized States under the RCRA corrective action provisions (See, RCRA sections 3004(u) and (v) and 3008(h)). TSDFs or portions of TSDFs where corrective action has not yet been initiated under an order or permit may be included within the scope of the MOA on a case-by-case basis. At the Federal level, the CERCLA program has already generally deferred cleanups of RCRA TSDFs, including those RCRA TSDFs currently being addressed in authorized States under order or permit, to the RCRA program (see, 60 FR 14641; March 20, 1995).

Effect of RCRA Authorization

Under RCRA section 3006, EPA may authorize States to carry out the RCRA program (including corrective action requirements), subject to EPA oversight. In a State authorized to implement RCRA corrective action, EPA expects the State to be the primary implementor of RCRA requirements at all facilities subject to corrective action, including facilities that have, have had, or should have had, RCRA interim status. Authorized States may, at their discretion, allow cleanup of TSDFs or portions of TSDFs under a State voluntary program. In an authorized State, TSDFs or portions of TSDFs where corrective action has not yet been initiated under an order or permit may be addressed by the policy discussed in section III. D. of this guidance on a case-by-case basis.

Effect of Cleanup Under a State Voluntary Program on RCRA Permitting Requirements

In authorized and non-authorized States, a voluntary cleanup at a TSDF does not avoid the requirements that TSDFs obtain RCRA permits and that RCRA permits address corrective action. In cases where voluntary cleanups occur prior to permit issuance, EPA or the authorized State, at the time of permit issuance, must determine whether or not a voluntary cleanup satisfied all corrective action requirements or whether additional corrective action activities are needed (e.g., if the voluntary cleanup addressed only a portion of the facility subject to corrective action). Voluntary cleanups can substantially accelerate the corrective action process by, for example, allowing it to proceed before permit issuance or, where a permit has been issued, by allowing more immediate remediation of certain areas which are not covered by the permit, unless otherwise excluded by the restrictions in section III.A., above.

D. EPA CERCLA Action

The Regions should state in the Memorandum of Agreement the following:

For sites being investigated or cleaned up consistent with the practices and procedures of a State voluntary cleanup program that meets the criteria discussed in this guidance, EPA will not exercise its cost recovery authority unless:

a. The Administrator determined that the release or threat of release may present an imminent and substantial endangerment to public health or welfare or the environment; or,

b. The State requests the Administrator to take action; or,

c. Conditions at the site, that were unknown to the State at the time the response action plan was approved, are discovered, and such conditions indicate, as determined by the Administrator or the State, that the response action is not protective of human health or the environment; or,

d. The cleanup of the site is no longer protective of human health or the environment, as determined by the Administrator or the State, because of a change or a proposed change in the use of the site.

Except as provided in (a) through (d) above, EPA does not generally anticipate taking removal or remedial action at sites involved in State Voluntary Cleanup Programs addressed by a signed EPA/State Superfund Memorandum of Agreement.

E. EPA/State Coordination

The outcome of these MOAs is EPA acknowledgment of the adequacy of a State voluntary cleanup program, and EPA's intention to rely on States to be responsible for addressing sites included within the scope of MOAs concerning these State voluntary cleanup programs. EPA and States should be developing MOAs in the context of the new framework for the State/EPA partnership, which EPA and State Environmental Managers endorsed in July 1994. A key principle governing the EPA/State relationship is that each State/EPA relationship must be based on an understanding of—and consent for—a clear assignment of roles and responsibilities. This principle envisions utilization of the comparative advantages and inherent strengths that each party brings to the relationship. Adherence to this principle should help avoid duplication of effort, and maximize the number of sites cleaned up through the efficient use of EPA and State resources.

Prior to signing an MOA concerning a State voluntary cleanup program, the Region should review all relevant documents concerning the voluntary cleanup program to determine if the State voluntary cleanup program meets the six criteria discussed below. A Region may wish to conduct a State visit to review the State voluntary cleanup program prior to signing an MOA.

The MOAs concerning State voluntary cleanup programs should include a provision that EPA will review the MOA upon significant changes to the State voluntary cleanup program, and that the State will provide EPA with prompt notice of changes to their laws, regulations, resource levels, guidance,

policies and practices governing such programs. The MOA should also state that EPA will periodically conduct reviews of State Voluntary Cleanup Programs where EPA has signed MOAs with States for the purpose of assessing how effectively EPA and the States are meeting the goals and expectations described in the MOA.

These reviews of signed MOAs should be conducted on a staggered basis so that all MOAs signed in a Region are not up for review at the same time. At a minimum, the initial review of an MOA should be conducted three years after the date EPA signs an MOA; at a minimum, subsequent reviews of MOAs should be conducted every five years thereafter. While this guidance does not invalidate MOAs signed by EPA and States before the effective date of this guidance, an EPA Region should begin its staggered reviews by starting with those MOAs. Reviews of existing voluntary cleanup MOAs should be conducted to assess the consistency of State voluntary cleanup programs with this guidance.

When an interested party expresses concern to EPA about a specific site covered under the MOA, EPA may contact the State, which would be responsible for providing documentation to EPA that designates the site as a Lower Risk (Tier II) site. EPA and the State should discuss the party's concern as well as the status of the site under the State voluntary cleanup program. If the public expresses significant concerns to EPA about any aspect of the State voluntary cleanup program, EPA and the State will discuss how the MOA is being implemented, and whether the State's voluntary cleanup program continues to meet the requirements set forth in this guidance.

Prior to EPA deciding to sign an MOA concerning State voluntary cleanup programs, the Region will discuss with the State its views and record on NPL listing, and will consider that information as a factor in deciding whether to sign an MOA. EPA will include the State's views and record on NPL listing as part of its periodic reviews of how effectively the MOA is being implemented.

F. Criteria for a State Voluntary Cleanup Program

Before a Region and State sign an MOA that acknowledges the adequacy of a State voluntary cleanup program, the Region should ensure that the State voluntary cleanup program meets the criteria described below. The MOA should make clear to any private party that recovery of response costs under CERCLA will require that the cleanup action meet the requirements outlined in the National Contingency Plan (See 40 CFR 300.700 et. seq.).

1. Community Involvement

Public involvement activities ensure that the public is both informed of and, if interested, involved in planning for response actions. Under voluntary cleanup programs, the State and/or the private sector may provide the opportunity for community involvement activities. General methods of providing the opportunity for meaningful community involvement may include practices, policies, guidance, or regulations on conducting community involvement on a site-by-site basis.

The State voluntary cleanup program should provide opportunities for meaningful community involvement that are responsive to the risk posed by the site contamination and the level of public interest. While States should be afforded discretion in how their program provides such opportunities, State programs should, at a minimum, provide for adequate notification of the proposed voluntary cleanup plan to affected parties. The community involvement criterion can be substantively met, on a site-by-site basis, by the State voluntary cleanup program through any of the methods suggested below. At sites where a significant segment of the community does not speak English as a first language, there should be provisions for providing site information in languages other than English.

a. Notifications about voluntary response actions to local government officials and community groups;

b. Publication of legal notices about voluntary response actions in city or community newspapers (or other media, such as radio, church organizations and community newsletters) at key milestones in the response action process;

c. Other forms of notification about voluntary response actions;

Where the public has been involved in site activities and demonstrates an interest in participating in response action planning and implementation, additional meaningful public involvement opportunities may include:

d. Preparation of a public involvement plan that establishes opportunities for public involvement. Such a plan may provide background about the site, response actions already conducted, and the history of public involvement at the site; identify the specific opportunities for public participation in cleanup decisions that will take place; and, describe activities that will be undertaken to address and incorporate public concerns in the cleanup.

e. Involvement of the public in understanding the risk reduction aspects of the voluntary cleanup.

f. The publication and distribution of site fact sheets.

g. Conduct of community interviews, including interviews through notification and communication with community organization officials, environmental justice groups, civic groups, environmental interest organizations, and church organizations.

h. Numerous other methods to solicit public participation and comment.

i. Public meetings or hearings, either formal or informal.

j. Local land use planning activities on current and/or future uses of sites.

2. Protectiveness

A State voluntary cleanup program should ensure that voluntary response actions are protective of human health, welfare, and the environment. Reasonably anticipated future land uses should be considered in establishing protective contaminant concentrations. All voluntary response actions must comply with any Federal, State or local laws that apply to that site. Ways to determine protectiveness may include, but are not limited to:

a. Background contaminant concentrations;

b. Site specific risk assessments, based on U.S. EPA's Risk Assessment Guidance for Superfund, part A and B, and associated policy updates, e.g., soil screening guidance, or on State regulations and guidance;

c. Contaminant-specific models such as the biokinetic uptake model for lead;

d. Applicable and/or Relevant and Appropriate Requirements, such as Maximum Contaminant Levels (MCLs) for groundwater;

e. Consistency with a human health risk range, as defined in 40 CFR 300.430(e)(2)(i)(A)(2) for known or suspected carcinogens, or a hazard index for threshold contaminants, as defined in 40 CFR 300.430(e)(2)(i)(A)(1); or,

f. Risk-based corrective action assessment.

2A. Response selection. Response actions should be conducted cost-effectively, consistent with projected future uses at the site. All response actions must comply with any Federal, State and local laws that apply to the site. Long-term reliability should also be a goal when selecting response actions. Response actions may include one or more of the following:

a. Treatment (active or passive) that eliminates or reduces the toxicity,

mobility, or volume of hazardous substances, pollutants, or contaminants;

b. Containment of contaminated media to acceptable exposure levels;

c. Transport to off-site treatment;

d. Restricted access to and/or use of the site through institutional controls that are enforceable over time.

3. Resources/Technical Assistance

The State should demonstrate that its voluntary cleanup program has adequate resources, including financial, legal and technical, to ensure that voluntary response actions are conducted in an appropriate and timely manner, and that meaningful outreach efforts are made to the affected community. The State agency should make available both technical assistance, and streamlined procedures where appropriate, to ensure expeditious voluntary response actions.

4. Certification of Response Action Completion

A State Voluntary cleanup program should provide adequate mechanisms for the written approval of response action plans and a certification or similar documentation indicating that the response actions are complete. In situations where a State uses alternative mechanisms to approve cleanup decisions, all approval determinations will be considered the same as the State making the determinations, and as such, the State will be viewed as responsible for such decisions.

5. Oversight Authorities

A State voluntary cleanup program should provide adequate oversight to ensure that voluntary response actions, including site assessments/characterizations, are conducted in such a manner to assure protection of human health, welfare and the environment, as described above. For sites with nonpermanent remedies, especially nonpermanent remedies premised on the restricted use of the land, the State voluntary cleanup program should meet this criterion by including a requirement that the State program receives progress reports on site conditions, or by reserving the State program's right to conduct site inspections. If the State voluntary cleanup program does not require the State to monitor a site after the final cleanup report is approved, then the State voluntary cleanup program could meet this criterion by reserving the State's authority to remove the cleanup certification under certain circumstances, such as a change in the site's use, a failure of institutional controls, or the discovery of additional contamination.

6. Enforcement Authorities

The State voluntary cleanup program should show the capability, through enforcement or other state authorities, of ensuring completion of response actions if the volunteering party(ies) conducting the response action fail(s) or refuse(s) to complete the necessary response activities, including operation and maintenance or long-term monitoring activities.

G. Reporting Requirements

The Region and the State should negotiate the need for reporting site names and the status of the sites by name to best suit the needs of that Region and State. The MOA should state, however, that the State agrees to maintain a list of site names (and locations) covered by the MOA and to make such list available to EPA and the public upon request. The State Agency should report, at a minimum, the following information to the Region on an annual basis.

a. Number of sites in each stage of the State voluntary cleanup program;

b. Number of sites entering the voluntary cleanup program the previous year; and,

c. Number of sites having received State agency approvals of full or partial completions in the previous year.

EPA should state in the MOA that it will conduct selective audits of sites within the scope of the MOA for the purpose of assessing how the site designation methodology attached to this guidance, or an alternative site designation mechanism approved by EPA Headquarters, is being implemented by either the State or the volunteering party. Regions and States should discuss the status of CERCLIS [5] sites covered by the MOA at least semi-annually to ensure EPA/State coordination on sites covered by the MOA. This is especially important since EPA decides which sites are removed from CERCLIS.

IV. Financial Assistance to States To Support Voluntary Cleanup Program Activities

EPA recognizes that most State voluntary cleanup programs are intended to be self-sustaining. Most of the voluntary programs with active State oversight require the private party to pay an hourly oversight charge to the State environmental agency in addition to all cleanup costs. Some States require application fees that can be applied against oversight costs.

However, EPA does recognize that States may need financial assistance to help establish new State voluntary cleanup programs and to help enhance existing State voluntary cleanup programs. To accomplish this, the Region may enter into cooperative agreements with the State to provide funding to the State for certain purposes.

The Region may provide Fund money to States for development and enhancement of voluntary cleanup programs through core program cooperative agreements. OSWER has developed guidance for use of core program cooperative agreement funding of State voluntary cleanup program infrastructure. (See May 1, 1997 memorandum from Timothy Fields, Jr., Acting Assistant Administrator, OSWER, entitled ''Approach for Regional Funding of State Voluntary Cleanup Programs.'') If the Region intends to provide funds to the State for voluntary programs, the Region should identify its resource needs for State voluntary cleanup programs in its annual budget development process.

V. Technical Assistance to States to Support Voluntary Cleanup Program Activities

EPA will also provide technical assistance to States to support voluntary cleanups. EPA will share with States information contained in publicly available national databases. EPA will share any lessons learned or national expertise it has gained through the CERCLA program with States who face similar assessment and cleanup problems at voluntary cleanup sites.

Tier I/II Designation and Screening Process Summary

Introduction/Purpose

This document summarizes EPA's Tier I and Tier II definitions and screening process for sites being addressed through voluntary cleanup programs. Tier I sites are among those where EPA has historically taken cleanup actions under the Federal Superfund program. Tier II sites are generally representative of those where EPA has not historically taken Federal Superfund cleanup actions. EPA intends that any party can use the process outlined below to make Tier I/II designations. Understanding the potential for Superfund involvement enables stakeholders to make more informed property cleanup, transfer, and redevelopment decisions.

[5] CERCLIS is the abbreviation of the CERCLA Information System, EPA's comprehensive data base and management system.

Defining Tier I and Tier II Sites

Tier I sites are those that have greater potential to require long-term or emergency cleanup work under the Federal Superfund program. These are sites which have a release of a hazardous substance, pollutant, or contaminant that has caused, or is likely to cause, human exposure or contamination of a sensitive environment. These sites typically involve contamination of drinking water, surface water, air, or soils which has either caused, or is likely to cause, exposure to nearby populations, or has contaminated, or is likely to contaminate, sensitive environments (such as wetlands, national parks, and habitats of endangered species, etc). Tier II sites are those that have less potential to require long-term or emergency cleanup work under the Federal Superfund program. This includes sites which: (1) Do not qualify for response under Superfund (e.g., CERCLA petroleum exclusion sites); (2) score below 28.5 based on EPA's Hazard Ranking System (HRS), 55 FR 51532; (3) are being adequately addressed under other Federal statutes, subject to the restrictions specified in Section III. A. ''Scope and Applicability'' of the MOA/VCP guidance document; or (4) otherwise do not meet the criteria given above for Tier I sites.

Screening Process

To conserve resources, EPA has employed a phased, progressively more detailed screening process to identify Federal Superfund sites. Key factors in making decisions about sites include whether a release of hazardous substances has occurred or is likely to occur and determining whether people or sensitive environments have been or are likely to be impacted by the release. Only about 15 percent of the sites screened by Superfund to date have required removal or remedial actions—most are screened out. The Superfund screening process differs from the private sector site evaluation approach which typically is interested in what environmental liabilities and remediation costs are associated with a site or property. Consequently, the private sector assessments focus on collecting information on the property, not offsite impacts. The Tier I/II screening process outlined below uses common elements of both approaches and incorporates, when necessary, the data needed for EPA to ensure human health and environmental issues are addressed.

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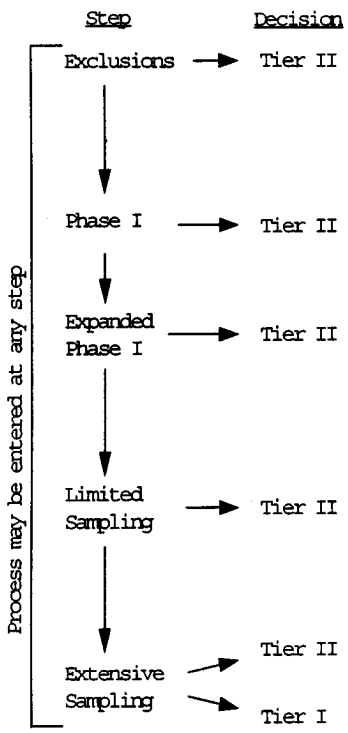

The five major steps in making a Tier I/II determination include: 1) Exclusions; 2) Phase I; 3) Expanded Phase I; 4) Limited Sampling; and 5) Extensive Sampling. Each step in the process involves gathering sufficient information about a site and/or it's environs to determine whether the site should be classified as Tier II or continue on to the next step for additional information. Sites continuing in the process may ultimately reach the final step, Extensive Sampling, which results in either a Tier I or Tier II determination; however, a site should be classified as Tier I at any step in this process if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment.

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EPA's HRS model can also be applied at any point in the assessment process to assist parties in determining the likelihood of Federal Superfund interest. Sites with an HRS score below 28.5 are considered Tier II by the Agency and account for most of the sites assessed under Superfund.

The steps involved in making a Tier I/II determination are further described in the Screening Process section of the Tier I/II Designation and Screening Process document.

Conclusion

EPA believes the screening process described above can by used by any party to determine whether a site, in most cases, would be Tier I or Tier II. It enables parties to make many Tier I or Tier II designations based on information collected as part of the private due diligence process. Additional detail can be found in the attachment entitled ''Tier I/II Designation and Screening Process.''

Tier I/II Designation and Screening Process

Purpose

The purpose of this guidance is to provide definitions of Tier I and Tier II sites within the context of MOAs covering State VCPs. The guidance also describes a process that can be used by any party, e.g., site owners, State Agencies, etc., to decide whether a site should be classified as Tier I or Tier II for the purpose of determining status under the MOA. The overall goal of this guidance is to assist users in reaching consistent decisions regarding Tier I/II designations.

Scope

EPA intends that this approach be used by states and/or private parties, including, for example, site owners, to assist them in making decisions regarding their status under a State VCP/MOA. EPA believes that in most instances private parties can use the following definitions and screening process to make accurate determinations on whether sites are Tier I or Tier II. Although the volunteering party may conduct the assessment on which the tiering decision is based, the State is ultimately responsible for tiering decisions. If the EPA subsequently determines that a site was improperly classified as ''Tier II'', the provisions of section III. D. ''EPA CERCLA Actions'' of the MOA/VCP guidance document will not apply.

The Agency anticipates that some of the sites addressed through voluntary cleanup programs may be included in EPA's Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) inventory. EPA removes sites from CERCLIS after assessment and any necessary Superfund response and enforcement actions are completed. Approximately 75 percent of the sites addressed under the Federal Superfund program to date have been removed from the CERCLIS inventory. With respect to voluntary cleanup programs, EPA will continue to decide which sites are removed from CERCLIS based on the same criteria that are applied to sites not covered under these programs.

Background

The Federal Superfund program evaluates sites brought to the Agency's attention to identify those sites posing the most serious threats to human health and the environment. Generally, EPA employs a multi-phase evaluation process to identify which sites are among the highest priority for response, including whether they need removal actions, and to determine what response actions are appropriate. Results of the evaluations are used to determine whether involvement by the Federal Superfund program, e.g., remedial actions at National Priorities List (NPL) sites, performing time critical removal actions by the Federal Superfund program, etc., is warranted.

These evaluations, including identifying hazardous substances, exposure pathways, and receptors/targets, seek to identify sites that have caused, or are likely to cause, human exposure or contamination of sensitive environments. The definition of Tier I sites is directed towards delineating these sites. Sites that do not meet these criteria, which the Agency expects to be the majority of sites brought to the Agency's attention, are defined as Tier II sites. Specifics of these definitions are addressed below.

Tier I Definition

The Federal Superfund Program will generally classify a site as Tier I if a release from that site has caused, or is likely to cause, human exposure to the release or contamination of a sensitive environment, and the release can be addressed under CERCLA authorities, and cleanup of the release has not been generally deferred to another Federal cleanup program. This includes, but is not limited to, sites where:

- Drinking water supplies have been, or are likely to become, contaminated with a hazardous substance (as defined in HRS); or
- Soils on or in close proximity to school, day care center, or residential properties have been contaminated by a hazardous substance three times above background levels; or
- Toxic substances that bioaccumulate have been discharged into surface waters; or
- Air releases of hazardous substances have been identified in a populated area; or
- Sensitive environments have been contaminated; or
- Releases would require immediate action from EPA (e.g., fire, explosions).

Note: Italicized terms are defined in the Tier I/II Screening Mechanism Definitions section at the end of this document.

Tier II Definition

Tier II sites are those that would be unlikely to warrant Federal remedial actions, i.e., those that do not meet the definition for Tier I sites. Tier II sites would also include sites that score below 28.5, based on the Hazard Ranking System (HRS), 55 FR 51532, and do not meet any of the characteristics of Tier I sites identified above. The majority of sites brought to the Agency's attention over the course of the Superfund program have scored below 28.5 and are considered Tier II.

Screening Process

The screening process below represents an approach to determine whether a site is Tier I or Tier II. The process consists of multiple steps in which each successive step involves more detailed information about a site and its environs. Information needed at each step is used to determine whether a site is Tier I, Tier II, or if further evaluation is necessary to make a Tier I/II decision. EPA's HRS model can be applied at any point in the process to assess a site. Those sites which score below 28.5 at any step in the process and do not meet any of the characteristics of Tier I sites identified above are defined as Tier II. The HRS model is backed by a substantial body of guidance available to assist users in making decisions consistent with those of EPA. On the other hand, if the reviewer identifies conditions consistent with any of the elements that make up a Tier I site, no further investigation would be needed to classify the site as Tier I. Given that each step in the process builds upon information collected in previous stages, the process may be entered at any point based on the amount of knowledge and data available regarding site conditions and its environs.

The iterative nature of assessing sites by collecting more detailed information and reaching conclusions in successive evaluation stages is similar to both the public sector approach (e.g., preliminary assessment followed by a site inspection if warranted) and the private sector approach (e.g., phase I assessment based on ASTM Standard Practice E 1527, followed by a phase II if warranted and requested).

Tier I/II status reflects site conditions at the time the assessment data are collected and a decision is made. As such, a Tier I/II decision could become invalid, if site conditions change, new information is discovered, or site

characteristics change (e.g., a new residential development is built on a site).

The five major steps in making a Tier I/II determination include: (1) Exclusions; (2) Phase I; (3) Expanded Phase I; (4) Limited Sampling; and (5) Extensive Sampling. Each of these steps is described in detail below.

Exclusions. The first step in determining whether a site is Tier I or Tier II involves determining whether the site is eligible for cleanup under CERCLA authorities or if the site is being adequately addressed under another federal statute such as the Resource, Conservation and Recovery Act (RCRA). Sites that are ineligible for CERCLA response or are being addressed under another federal statute instead of CERCLA should receive a Tier II designation.

A. Statutory restrictions. Some substances are excluded under CERCLA, and sites that contain only those substances are ineligible for CERCLA response actions. Similarly, Section 104(a)3 of CERCLA lists other limitations on CERCLA response. In general, a CERCLA response may be taken at a site if there is a release or threat of a release of a hazardous substance, pollutant or contaminant, or if the site poses an imminent or substantial danger to public health, welfare, or the environment).

Section 101(14) of CERCLA defines hazardous substances by referencing substances specifically listed under other Federal laws. A ''hazardous substance'' is any element, compound, mixture, solution or substance specifically designated as a ''hazardous substance'' or is regulated under the Resource Conservation and Recovery Act, the Clean Air Act, Clean Water Act, or Toxic Substances Control Act. Section 101(33) of CERCLA broadly defines the term ''pollutant or contaminant'' which could include any substance known or reasonably anticipated to be harmful to human health or ecological health. Because no substances are actually listed as pollutants or contaminants in CERCLA, the Agency determines on a case-by-case basis which substances fall within the definition.

There are specific statutory exclusions that could cause a site to be ineligible for CERCLA response. For example, hazardous substances, as defined under CERCLA, specifically *exclude* petroleum and natural gas, and therefore CERCLA authority may not be used to respond to releases of these substances unless they are specifically listed or designated under CERCLA. The exclusion applies to petroleum, including crude oil or any fraction thereof (if the fraction is not specifically listed nor designated a hazardous substance by other listed federal acts), natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel. Sites are excluded if they contain only excluded petroleum products. EPA expects that most releases from petroleum underground storage tanks (USTs) at gasoline filling stations, for example, would qualify for this exemption.

On the other hand, releases of petroleum products that are contaminated with hazardous substances (i.e., used oil/waste oil contaminated with metals or PCBs) may fall within CERCLA response authorities, if the hazardous substances cannot be separated from the petroleum, or if plumes of exempted substances are commingled with plumes of non-exempted substances.

In addition, section 101(22) of CERCLA excludes a limited category of radioactive materials from the statutory definition of ''release,'' making a site ineligible for CERCLA response. The excluded categories of radioactive materials are:

1. Releases of source, by-product, or special nuclear material (not including source material) subject to section 170 of the Atomic Energy Act; [6] and

2. Any release of source, by-product, or special nuclear material from any processing site specifically designated under the Uranium Mill Tailings Radiation Control Act of 1978.

Parties should consult with State and/or Federal contacts and consult appropriate case law to determine whether the site is excluded from CERCLA consideration due to statutory restrictions.

B. Other federal statutes. In addition to statutory restrictions, sites being adequately addressed under other federal statutes, such as RCRA, may also qualify for a Tier II designation, but refer to Section III. A. ''Scope and Applicability'' of the MOA/VCP guidance document to determine whether a specific site is eligible for inclusion under the MOA/VCP. RCRA is EPA's other central authority for cleaning up releases of hazardous substances, and has roughly parallel procedures to CERCLA in responding to releases of hazardous substances. The Agency has adopted a policy to use RCRA Subtitle C (hazardous waste) authority to respond to sites that can be addressed under RCRA Subtitle C corrective action authority (see 54 FR 41000, October 4, 1989).

Types of sites covered under the policy include hazardous waste treatment, storage and disposal facilities (TSDFs) that qualify under EPA's National Priorities List/RCRA deferral policy (see 51 FR 21057, 53 FR 23980, and 54 FR 41004). Parties should consult with State and Federal contacts to determine whether a site is being addressed under another federal statute, and therefore, whether a Tier II designation is appropriate. Again, parties must still refer to Section III. A. ''Scope and Applicability'' of the MOA/VCP guidance document to determine whether a specific site is eligible for inclusion under the MOA/VCP.

Parties should consult with State and/or Federal contacts and consult appropriate case law to answer the following questions:

Question 1A: Is the site eligible for response under CERCLA authorities?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, refer to Question 1B:

Question 1B: Is the EPA or the State addressing the site under another federal statute instead of CERCLA?

If NO, proceed to the Phase I step (or other appropriate step depending on site information available);

If YES, the site should be classified as Tier II and no further work under this process is necessary.

Phase I

The Phase I step within this process is quite similar to the methods prescribed by ASTM Standard Practice E 1527, although it is limited to hazardous substances as defined under CERCLA. The primary purpose of the Phase I step is to gather readily available information about a site to identify the presence or likely presence of an existing or past release of a hazardous substance into the ground (i.e., soil), ground water, surface water, or air. This step determines whether there is evidence or an indication that hazardous substances, pollutants, or contaminants were ever handled or disposed at the site either currently or in the past.

The Phase I step in this process consists of a review of records and related environmental reports pertaining to the site and a site visit to observe site conditions. Types of information collected during this step include a

[6] Under this act, ''source'' means uranium or thorium, or any combination of the two, in any physical or chemical form, ''by-product'' means any radioactive material that was made radioactive by exposure to radiation from the process of using or producing special nuclear material, and ''special nuclear material'' is plutonium, uranium-233, enriched uranium-233 or—235, or any material that the NRC determines to be special nuclear material not including source material.

general site description, current and past site use (e.g., nature and type of industrial use), topography, and waste characteristics, including an estimation of the type and quantity of hazardous substances at the site. Visual observations should consider stressed vegetation, discolored soils, oily ponds, and similar signs of contamination. No sampling is involved in this step. Geologic, hydrogeologic, and hydrologic data will prove useful along with topographic maps to determine whether migration of hazardous substances is likely. Data collected should help identify the potential distribution and mobility of hazardous substances in soil, ground water, surface water, and air.

Observations should also identify any site conditions warranting immediate or emergency actions. Examples of these include the threat of fire and/or explosion from unstable or reactive hazardous materials, the threat of direct contact with a hazardous substance, the threat of a continuing release of a hazardous substance, and the threat of contaminating surface waters or drinking water supplies.

The collection and review of readily available information at this step should be sufficient to answer the following question:

Question 2: Is it reasonable to expect that hazardous substances are present at the site?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, proceed to the Expanded Phase I step (or other appropriate step depending on site information available).

Note: The site should be classified as Tier I if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment, or if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Expanded Phase I

If the Phase I indicates a reasonable expectation that hazardous substances are present at the site, the next step in this process involves gathering environs data to determine what could be impacted by a release from the site. Therefore, the purpose of the Expanded Phase I step is to identify and verify the existence and locations of nearby people (or pathways of human exposure, e.g., water intakes or wells) and sensitive environments that might be threatened by a release from the site.

Examples of data collected at this stage include nearby residential, worker, and student population estimates, nearby municipal, private, and other drinking water supplies, drinking water wells and intakes, fisheries (including sport and subsistence fishing), and sensitive environments such as wetlands, national parks, wildlife refuges, and habitats of threatened or endangered species. This information is collected to determine whether a release of hazardous substances at the site could lead to human exposure or contamination of sensitive environments.

Data collected under the Expanded Phase I step should be sufficient to answer the following question:

Question 3: Could nearby populations or sensitive environments be at risk from the site?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, proceed to the Limited Sampling step (or other appropriate step depending on site information available).

Note: The site should be classified as Tier I if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment, or if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Limited Sampling

If the Phase I investigation indicates a reasonable expectation that hazardous substances have been present at the site and the Expanded Phase I indicates that human populations or sensitive environments may be threatened by a release from the site, sampling should be conducted to confirm the presence of hazardous substances on the site. The purpose of the Limited Sampling step is to collect and analyze waste and environmental samples, using field screening and analytical techniques where appropriate, to determine the hazardous substances present at a site and whether they are being released to the environment.

The Limited Sampling step is not intended to be an exhaustive assessment of environmental conditions at a site. Rather investigators should obtain enough information to confirm whether hazardous substances are present. As in the Phase I step, investigations should identify site conditions posing immediate health or environmental threats which require emergency response.

Site sampling typically requires developing a work plan, along with sampling and health and safety plans. Sampling and analysis should comply with a screening level quality of data following adequate quality assurance and quality control (QA/QC) procedures (40 CFR 31.45). The sampling plan should employ sound, scientific and professional judgment in identifying sampling locations.

The sampling data must be sufficient to answer the following question:

Question 4: Does site specific sampling confirm the presence of hazardous substances at the site?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, proceed to the Extended Sampling step (or other appropriate step depending on site information available).

Note: The site should be classified as Tier I if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment, or if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Extensive Sampling

If the Limited Sampling step confirms the presence of hazardous substances at the site, more extensive sampling may be required to determine whether the site is Tier I or Tier II. The purpose of the Extensive Sampling step is to further evaluate the degree to which a site presents a threat to human health or welfare or the environment by collecting and analyzing waste and environmental media samples. This step is implemented to document releases and exposure/contamination on-site and off-site. Off-site sampling is needed to provide background samples, and where appropriate, identify human exposure or environmental contamination.

Background samples are needed to determine whether contamination at the site is at least three times higher than background levels. Sampling conducted under this step should comply with a definitive data level of QA/QC (40 CFR 31.45). The detection limits used in the analysis of both the background and site-related contamination samples should be quantitatively consistent with sample quantitation limits as specified under the Superfund Contract Laboratory Program. Quantification of on-site and off-site threats should be sufficient to answer the following:

Question 5: Do on-site and off-site sampling data show exposure, or likely exposure, of nearby populations, and/or contamination, or likely contamination of sensitive environments at a minimum of three times above background levels or above EPA standard sample quantification limits?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, the site should be classified as Tier I.

Note: The site should also be classified as Tier I if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Request for Comments

The Agency is requesting comment on the criteria and screening process. EPA would like to receive comments on the screening mechanism, both how it works in general (for example, feasibility and ease of implementation), and specific suggestions for how the process could be improved. In particular, EPA would appreciate feedback and comment on the following questions:

1. What type and amount of information is needed each stage in the decision process to reach a Tier I or Tier II decision?

1a. Would collecting the suggested information allow a party to move forward through the decision-making process efficiently and expeditiously?

1b. What can be done with the process to guard against inaccurate assessments?

1c. How well will this process work within established State programs?

2. Are the screening steps in the best logical sequence?

2a. At what point it is useful to have information on exposure targets (i.e., nearby populations and sensitive environments).

2b. Would it be more useful to have information about exposed/potentially exposed targets before or after limited sampling is performed?

2c. When would information on target access to contamination be collected?

3. If there are nearby populations or sensitive environments, how could EPA ensure that private parties would evaluate them to account for changes in land use in the near or long-term?

4. What tools are currently available to the public that would allow them to collect the requested information?

4a. How would these tools work to support a party's decision from a cost effectiveness and timeliness standpoint.

Tier I/II Screening Mechanism Definitions

The following definitions support terms identified in the Tier I, Tier II, and Process sections above:

Background: the level of a hazardous substance that provides a defensible reference point that can be used to evaluate whether or not a release from the site has occurred. The background level should reflect the concentration of the hazardous substance in the medium of concern for the environmental setting on or near a site. Background level does not necessarily represent pre-release conditions, nor conditions in the absence of influence from the source(s) at the site. A background level may or may not be less than the detection limit (DL), but if it is greater than the DL, it should account for variability in local concentrations. A background level need not be established by chemical analysis. Hazard Ranking System Guidance Manual, Interim Final, pp. 55 and 57.

Bioaccumulation: the tendency of a hazardous substance to be taken up and accumulated in the tissue of aquatic organisms, either from water directly or through consumption of food containing the hazardous substance. Hazard Ranking System Guidance Manual, Interim Final, p. 294; Rand, Gary M., and Sam R. Petrocelli, Fundamentals of Aquatic Toxicology, 1985, p. 652.

Definitive Data: data that are documented as appropriate for rigorous uses that require both hazardous substance identification and concentration. Definitive data are often used to quantify the types and extent of releases of hazardous substances. Guidance for Performing Site Inspections Under CERCLA, Interim Final, p. 99; Guidance for Data Useability in Site Assessment, Draft, pp. 13 and 14.

Drinking Water Supply: any source of water (surface or ground) that is currently used or could be used to supply potable water. Guidance for Performing Site Inspections Under CERCLA, Interim Final, p.118; Hazard Ranking System Guidance Manual, Interim Final, p. 116.

Facility: any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, falling stock, or aircraft, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel. CERCLA section 101(9).

Ground Water: water in a saturated zone or stratum beneath the surface of land or water. CERCLA section 101(12).

Hazard Ranking System: scoring system used by EPA's Superfund program to assess the relative threat between sites associated with actual or potential releases of hazardous substances. It is a screening tool for determining whether a site is to be included on the National Priorities List. Hazard Ranking System Guidance Manual, Interim Final, p.1.

Hazardous Substance: CERCLA hazardous substances, pollutants, and contaminants as defined in CERCLA section 101(14) and 101(33), except where otherwise specifically noted in the HRS. 40 CFR 300, Appendix A (Hazard Ranking System), Section 1.0.

Human Exposure: any exposure of humans to a release of one or more hazardous substances via inhalation, ingestion, or dermal contact. Amdur, Mary O., John Doull, and Curtis D. Klaassen, Toxicology, The Basic Science of Poisons, Fourth Edition, 1991, p. 14; Hazard Ranking System Guidance Manual, Interim Final, pp. 153, 259, 293, 317, 363, and 411.

Nearby Populations: regularly present residents, workers, and students and sensitive environments located on or within 1 mile from the boundaries of a hazardous substance release. 40 CFR 300, Appendix A (Hazard Ranking System), section 5.2.

Populated Area: any area occupied by a regularly present resident, student, or worker and/or sensitive environment. Populated areas do not include transient populations such as business patrons or travelers passing through the area. Hazard Ranking System Guidance Manual, Interim Final, p. 412; 40 CFR 300, Appendix A (Hazard Ranking System), section 3.3.2.

Release: any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant). CERCLA section 101(22).

Screening Data: data that are appropriate for applications that only require determination of gross contamination areas and/or for site characterization decisions that do not require quantitative data. Screening data are often used to specify which areas to sample to collect definitive data. Guidance for Performing Site Inspections Under CERCLA, Interim Final, pp. 99 and 100; Guidance for Data Useability in Site Assessment, Draft, p. 15.

Sensitive Environments: consist of environmental receptors recognized in 40 CFR 300, Appendix A (Hazard Ranking System), Table 4–23, Table 5–5, and wetlands as defined by 40 CFR 230.3.

Site: area(s) where a hazardous substance has been deposited, stored, disposed, or placed, or has otherwise

come to be located. Such areas may include multiple sources and may include the area between sources 40 CFR 300, Appendix A (Hazard Ranking System), Section 1.0. The site is neither equal to nor confined by the boundaries of any specific property that may give the site its name. 60 FR 190, p. 51391.

Surface Waters: water present at the earth's surface. Surface water includes rivers, lakes, oceans, ocean-like water bodies, wetlands, and coastal tidal waters, which include embayments, harbors, sounds, estuaries, back bays, lagoons, wetlands, etc. seaward from mouths of rivers and landward from the baseline of the Territorial Sea. 40 CFR 300, Appendix A (Hazard Ranking System), section 4.0.2.

Wetlands: a type of sensitive environment defined in 40 CFR 230.3 as ''* * * those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.'' Wetlands can be natural or man-made. Wetlands generally include swamps, marshes, bogs, and similar areas. Hazard Ranking System Guidance Manual, Interim Final, p. A–20.

[FR Doc. 97–23831 Filed 9–8–97; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5890–6]

SES Performance Review Board; Membership

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the membership of the EPA Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Zandra Kern, Executive Resources and Special Programs Division, Office of Human Resources and Organizational Services, Office of Administration and Resources Management, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 260–2975.

SUPPLEMENTARY INFORMATION: Section 4314 (c)(1) through (5) of Title 5, U.S.C., requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. This board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive.

Members of the EPA Performance Review Board are:

William A. Spratlin (Chair), Director, Air, RCRA and Toxics Division, Region 7
Devereaux Barnes, Director, Office of Program Management, Office of Solid Waste and Emergency Response
Samuel Coleman, Director, Compliance Assurance and Enforcement, Region 6
Alexander Cristofaro, Deputy Director, Office of Policy Development, Office of Policy, Planning, and Evaluation
Deborah Y. Dietrich, Director, Office of Resources Management and Administration, Office of Research and Development
William Finister, Deputy Chief of Staff, Office of the Administrator
Phyllis Harris, Regional Counsel, Office of Enforcement and Compliance Assurance
William M. Henderson, Director, Office of Administration and Resources Management—Cincinnati, Office of Administration and Resources Management
Kenneth A. Konz, Assistant Inspector General for Audits, Office of Inspector General
Dr. Hugh McKinnon, Associate Director for Health, Office of Research and Development
John W. Meagher, Director, Wetlands Division, Office of Water
Joseph J. Merenda, Director, Health and Environmental Review Division, Office of Prevention, Pesticides and Toxic Substances
James C. Nelson, Associate General Counsel (Pesticides and Toxics Substances), Office of General Counsel
John B. Rasnic, Director, Manufacturing, Energy and Transportation Division, Office of Enforcement and Compliance Assurance
Carol Rushin, Director, Enforcement, Compliance and Environmental Justice Division, Region 8
Alan B. Sielen, Deputy Assistant Administrator for International Activities, Office of International Activities
Mary Smith, Director, Indoor Environments Division, Office of Air and Radiation
David J. O'Connor (Executive Secretary), Director, Office of Human Resources and Organizational Services, Office of Administration and Resources Management

Members of the Inspector General Subcommittee to the EPA Performance Review Board are:

Donald Mancuso, Assistant Inspector General for Investigations, Department of Defense
Everett L. Mosley, Deputy Inspector General, Agency for International Development
Thomas D. Roslewicz, Deputy Inspector General for Audit Services, Department of Health and Human Services

Dated: August 15, 1997.

Alvin M. Pesachowitz,

Acting Assistant Administrator for Administration and Resources Management.

[FR Doc. 97–23832 Filed 9–8–97; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Advisory Committee for the National Urban Search and Rescue Response System

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App.), announcement is made of the following committee meeting:

Name: Advisory Committee for the National Urban Search and Rescue Response System.

Date of Meeting: September 15–16, 1997.

Place: FEMA Mt. Weather Emergency Assistance Center, The Conference and Training Center, Building 430, 19844 Blue Ridge Mountain Road, State Route 601, Berryville, VA 20135.

Time: September 15th: 9:00 a.m.–5:00 p.m., September 16th: 9:00 a.m.–5:00 p.m.

Proposed Agenda: The Committee will be provided with a program update that will address the status of ongoing audits and program reviews, functional training and program support efforts, and Fiscal Year 1997 through 1999 budgets for the Urban Search and Rescue Program. The committee will review, discuss, and develop final recommendations for the organization of the Advisory Committee working group structure and the decision making process. Other items for discussion may include sponsoring agency head involvement, authorizing legislation, functional training methodologies, and program strategic planning and budgeting.

The meeting will be open to the public, with approximately 20 seats available on a first-come, first-served basis. All members of the public

interested in attending should contact Mark R. Russo, at 202–646–2701.

Minutes of the meeting will be prepared and will be available for public viewing at the Federal Emergency Management Agency, Operations and Planning Division, Response and Recovery Directorate, 500 C Street, SW, Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 5, 1997.

Lacy E. Suiter,

Executive Associate Director, Response & Recovery Directorate.

[FR Doc. 97–23819 Filed 9–8–97; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, September 25, 1997.

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 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–24011 Filed 9–5–97; 3:16 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Adaptive Use of an Historic Resource—Opening of Public Comment Period and Public Forum

The U.S. General Services Administration (GSA) announces the Thursday, September 4, 1997 invitation for public comment on Adaptive Use Concepts developed for the General Post Office, a mid-nineteenth century historic property also known as the Tariff Commission building located on Square 430, the city block between 7th & 8th Streets and E and F Streets, NW in Washington, District of Columbia. Copies of the Adaptive Use Concepts are available for public review at the following locations: (1) National Capital Planning Commission, 801 Pennsylvania Avenue, N.W., Suite 301, Washington, DC (202–482–7200); (2) U.S. General Services Administration, National Capital Region, Portfolio Management, Suite 7600, 7th & D Sts., SW, Washington, DC 20407 (202–708–5334); (3) Martin Luther King Memorial Library, 901 G St., NW, Washington, DC (202–727–1111); and (4) Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW, Room 809, Washington, DC 20004. Direct comments on the Adaptive use concepts by Thursday, October 2, 1997 to: Elizabeth Gibson, Project Coordinator, GSA Portfolio Management, Suite 7600, 7th & D Sts., SW, Washington, DC 20407 (202–708–5334).

Accordingly, the U.S. General Services Administration invites the public to a general information meeting at 6:00 p.m., Tuesday, September 9, 1997. The second in a series of Public Forums concerning adaptive use of the historic resource will convene at the National Building Museum, Auditorium, 401 F St., N.W., Washington, DC 20001. The National Building Museum is located adjacent to the Judiciary Square Metro Station—Red Line. The purpose of the Public Forum is to continue to solicit public participation and comment in the identification of viable adaptive use concepts for the public building. GSA is seeking private investment to restore and reuse an important historic property that no longer has a viable Federal use. Adaptive use concepts must be financially viable and generate long term revenues for the federal government. GSA intends to retain ownership of the property for safekeeping while creating the opportunity for the private sector to change use of the property and keep it accessible for the public. The following adaptive use concepts were submitted to GSA and are under review for feasibility and viability: A.2 Housing; A.4 Housing; B.7 Mixed use—housing, retail, entertainment; B.9 Mixed use—housing retail, civic use; C.5 Hotel—limited service; C.8 Hotel—limited service; D.3 International trade—retail, wholesale; E.6 Institutional use—Crossroads Washington, a museum for the city of Washington.

For additional information on the federal undertaking see the Internet Web Page http://www.gsa.gov/regions/r11/projects/sq430.htm. For additional information on the historic property see the Historic American Building Survey No. DC–219 and U.S. Department of Interior National Register No. 69000311.

Dated: September 5, 1997.

Arthur M. Turowski,

Director, Portfolio Management Division, WPT.

[FR Doc. 97–24064 Filed 9–8–97; 10:06 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting.

Name of SEP: Preclinical Toxicology and Pharmacology of Drugs Developed for Cancer, AIDS and AIDS-Related Illnesses.

Date: October 6–7, 1997.

Time: 9:00 a.m. to 5:00 p.m.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Lalita Palekar, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410; Telephone: 301/496–7575.

Purpose/Agenda: To evaluate and review grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: September 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–23740 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute and National Action Plan on Breast Cancer; Notice of Jointly Sponsored Workshop

Notice is hereby given of the Workshop on Privacy and Confidentiality in Genetics Research sponsored jointly by the National Action Plan on Breast Cancer and the National Human Genome Research Institute (NHGRI), September 16–17, 1997, 8:00 a.m. to 5:00 p.m. The session on September 16 will be held in the Natcher Building, Room E1/E2. on the NIH campus. On September 17 the meeting will be held at the Bethesda Holiday Inn, Bethesda, Maryland. Registration is required.

To register and for further information, contact Kimm Malone, NHGRI Office of Policy Coordination, 301 402–0955. Ms. Malone, will furnish the meeting agenda, and substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Malone, 301 402–0955, two weeks in advance of the meeting.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research.)

Dated: September 2, 1997.

Kathy Hudson,

Assistant Director for Policy Coordination, NHGRI.

[FR Doc. 97–23743 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant of Pub. L. 92–463, notice is hereby given of meetings of the Diabetes and Digestive and Kidney Diseases Special Grant Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), for October 1997. These meetings will be open to the public as indicated below, to discuss Council decisions on training matters and updates on NIH training policy. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Denise Manouelian, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Natcher Building, Room 6AS–37J, Bethesda, Maryland 20892, (301) 594–8892, will provide summaries of meetings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the contact person. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person at least two weeks prior to the meeting.

Name of Committee: Diabetes, Endocrinology and Metabolic B Subcommittee.

Date: October 23–24, 1997.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814, Telephone: (301) 652–2000.

Contact Person: Ned Feder, M.D., Scientific Review Administrator, Natcher Building, Room 6AS–25S, National Institutes of Health, Bethesda, Maryland 20892–6600; Phone: 301–594–8890.

Open: October 23, 5:30 p.m.–7:00 p.m.

Closed: October 24, 8:00 a.m.–Adjournment.

Name of Committee: Digestive Diseases and Nutrition C Subcommittee

Date: October 23–24, 1997.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814, Telephone: (301) 652–2000.

Open: October 23, 5:30 p.m.–7:00 p.m.

Closed: October 24, 8:00 a.m.–Adjournment.

Contact Person: Daniel Matsumoto, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS–37B, National Institutes of Health, Bethesda, Maryland 20892–6600; Phone: 301–594–8894.

Name of Committee: Kidney, Urologic and Hematologic Diseases D Subcommittee

Date: October 23–24, 1997.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814; Telephone: (301) 652–2000.

Contact Person: Ann A. Hagan, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS–37F, National Institutes of Health, Bethesda, Maryland 20892–6600; Phone: 301–594–8886.

Open: October 23, 5:30 p.m.–700 p.m.

Closed: October 24, 8:00 a.m.–Adjournment.

Purpose/Agenda: To review and evaluate research grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: September 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–23739 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine, on September 22–23, 1997.

In accordance with provisions set forth in sec. 552b(c)(6), Title 5 U.S.C., and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public on September 22, from 7 p.m. to approximately 10 p.m., at the Bethesda Hyatt Hotel, and on September 23, from 8:30 a.m. to approximately 2 p.m., in the Eighth-Floor Conference Room of the Lister Hill Center Building, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, for the consideration of personnel qualifications and performance of individual investigators and similar items, the disclosure of which would constitute an unwarranted invasion of personal privacy.

The Executive Secretary, Dr. David J. Lipman, Director, National Center for Biotechnology Information, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894,

telephone (301) 496–2475, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: September 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–23742 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: October 5, 1997.

Time: 3:00 p.m.

Place: Holiday Inn, Bethesda, MD.

Contact Person: Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 4120, Bethesda, Maryland 20892, (301) 435–1780.

Name of SEP: Multidisciplinary Sciences.

Date: October 22–24, 1997.

Time: 6:00 p.m.

Place: Omni Dallas Hotel-Park West, Dallas, TX.

Contact Person: Dr. Bill Bunnag, Scientific Review Administrator, 6701 Rockledge Drive, Room 5215, Bethesda, Maryland 20892, (301) 435–1177.

Name of SEP: Multidisciplinary Sciences.

Date: October 27–28, 1997.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Dharam Dhindsa, Scientific Review Administrator, 6701 Rockledge Drive, Room 5206, Bethesda, Maryland 20892, (301) 435–1174.

Name of SEP: Multidisciplinary Sciences.

Date: October 29, 1997.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Dharam Dhindsa, Scientific Review Administrator, 6701 Rockledge Drive, Room 520–6, Bethesda, Maryland 20892, (301) 435–1174.

Name of SEP: Clinical Sciences.

Date: December 10, 1997.

Time: 7:00 a.m.

Place: Doubletree Hotel, Rockville, MD.

Contact Person: Dr. Gertrude McFarland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4110, Bethesda, Maryland 20892, (301) 435–1784.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS.)

Dated: September 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–23741 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Organization, Functions, and Delegations of Authority

Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 62 FR 37587, July 14, 1997, and redesignated from Part HN as Part N at 60 FR 56606, November 9, 1995), is amended as set forth below to reflect the reorganization of the Office of Intramural Research (OIR), Office of the Director, NIH, as follows: (1) Abolish the Office of Intramural Affairs, OIR, and transfer its functions to the OIR and (2) revise the functional statement of the OIR.

Section N–B, Organization and Functions, under the heading *Office of the Director (NA, formerly HNA), Office of Intramural Research (NA4, formerly HNA4)* is amended as follows:

(1) The title and functional statement of the *Office of Intramural Affairs (NA43, formerly HNA43)* are abolished in their entirety.

(2) The functional statement for the *Office of Intramural Research (NA4, formerly HNA4)* is replaced with the following:

Office of Intramural Research (NA4, formerly HNA4). (1) Coordinates, implements and provides scientific direction and authority over trans-NIH intramural research policy and programs, and (2) advises the Director, NIH, and executive staff on issues relating to the management of the NIH Intramural Research Program.

Dated: August 28, 1997.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 97–23745 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Organization, Functions, and Delegation of Authority

Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services. (40 FR 22859, May 27, 1975, as amended most recently at 62 FR 37587, July 14, 1997, and redesignated from Part HN as Part N at 60 FR 56605, November 9, 1995), is amended as set forth below to reflect the reorganization of the Division of Research Grants as follows: (1) The name of the Division of Research Grants is changed to the Center for Scientific Review and the functional statement is revised; (2) the functional statement of the Office of the Director (OD) is revised; (3) within the OD, the Office of Policy and Analysis and the Office of Planning and Outreach are established; (4) the following division are established: Division of Molecular and Cellular Mechanisms, Division of Physiological Systems, Division of Clinical and Population-based Studies, Division of Receipt and Referral, and Division of Management Services; (5) the following organizations are abolished: Advanced Technology Branch, Referral and Review Branch, Office of Committee Management and Office of Administrative Management.

Section N–B, Organization and Functions, under the heading *Division of Research Grants (NG, formerly HNG),* is revised as follows:

Center for Scientific Review (NG, formerly HNG). (1) Provides staff support to the Office of the Director, NIH, in the formulation of grant and award policies and procedures; (2) provides central receipt of all PHS applications for research and research training support, and makes initial referral to PHS components; (3) assigns NIH applications to supporting institutes, center, and divisions and to CSR initial review groups; and (4) provides for scientific review of NIH research grants, National Research Service Award, and research career development applications.

Office of the Director (NG1, formerly HNG1). (1) Plans, directs, and

coordinates the work of the Center; (2) provides advisory and consultative services on NIH grant and award programs to NIH components, advisory councils, and grantee institutions; (3) directs the evaluation of the status of support and accomplishments in selected research areas; (4) directs the development of the scientific review mission of the Center, (5) directs the search for the most qualified and representative individuals to serve as members of initial review groups; and (6) directs the Center's program to provide equal employment opportunities, upward mobility, and employee training.

Office of Policy and Analysis (NG12, formerly HNG12). (1) Serves as principal advisor to the Center Director, IC Associate Director for Extramural Programs, and the NIH Deputy Director for Extramural Research on matters pertaining to the disposition of applications for research grants and manpower development programs; (2) participates in and contributes to NIH top level policy planning, development and coordination of policy and procedures for the extramural programs of NIH; (3) monitors broad policy issues surrounding the field of scientific review; (4) develops and analyzes scientific review policy of significance to the NIH; (5) conducts legislative analyses; and (6) prepares reports and develops responses to congressional inquires.

Office of Planning and Outreach (NG13, formerly HNG13). (1) Formulates and coordinates the Center's strategic planning activities and participates in the development of Center-wide goals and program plans; (2) analyzes Center goals and program plans and recommends appropriate allocation of resources to realize these goals; (3) conducts relevant public affairs activities, deals with the press, media, and other communications organizations, collaborates with a variety of entities (within and outside NIH) to enhance knowledge and awareness of CSR's mission; (4) provides liaison with other IC staff, other Federal agencies, and scientific and professional groups within the extramural research community; and (5) provides liaison with international groups and develops requested training programs for them.

Division of Molecular and Cellular Mechanisms (NG2, formerly HNG2). (1) Conducts the scientific merit review of biochemistry, biophysics, chemistry, cell development and function, genetics, immunology, infectious diseases, and microbiology research grant applications submitted to NIH; (2) coordinates with the Division of Receipt and Referral to assure the appropriate assignment of applications to the Initial Review Groups of the Division; (3) administers the scientific review groups that provide scientific review of research grant, fellowship, and research career development applications; (4) recommends policies and procedures governing NIH extramural activities related to the scientific and technical review of applications within the purview of the Division; (5) provides recommendations on each application to the appropriate Institute and/or National Advisory Council; (6) reviews the state-of-the-art and identifies research needs in the scientific disciplines represented by the Division; and (7) performs on-site assessments of the research capabilities of applicants.

Division of Physiological Systems (NG4, formerly HNG4). (1) Conducts the scientific merit review of cardiovascular, endocrinology and reproductive, musculoskeletal and dental, nutritional and metabolic, neurological, pathophysiological, and sensory sciences research grant applications submitted to NIH; (2) coordinates with the Division of Receipt and Referral to assure the appropriate assignment of applications to the Initial Review Groups of the Division; (3) administers the scientific review groups that provide scientific review of research grant, fellowship, and research career development applications; (4) recommends policies and procedures governing NIH extramural activities related to the scientific and technical review of applications within the purview of the Division; (5) provides recommendations on each application to the appropriate Institute and/or National Advisory Council; (6) reviews the state-of-the-art and identifies research needs in the scientific disciplines represented by the Division; and (7) performs on-site assessments of the research capabilities of applicants.

Division of Clinical and Population-Based Studies (NG5, formerly HNG5). (1) Conducts the scientific merit review of AIDS and related research, biobehavioral and social sciences, health promotion and disease prevention, oncology, surgery, radiology and bioengineering research grant applications submitted to NIH; (2) coordinates with the Division of Receipt and Referral to assure the appropriate assignment of applications to the Initial Review Groups of the Division; (3) administers the scientific review groups that provide scientific review of research grant, fellowship, and research career development applications; (4) recommends policies and procedures governing NIH extramural activities related to the scientific and technical review of applications within the purview of the Division; (5) provides recommendations on each application to the appropriate Institute and/or National Advisory Council; (6) reviews the state-of-the-art and identifies research needs in the scientific disciplines represented by the Division; and (7) performs on-site assessments of the research capabilities of applicants.

Division of Receipt and Referral (NG7, formerly HNG7). (1) Receives and reviews applications for PHS research and training support to determine referral to the appropriate PHS health agencies and to the appropriate NIH initial review groups; (2) develops criteria for determining appropriate assignment of grant applications within the PHS by program areas and by competencies of review groups; (3) proposes uniform instructions to applicants for proper preparation of applications; and (4) extracts and records preliminary data from such applications and serves as information center for applications pending review.

Division of Management Services (NG8, formerly HNG8). (1) Advises the Director, CSR, on administrative matters; (2) plans and directs management functions of the Center including administrative services, personnel management, financial management, committee management, information technology services, procurement, management analysis, and preparation of reports and statistics related to Center activities; (3) evaluates developments in administrative management and their implications on the Center's mission; (4) develops policies on administrative management and prepares and issues procedures and guidelines for implementation of administrative policies; and (5) serves as the Center focal point for coordination of activities with NIH and DHHS offices and other Federal agencies.

Dated: August 25, 1997.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 97–23744 Filed 9–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–22]

Submission for OMB Review; Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: October 9, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, an hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 2, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Title of Proposal: Previous Participation Certificate.

Office: Housing.

OMB Approval Number: 2502–0118.

Description of the Need for the Information and Its Proposed Use: The information collection is used for protecting HUD's Multifamily Housing programs by ensuring only responsible individuals and organizations participate. HUD will use this form to evaluate the performance of applicants in handling their financial, legal, and administrative, obligations, i.e. their timeliness and satisfactory response. Respondents such as owners, managers, consultants, general contractors and nursing home operators and administrators will be subject to review.

Form Number: HUD–2530 and USDA Farmer's Home 1944–37.

Respondents: Individuals or households, business or other for-profit, and not-for-profit Institutions.

Frequence of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hour per response	=	Burden hours
Information Collection	4,300		1		.50		2,150

Total Estimated Burden Hours: 2,150.

Status: Extension, changes.

Contact: Rick Young, HUD, (202) 708–3776 x2084; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 2, 1997.

[FR Doc. 97–23756 Filed 9–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–21]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* October 9, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information (3) the OMB approval number, if applicable; (4) the description of the need for the information and it proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirements; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 2, 1997.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Title of Proposal: Congregate Housing Services Program.

Office: Housing.

OMB Approval Number: 2502–0485.

Description of the Need for the Information and Its Proposed Use: Section 802 (i)(1)(A) and (d)(7) of the National Affordable Housing Act authorizes the Congregate Housing Services Program (CHSP) to provide assistance in the form of supportive services to elderly persons and persons with disabilities. Applications will be submitted by non-profit housing sponsors, State, local, and Tribal governments and Public Housing Authorities applying for funding. The information collected will be used to evaluate the program, monitor use of grant funds, and ensure that these grantees are meeting statutory and regulatory program requirements.

Form Number: HUD–90006, 90198, 91178, 91178A, 91179, 91180, 91180A, 91180B, 91183A, and SF–269.

Respondents: State, Local, or Tribal Government and Not-For-Profit Institutions.

Frequency of Submission: Semi-annually and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
CHSP Application	111		6		4.00		2,664
Progress Reports	111		12		2.17		2,886
Grant Amendment	10		1		2.00		20

Total Estimated Burden Hours: 5,570.

Status: Reinstatement, with changes.

Contact: Carissa Janis, HUD, (202) 708–3291 x2487; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 2, 1997.

[FR Doc. 97–23757 Filed 9–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–20]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* October 9, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Dated: August 27, 1997.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Title of Proposal: Application for Mortgage Insurance.

Office: Housing.

OMB Approval Number: 2502–0141.

Description of the Need for the Information and Its Proposed Use: This information collection is authorized by Sections 213, 221, and 234 of the National Housing Act. The information collection is submitted by the project sponsors seeking feasibility determination. HUD must analyze specific information, including financial data, cost data, and drawings and specifications before determining whether a cooperative or condominium project mortgage should be insured. This information collection is also submitted by mortgagees applying for conditional or firm commitment for mortgage insurance.

Form Number: HUD–93210.

Respondents: Business or other for-profit and not-for-profit institutions.

Frequency of Submission: Recordkeeping and on occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–93201	15		1		4		61
Recordkeeping	15		1		2		30

Total Estimate Burden Hours: 91

Status: Reinstatement, without changes.

Contact: Jane Luten, HUD, (202) 708–2556 x2537, Joseph F. Lackey, Jr., OMB, (202) 395–7316

Dated: August 27, 1997

[FR Doc. 97–23758 Filed 9–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4279–D–01]

Delegation of Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: This notice delegates to the Assistant Secretary for Public and Indian Housing (PIH) the authority of the Secretary regarding the HOPE VI Program (also referred to as the urban revitalization demonstration program; and the revitalization of severely distressed public housing).

EFFECTIVE DATE: August 28, 1997.

FOR FURTHER INFORMATION CONTACT: Michael Reardon, Assistant General Counsel, Assisted Housing Division, Department of Housing and Urban Development, 451 7th Street, SW, Room 8166, Washington, DC 20410; telephone (202) 708–0470 (this is not a toll-free number.) This number may also be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8399.

SUPPLEMENTARY INFORMATION: The HOPE VI program is an urban revitalization program involving major reconstruction of severely distressed or obsolete public housing. In order to address the needs of this program, the authority to administer it is being delegated to the Assistant Secretary for Public and Indian Housing.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary of Housing and Urban Development delegates to the Assistant Secretary for PIH the authority of the Secretary regarding the HOPE VI program, including the signing of grant agreements. The HOPE VI program (also referred to as the urban revitalization demonstration program; and the revitalization of severely distressed public housing) was originally authorized under the 1993 HUD Appropriations Act, Public Law 102–389 (October 6, 1992) and has continued to be authorized under succeeding appropriations acts for the Department

Section B. Authority Reserved

The authority delegated does not include the authority to sue and be sued.

Section C. Authority To Redelegate

The authority delegated includes the authority to redelegate.

Dated: August 28, 1997.

Andrew Cuomo,

Secretary of Housing and Urban Development.

[FR Doc. 97–23759 Filed 9–8–97; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Public Comment on the Proposal To Develop the ''Environmental Hazards Geospatial Data Content Standard'' as a Federal Geographic Data Committee Standard

ACTION: Notice; request for comments.

SUMMARY: The FGDC is soliciting public comments on the proposal to develop a ''Environmental Hazards Geospatial Data Content Standard.'' If the proposal is approved, the standard will be developed following the FGDC standards development and approval process. If the standard is adopted by the FGDC, it must be followed by all Federal agencies collecting environmental hazards geospatial data directly or indirectly, through grants, partnerships, or contracts.

In its assigned Federal leadership in the development of the National Spatial Data Infrastructure (NSDI), the FGDC recognizes that FGDC standards must also meet the needs and recognize the views of State and local governments, academia, industry, and the public. The purpose of this notice is to solicit such views. The FGDC invites the community to review the proposal and comment on the objectives, scope, approach, usability of the proposed standard; identify existing related standards; and indicate their participating in the development of the standard.

DATES: Comments must be received on or before October 3, 1997.

CONTACT AND ADDRESSES: The complete proposal is included in this notice. It is also posted at Internet address: http://www.fgdc.gov/pub/standards/Hazards/envhzpro.txt

Comments may be submitted via Internet mail or by submitting an electronic copy on diskette. Send comments via Internet to: gdc-hazards@www.fgdc.gov. Comments e-mailed as attachments must be in ASCII format.

A soft copy version may be submitted on a 3.5×3.5 diskette in WordPerfect 5.0 or 6.0/6.1 format, along with one hardcopy version of the comments, to the FGDC Secretariat (attn: Jennifer Fox) at U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192.

SUPPLEMENTARY INFORMATION: Following is the complete proposal for the Environmental Hazards Geospatial Data Content Standard.

Date of Proposal: May 1997.

Submitting Organization: FGDC Facilities Working Group (FWG).

Point of Contact: Nancy Blyler (202) 761–8893.

Objectives: To develop a nationally focused Environmental Hazards Geospatial Data Content Standard (hereafter called Environmental Hazards Standard) that will establish a consistent approach to sharing information about natural and manmade substances, materials, and conditions that are, or have the potential to be, detrimental to ecosystems on the earth.

Goals: 1. To compile common definitions for environmental hazard data that will facilitate the effective, use, understanding, and automation of geospatial information.

2. To standardize entities, attributes, and domain values that will improve the creation, management and data sharing of environmental hazard data.

3. To resolve discrepancies related to the use of similar terms, thereby minimizing duplication within and among systems.

Scope: The environmental hazards standard will address data concerning the evaluation and investigation of the existence of environmental hazards, monitoring the presence of hazards, preparedness and protection from hazards, and remediation of their effects. This standard will include the management of information about chemical and biological substances, hazardous materials, and physical conditions that affect the earth's ecosystems, including air, soil, and water systems (both surface water and ground water). This standard will not address natural disasters (e.g., volcanoes, earthquakes).

Justification/Benefits: There is no national geospatial data content standard for environmental hazards. A comprehensive data content standard supporting the study, management, and remediation of environmental hazards

would be beneficial to hazardous materials managers, solid waste engineers, and public works officers. Benefits would also be realized in emergency situations, when efficient management and data sharing between Federal and local agencies is imperative to containing hazardous materials and protecting the environment.

Development of Environmental Hazard Standards through the FGDC will provide an opportunity for broad participation from national, state, and local governments, municipalities, professional societies, and private industry. Environmental Hazard Standards will also support the FGDC's integrated standard database project and will provide new data sharing opportunities for the National Spatial Data Infrastructure (NSDI) (i.e., Federal, state, and local governments, as well as the private sector.)

Approach: The FWG will establish an Environmental Hazards project team to develop this Environmental Hazards Standard. The project team will begin development of this Environment Hazards Standard using the Environmental Hazards information contained in the Tri Service Spatial Data Standard (TSSDS). However, the project team or the resulting standard will not be constrained to the content extracted from the TSSDS. The entity classes, entity types, etc. may be enhanced and modified to create a comprehensive Environmental Hazard Data Content standard that meets the diverse requirements of Federal, state, and community environmental data users. The project team will solicit input from a broad range of agencies and environmental groups for development of the standard.

The FWG will also maintain an Environmental Hazards database containing the entity/attribute/domain information that can be used to support the Standards Working Group (SWG) integrated feature registry project.

Related Standards: As mentioned in the approach paragraph, the TSSDS is a related standard that includes Environmental Hazards information. Additional content added to the Environmental Hazard standard (beyond what is available from the TSSDS) will be closely coordinated with the Tri-Service CADD/GIS Technology Center so that later versions of the TSSDS may potentially incorporate this additional information. This project will also be coordinated with the Facilities Identification project.

Other related standards (relevant to domain values) are: EPA Order 2180.1, June 26, 1987 standard for Chemical Abstracts Service Registry Number Data Standard for using CAS Registry Number for identification of chemical substances.

ANSI X3.50–1986, American National Standard for information systems—represnetations for U.S. customary, SI, and other units to be used in systems with limited character sets. NIST Special Publication 811, 1995 Edition, Guide for the Use of the International System of Units (SI) for standardizing units of measure.

Schedule: The FWG has formed an Environmental Hazards project team to begin work on the development of this standard. The development of a working draft Environmental Hazards Standard is expected to take 9–12 months. Once the FWG is satisfied with the content of this Environmental Hazards Standard it will be forwarded to the SWG for consideration to go out for public review. The FWG expects to have a completed, approved Environmental Hazard standard in 24 months.

Resources: The FWG has adequate resources to accomplish the initial development of this Environmental Hazards Standard. If after review and comment from other Federal Agencies and the non-Federal sector there is considerable additional content need, then additional resources may be required.

Potential Participants: The primary participants will be the members of the FWG which includes representatives from Federal agencies, municipalities, professional associations, and private industry.

Target Authorization Body: The FWG proposes pursing the development of this Environmental Hazards Standard as an FGDC standard. The FWG may consider pursuing (at a later date) the development of the Environmental Hazards Standard as an ANSI (American National Standards Institute) Standard within ANSI's technical committee for GIS, NCITS L1. FGDC would serve as the Target Authorization Body until this Environmental Hazards Standard becomes an ANSI Standard.

Dated: September 2, 1997.

John Fischer,

Acting Chief, National Mapping Division.

[FR Doc. 97–23748 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Chitimacha Tribe of Louisiana Liquor Ordinance

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. § 1161, as interpreted by the Supreme Court in, *Rice v. Rehner*, 463 U.S. 713 (1983). I certify that the Chitimacha Tribe of Louisiana Liquor Ordinance was duly adopted by Resolution No. CHI–TC # 3–97 of the Chitimacha Tribe of Louisiana Tribal Council on January 2, 1997. The ordinance provides for the regulation, sale, possession and use of alcholic liquor within the Tribe's jurisdiction.

DATES: This ordinance is effective as of September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Jerry Cordova, Office of Tribal Services, 1849 C Street, N.W., MS 4641 MIB, Washington, D.C. 20240–4001; telephone (202)208–4401.

SUPPLEMENTARY INFORMATION: The Chitimacha Tribe of Louisiana Liquor Ordinance shall read as follows:

Title XIV—Tribal Licenses and Permits

Chapter 1. Liquor Licenses and Permits

Sec. 101. Conformity with State Law and This Ordinance

The introduction, possession, transportation, and sale of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, provided that such introduction and sale are in conformity with the laws of the State of Louisiana and with the provisions of this ordinance.

Sec. 102. Tribal License or Permit Required

No person shall engage in the sale of intoxicating beverages within the Indian country under the jurisdiction of the Tribe, unless duly licensed or permitted to do so by the Tribe in accordance with the terms of this Ordinance and the State of Louisiana.

Sec. 103. Application for Tribal Liquor License; Requirements

No tribal license shall issue under this Ordinance except upon a sworn application filed with the Council containing a full and complete showing of the following:

(a) Satisfactory proof that the applicant is or will be duly licensed by the State of Louisiana.

(b) Satisfactory proof that the applicant is of good character and reputation among the people of the

Reservation and that the applicant is financially responsible.

(c) The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license.

(d) Agreement by the applicant to accept and abide by all conditions of the tribal license.

(e) Payment of a $250.00 fee, is prescribed by the Council.

(f) Satisfactory proof that neither the applicant nor the applicant's spouse has ever been convicted of a felony.

(g) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Council and has been published at least twice in such local newspaper serving the community that may be affected by the license as the Tribal Chairman or Secretary may authorize. The notice shall state the date, time and place when the application shall be considered by the Council pursuant to Section 104 of this Ordinance.

Sec. 104. Hearing on Application for Tribal Liquor License

All applications for a tribal liquor license shall be considered by the Council in open session at which the applicant, his attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Council, by secret ballot, shall determine whether to grant or deny the application, based on:

(1) Whether the requirements of Section 103 have been met and;

(2) Whether the Council, in its discretion, determines that granting the license is in the best interests of the Tribe.

In the event that the applicant is a member of the Tribal Council, or a member of the immediate family of a Council member, such member shall not vote on the application or participate in the hearings as a Council member.

Sec. 105. Temporary Permits

The Council or their designee may grant a temporary permit for the sale of intoxicating beverages for a period not to exceed three (3) days to any person applying for the same in connection with a tribal or community activity, provided that the conditions prescribed in Sections 106(b), 106(c), 106(d), 106(h), and 106(i) of this Ordinance shall be observed by the permittee. Each permit issued shall specify the types of intoxicating beverages to be sold. Further, a fee of $25.00 will be assessed on temporary permits.

Sec. 106. Conditions of the Tribal License

Any tribal license issued under this Title shall be subject to such reasonable conditions as the Council shall fix, including, but not limited to the following:

(a) The license shall be for a term of one year.

(b) The license shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

(c) The licensed premises shall be subject to patrol by the Tribal Police Department, and such other law enforcement officials as may be authorized under federal or tribal law.

(d) The licensed premises shall be open to inspection by duly authorized tribal officials at all times during the regular business hours.

(e) Subject to the provisions of subsection ''f'' of this section, no intoxicating beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on the licensed premises except in conformity with the hours and days prescribed by the laws of the State of Louisiana, and in accordance with the hours fixed by the Council, provided that the licensed premises shall not operate or open earlier or operate or close later than is permitted by the laws of the State of Louisiana.

(f) No liquor shall be sold within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Tribe, and including special days of observance as designated by the Council.

(g) All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State of Louisiana, and shall be in accordance with this Ordinance and any tribal license issued pursuant to this Ordinance.

(h) No person under the age permitted under the law of the State of Louisiana shall be sold, served, delivered, given or allowed to consume alcoholic beverages in the licensed establishment and/or area.

(i) There shall be no discrimination in the operations under the tribal license by reason of race, color or creed. Provided, that the Council shall not grant to the licensee, by way of a condition of the license, or otherwise, any privilege or benefit relating to the hours and days of operation of the licensed premises, greater than those permitted by the laws of the State of Louisiana.

Sec. 107. License Not a Property Right

Notwithstanding any other provision of this Ordinance, a tribal liquor license is a mere permit for a fixed duration of time. A tribal license shall not be deemed a property right or vested right of any kind, nor shall the granting of a tribal liquor license give rise to a presumptive or legal entitlement to the granting of such license for a subsequent time period.

Sec. 108. Assignment or Transfer

No tribal license issued under this Ordinance shall be assigned or transferred without the written approval of the Council expressed by formal resolution.

Sec. 109. Cancellation and Suspension

Any license issued hereunder may be suspended or cancelled by the Council for the breach of any of the provisions of this Ordinance, or of the tribal license upon hearing before the Council after 10 days notice to the licensee. The decision of the Council shall be final.

Sec. 110. Allocation of Fees

Any and all License and/or Permit fees collected pursuant to Chapter 1 shall be utilized for public works.

Sec. 111. Limitation of Liability for Loss Connected With Sale, Serving, or Furnishing of Alcoholic Beverages

Neither the Tribe nor any person or entity, nor any agent, servant, or employee of such a person or entity who, on the Reservation, pursuant to appropriate licensure, sells or serves intoxicating beverages of either high or low alcoholic content to a person over the age for the lawful purchase thereof, shall be liable to such person or to any other person or to the estate, successors, or survivors of either for any injury suffered on or off the premises, including wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were sold or served.

Dated: August 29, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–23732 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–97–1220–00]

Emergency Closure of Public Road in Beaverhead County, Montana

AGENCY: Butte District Office, Bureau of Land Management, DOT.

ACTION: Notice of emergency closure of a public road segment in Beaverhead County, Montana.

SUMMARY: Notice is hereby given that effective immediately a segment of the Sawlog Gulch road beginning at the west side of the Big Hole River ford and then proceeding south up Sawlog Gulch for about ¾ miles to the Forest Service boundary will be closed during wet and high runoff periods of the year. This closure is made under the authority of 43 CFR 8364.1.

Signs will be posted at both extremities of the road informing the public when the road closure is in effect. This closure when in effect will apply to all motorized vehicles.

The purpose of this emergency closure is to minimize public safety concerns associated with crossing the Big Hole River during high water levels; reduce road maintenance costs; and, prevent soil erosion and water quality deterioration due to inadequate drainage conditions along the roadbed.

DATES: This closure will be effective immediately and shall remain in effect pending periods of improved weather conditions, until further notice.

ADDRESSES: Copies of this closure order and maps showing the location of the road segment are available at the Headwaters Resource Area Office, 106 N. Parkmont, Butte, MT 59702.

FOR FURTHER INFORMATION CONTACT:

Merle Good, Headwaters Resource Area Manager, at 406–494–5059.

Dated: August 28, 1997.

James R. Owings,

District Manager.

[FR Doc. 97–23746 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1992–02]

Notice of Availability for the Olinghouse Mine Project Draft Environmental Impact Statement and Notice of Comment Period and Public Open-Houses

AGENCY: Bureau of Land Management, Department of the Interior.

COOPERATING AGENCIES: U.S. Fish & Wildlife Service, U.S. Army Corps of Engineers, U.S. Bureau of Indian Affairs, Washoe County, Pyramid Lake Paiute Tribe, Lyon County-Town of Fernley.

ACTION: Notice of availability for the Olinghouse Mine Project Draft Environmental Impact Statement (EIS), Washoe County, Nevada; and Notice of Comment Period and Public Open-Houses.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act, 40 CFR parts 1500–1508, and 43 CFR part 3809, notice is given that the Bureau of Land Management (BLM) has prepared, with the assistance of a third-party consultant, a Draft EIS on the proposed Olinghouse Mine Project, and has made copies available for public and agency review.

DATES: Written comments on the Draft EIS must be submitted or postmarked to the BLM no later than November 14, 1997. Oral and/or written comments may also be presented at two public open-houses, to be held:

October 20, 1997, 5:00–8:00 p.m.,
Washoe Co. Commissioners Chambers—Reno, NV

October 21, 1997 5:00–8:00 p.m.,
Fernley Town Complex—Fernley, NV

ADDRESSES: Written comments on the Draft EIS should be addressed to: Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, Attn.: Terri Knutson, Olinghouse Mine EIS Project Manager. A limited number of copies of the Draft EIS and supporting documentation may be obtained at the same address.

FOR FURTHER INFORMATION CONTACT: Terri Knutson, Olinghouse Mine EIS Project Manager, Bureau of Land Management, 5665 Morgan Mill Road, Carson City, NV 89701, (702) 885–6156.

SUPPLEMENTARY INFORMATION: Alta Gold Company has submitted a Plan of Operations for the development of the Olinghouse Mine located approximately 6 miles west of Wadsworth, NV and 33 miles east of Reno, NV. The proposed operation includes: development and condemnation drilling necessary for development of future operations; development of two open-pits and a waste rock disposal area; construction of a heap leach pad and plant for ore processing; construction of a haul road and other mine facilities. The proposal would disturb a total of 503 acres of public and private land.

This Draft EIS analyzes the environmental impacts associated with the proposed development of the Olinghouse Mine, an alternate access alternative, and the no action alternative. Issues analyzed in the Draft EIS include geology and minerals, water resources, soils, vegetation, wildlife and fisheries, range resources, paleontological resources, cultural resources and Native American concerns, air quality, access and land use, recreation and wilderness, social and economic values, visual resources, noise, and hazardous materials.

A copy of the Draft EIS has been sent to all individuals, agencies, and groups who have expressed interest in the project or as mandated by regulation or policy. A limited number of copies are available upon request from the BLM at the address listed above.

Public participation has occurred during the EIS process. A Notice of Intent was filed in the **Federal Register** on June 13, 1996, and an open scoping period was held until August 23, 1996. Two public scoping open-houses to solicit comments and ideas were held on July 3, 1996 in Reno, NV and August 8, 1996 in Fernley, NV. All comments presented to the BLM throughout the EIS process have been considered.

To assist the BLM in identifying and considering issues and concerns on the proposed action and alternatives, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters in the document. Comments may address the adequacy of the Draft EIS and/or the merits of the alternatives formulated and discussed in the document. Reviewers may wish to refer to the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. After the comment period ends on the Draft EIS, comments will be analyzed and considered by the BLM in preparing the Final EIS.

Dated: August 29, 1997.

John O. Singlaub,

District Manager.

[FR Doc. 97–23751 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–985–0777–66]

Supplementary Rule Requiring the Use of Certified Noxious Weed-Free Forage on Public Lands in the Bighorn Basin, Wyoming and the Availability of the Environmental Assessment, Decision Record, and Finding of No Significant Impact for Implementation of Requirements for Weed-Free Forage on Public Lands in the Bureau of Land Management's Worland District, Wyoming: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This document contains corrections relating to the decision record for environmental assessment (EA) WY–018–EA7–131, ''Supplementary Rule Requiring the Use of Certified Noxious Weed-Free Forage on Public Lands in the Bighorn Basin, Wyoming'' which was published on Friday, August 15, 1997 (62 FR 43745–43746). The effective dates for implementation of the decision is corrected and procedures for filing an appeal are added.

EFFECTIVE DATES: On page 43745 of the **Federal Register** (Vol. 62, No. 158, August 15, 1997) the effective date was listed as September 1, 1997. This should be changed to read: The rule will become effective October 9, 1997 and will remain in effect until modified or rescinded by the Authorized Officer.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Worland District Office, Roger Inman, Resource Advisor, P.O. Box 119, 101 South 23rd Street, Worland Wyoming 82401–0119, or telephone (307) 347–5292.

SUPPLEMENTARY INFORMATION:

Background:

The District Manager of the Bureau of Land Management's (BLM's) Worland District has issued a decision record that the EA's proposed action and supplemental rule will not have any significant impact on the human environment and that an environmental impact statement is not required. Therefore, the District Manager is requiring that all public land users, including permittees and local, state, or federal government agents conducting administrative activities, use certified noxious weed-free forage on BLM-administered public lands in the Worland District, Wyoming. In addition to certified weed-free forage, the use of any pelletized feeds and grain products is still allowed.

Correction: The following should be added to the **SUPPLEMENTARY INFORMATION** section on page 43746 **Federal Register** Vol. 62, No. 158, August 15, 1997)

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842–1, ''Information on Taking Appeals to the Board of Land Appeals.'' Form 1842–1 may be obtained at any BLM office. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993)) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Dated: August 29, 1997.

Darrell Barnes,

District Manager.

[FR Doc. 97–23749 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(UT–930–07–1320–00)

Notice of Public Hearing and Call for Public Comment on Fair Market Value and Maximum Economic Recovery; Coal Lease Application UTU–74804

AGENCY: Bureau of Land Management, Utah

SUMMARY: The Bureau of Land Management (BLM) announces a public hearing on the Environmental Assessment (EA) for a proposed coal lease sale and requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale. The lands included in coal lease application UTU–74804 are located in Carbon County, Utah, approximately 15 miles northwest of Price, Utah on public land and are described as follows:

T. 13 S., R. 8 E., SLM
Section 6: SE¼SW¼, S½SE¼, NW¼SE¼;
Section 7: Lots 1–3, E½, E½W½;
Section 8: NW¼NW¼, S½NW¼, SW¼NE¼, N½SW¼, W½SE¼ SW¼SW¼;
Section 17:N½NW¼, SW¼NE¼;
Section 18: NE¼NE¼.
Containing 1,288.49 acres.

Two potentially minable coal beds, the Castlegate ''A'' and Hiawatha seams are found in this tract. Because of rock splits in the Castlegate ''A'' bed, essentially all of the potential reserves are in the Hiawatha bed. The minable portions of the seams in this area are from 7 to 8.5 feet in thickness. This tract contains an estimated 6–7 million tons of recoverable high-volatile B bituminous coal. The range of coal quality in the seams on an as received basis is as follows: 11,800–12,000 BTU/lb., 0.4–0.5 percent sulfur, 6–7 percent ash. The public is invited to the hearing to make public or written comments on the EA concerning the proposal to lease the Beaver Creek Tract, and also to submit comments on the fair market value (FMV) and the maximum economic recovery (MER) of the tract.

SUPPLEMENTARY INFORMATION: In accordance with Federal coal management regulations 43 CFR part 4322 and 4325, a public hearing shall be held on the proposed sale to allow public comment on and discussion of the potential effects of mining and proposed lease. Not less than 30 days prior to the publication of the notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Utah State Office during regular business hours (8:00 a.m. to 4:00

p.m.) Monday through Friday. Comments on fair market value and maximum economic recovery should be sent to the Bureau of Land Management and should address, but not necessarily be limited to, the following information:

1. The quality and quantity of the coal resource.
2. The mining method or methods which would achieve maximum economic recovery of the coal, including specifications of seams to be mined and the most desirable timing and rate of production.
3. The quantity of coal.
4. If this tract is likely to be mined as part of an existing mine and therefore be evaluated on a realistic incremental basis, in relation to the existing mine to which it has the greatest value.
5. If this tract should be evaluated as part of a potential larger mining unit and evaluated as a portion of a new potential mine (i.e., a tract which does not in itself form a logical mining unit).
6. The configuration of any larger mining unit of which the tract may be a part.
7. Restrictions to mining which may affect coal recovery.
8. The price that the mined coal would bring when sold.
9. Costs, including mining and reclamation, of producing the coal and the time of production.
10. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given.
11. Depreciation and other tax accounting factors.
12. The value of any surface estate where held privately.
13. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area.
14. Any comparable sales data of similar coal lands.

Coal quantities and the FMV of the coal developed by BLM may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

DATES: The public hearing will be held at the BLM Price Office Conference Room, 125 South 600 West, Price Utah, at 7:00 p.m. on October 9, 1997. Comments on fair market value and maximum economic recovery must be received at the Bureau of Land Management, Utah State Office, by October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Max Nielson, 801–539–4038, Bureau of Land Management, Utah State Office, Division of Natural Resources, P.O. Box 45155, Salt Lake City, Utah, 84145–0155. Copies of the Willow Creek EA may be obtained by contacting Dick Manus at the Price BLM Office at 801–636–3600.

Dated: September 3, 1997.

Douglas M. Koza,

DSD, Natural Resources, Utah.

[FR Doc. 97–23772 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

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 August 30, 1997. 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 September 24, 1997.

Carol D. Shull,

Keeper of the National Register.

ALABAMA

Calhoun County

Henry, Charles B., Barn, 0.5 mi. W of AL 21, S of Branscomb Dr. and N of Henry Rd., Jacksonville vicinity, 97001168

Etowah County

Gadsden Downtown Historic District, Along Broad St., roughly bounded by Locust, 3rd, S. 5th, Chestnut, and 7th Sts., Gadsden, 97001165

Lauderdale County

Forks of Cypress, Jackson Rd., roughly 1.5 mi. NW of jct of Cox Creek Pkwy and Jackson Rd., Florence vicinity, 97001166

Limestone County

Athens Courthouse Square Commercial Historic District, Roughly bounded by Clinton, Hobbs, Madison, and Green Sts., Athens, 97001164

Marshall County

Whitman, Edward Fenns, House, 200 Thomas Ave., Boaz, 97001163

COLORADO

Denver County

Emerson School, 1420 Ogden St., Denver, 97001169
Oriental Theater, 4329–39 W. 44th Ave., Denver, 97001167

FLORIDA

Broward County

St. Anthony School, 820 NE. 3rd St., Fort Lauderdale, 97001171

Hendry County

Clewiston Historic Schools, 325 E. Circle Dr. and 475 E. Osceola Ave., Clewiston, 97001172

Sarasota County

Schueler, George, House, 76 S. Washington Dr., Sarasota, 97001170

ILLINOIS

Pulaski County

Mound City National Cemetery (Civil War National Cemeteries MPS), Jct. of IL 37 and US 51, Mound City, 97001174

INDIANA

Elkhart County

Elkhart Downtown Commercial Historic District, Roughly along Main St., roughly bounded by E. Jackson, and Second Sts., Waterfall Dr., and Tyler Ave., Elkhart, 97001178

Lawrence County

Mitchell Downtown Historic District, Roughly bounded by Tenth, Oak, Fifth, and N. Mississippi Sts., Mitchell, 97001175

Madison County

Tower Hotel, 1109 Jackson St., Anderson, 97001180

Marion County

Corbin, Roy and Iris, Lustron House, 1728 N. Leland Ave., Indianapolis, 97001173
Washington Street—Monument Circle Historic District, Roughly bounded by Delaware, Ohio, Capitol, and W. Maryland Sts., Indianapolis, 97001179

Vigo County

Greenwood Elementary School, 145 E. Voorhees Ave., Terre Haute, 97001177

Washington County

Salem Downtown Historic District, Roughly bounded by Mulberry, Hackberry, and Hayes Sts., CSX RR tracks, and Brock Cr., Salem, 97001181

LOUISIANA

Rapides Parish

McNutt School, 720 Millrace Rd., Boyce vicinity, 97001182

MARYLAND

Allegany County

Cumberland YMCA, 205 Baltimore Ave., Cumberland, 97001184

Washington County

Hoffman Farm, 18651 Keedysville Rd., Keedysville vicinity, 97001183

SOUTH CAROLINA

Charleston County

Hampton Park Terrace Historic District, Roughly bounded by Hagood, and Rutledge

Aves., and Moltrie, and Congress Sts., Charleston, 97001186

Pickens County

Hagood—Mauldin House, 104 N. Lewis St., Pickens, 97001185

TEXAS

Dallas County

Stanard—Tilton Flour Mill, 2400 S. Ervay St., Dallas, 97001187

[FR Doc. 97–23773 Filed 9–8–97; 8:45 am]

BILLING CODE 4310–70–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Fire protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; Notice of open meeting.

SUMMARY: The Occupational Safety and Health Administration announces a meeting of the Negotiated Rulemaking Advisory Committee for Fire Protection for Shipyard Employment. OSHA invites all interested persons to attend. The members represent groups interested in, or significantly affected by, the outcome of the rulemaking: They come from shipyards, labor unions, professional associations, and government agencies. The committee will continue its discussions on scope and application, administrative, engineering, and work practice controls, fire brigades, written fire plans, technological advances, costs of fire protection, and the content of appendices for a proposed standard to protect workers from hazards in shipyard employment. The committee's goal is to recommend to the Assistant Secretary a safety standard and explanatory preamble that the members support.

DATES: The meeting dates are Tuesday, October 7, 1997 through Thursday, October 9, 1997 from 9:00 a.m. to about 5:00 p.m. daily. Submit comments, requests for oral presentation, and requests for disability accommodations by September 19, 1997.

ADDRESSES: The meeting will take place at Walker Boat Yard, Inc., 4040 Clarks River Road, Paducah, KY 42002–1400, telephone (502) 444–4040. Mail comments and requests for oral presentations to Ms. Odet Shaw, U.S. Department of Labor, OSHA Office of Maritime Standards, 200 Constitution Avenue, NW, Room N–3647, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Joseph V. Daddura, Project Officer, Office of Maritime Standards, OSHA (202–219–7234 ext. 123). For disability accommodations contact Theda Kenney (202–219–8061 ext. 100; FAX 202–219–7477).

SUPPLEMENTARY INFORMATION:

Meeting Agenda. The Committee will focus its discussion on fire brigades and current rules.

Public Participation. Interested persons may send written comments, data, views or statements for consideration by the Fire Protection for Shipyard Employment Negotiated Rulemaking Committee to Odet Shaw. Interested persons may also submit requests for presentations by providing to Ms. Shaw a summary of the proposed presentation, an estimate of the time desired, and a statement of the interest that the person represents.

Authority: OSHA prepared this document pursuant to Section 3 of the Negotiated Rulemaking Act of 1990 (104 Stat. 4969; Title 5 U.S.C. 561 et seq.) and Section 7(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1597; Title 29 U.S.C. 656).

Signed at Washington, DC, this 3rd day of September 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–23846 Filed 9–8–97; 8:45 am]

BILLING CODE 4510–26–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on September 20, 1997. The meeting will begin at 8:30 a.m. and continue until conclusion of the Board's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE.—10th Floor, Washington, DC 20002.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provision of the Government in the Sunshine Act [5 U.S.C. 552b(c)(10)] and the corresponding regulation of the Legal Services Corporation [45 CFR § 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of minutes of the Board's meeting of July 14, 1997.
3. Approval of minutes of the Board's executive session meeting of July 14, 1997.
4. Approval of minutes of the July 13, 1997, meeting of the Ad Hoc Committee on Grievances.
5. Chairman's and Members' Reports.
6. President's Report.
7. Inspector General's Report.
8. Consider and act on the report of the Board's Operations and Regulations Committee.
9. Consider and act on the report of the Board's Finance Committee.
10. Report on the development of a strategic planning process.

Closed Session

11. Briefing [1] by the Inspector General on the activities of the OIG.
12. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.

Open Session

13. Public comment.
14. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Jean Edwards at (202) 336–8811.

Dated: September 5, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–23965 Filed 9–5–97; 12:34 pm]

BILLING CODE 7050–01–P

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR § 1622.2 & 1622.3.

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Operations and Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation's Board of Directors will meet on September 19, 1997. The meeting will begin at 9:30 a.m. and continue until the committee concludes its agenda.

LOCATION: Legal Services Corporation, 750 First Street NE.—10th Floor, Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of minutes of the committee's meeting of July 13, 1997.
3. Consider and act on proposed rule, to be codified at 45 CFR Part 1643, restricting LSC grantees' involvement in assisted suicide, euthanasia, and mercy killing.
4. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Jean Edwards at (202) 336–8811.

Dated: September 5 , 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–23966 Filed 9–5–97; 12:33 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation's Board of Directors will meet on September 19, 1997. The meeting will begin at 9:30 a.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE.—10th Floor, Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of the minutes of the committee's meeting of July 13, 1997.
3. Review of Corporation's FY '97 budget and expenses through July 31, 1997.
4. Review projected expenses for the remainder of FY '97 and act on the Corporation President's and Inspector General's recommendations for:
   a. Internal budgetary adjustments.
   b. Consolidated Operating Budget (''COB'') reallocations.
5. Consider and act on temporary COB for FY '98.
6. Consider and act on an LSC budget mark for FY '99.
7. Consider and act on other business.
8. Public comment.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Jean Edwards at (202) 336–8811.

Dated: September 5, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–23967 Filed 9–5–97; 12:38 pm]

BILLING CODE 7050–01–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sunshine Act Meeting

TIME, DATE, AND PLACE: October 29, 1997, 10:30 a.m.—3:30 p.m. The Westin, 1400 M Street, NW., Washington, DC.

MATTERS TO BE DISCUSSED: NCLIS Business Meeting.

Portion Closed to the Public:

October 28, 1997, 9:00 a.m.—4:45 p.m.

October 29, 1997, 9:00 a.m.—10:30 a.m.

To discuss staff support.

To request further information or to make special arrangements for physically challenged persons, contact Barbara Whiteleather (202–606–9200) no later than one week in advance of the meeting.

Dated: September 3, 1997.

Jane Williams,

Acting Executive Director.

[FR Doc. 97–23992 Filed 9–5–97; 2:39 pm]

BILLING CODE 7527–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME: 9:30 a.m., Tuesday, September 16, 1997.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE DISCUSSED:

6743A—Marine Accident Report: Fire On Board the Panamanian Passenger Ship UNIVERSE EXPLORER, in Lynn Canal Near Juneau, Alaska, July 27, 1996.

6873—Aviation Briefs of Accidents; 1996 Files:

No. 749—Bethalto, Illinois, 06/19/96

No. 6001—Miami, Florida, 01/23/96

News Media Contact: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 314–6065.

Dated: September 5, 1997.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 97–23964 Filed 9–5–97; 12:05 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Northern States Power Company; Monticello Nuclear Generating Plant, Environmental Assessment and Finding of No Significant Impact

[Docket No. 50–263]

The U.S. Nuclear Regulatory Commission (the Commission) is considering granting an exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.c, to Northern States Power Company, (the licensee), in connection with the operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota, under Facility Operating License No. DPR–22.

Environmental Assessment

Identification of the Proposed Action

By letter dated August 18, 1997, the licensee requested an exemption to Title 10, Code of Federal Regulations, Part 50, Appendix E, Section IV.F.2.c. The proposed exemption would allow the licensee to exercise only the onsite portion of the Monticello Nuclear Generating Plant's emergency preparedness plans during the scheduled 1997 biennial exercise. The licensee requested the exemption

because the State and local counties within the emergency planning zone have requested relief from the Federal Emergency Management Agency (FEMA) from participation in the offsite portion of the scheduled 1997 exercise due to hardships caused by recent natural disasters.

The Need for the Proposed Action

The proposed action is deemed necessary since the requirement for the State and local counties to participate in the offsite portion of the exercise is beyond the licensee's control. The licensee requested this one-time exemption in support of the State of Minnesota's request for relief from FEMA requirements in 10 CFR Part 44 to biennially exercise offsite emergency plans. The State and local counties requested relief from FEMA requirements (in accordance with Section 350.9.c of 10 CFR Part 44) due to the hardships caused by recent natural disasters. In a letter dated August 12, 1997, to FEMA Region V, the State of Minnesota provided the specific justifications for its relief request.

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans that meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.2.c of Appendix E requires that offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the plan. The NRC may, however, grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances.

Environmental Impacts of the Proposed Action

The proposed action involves administrative activities unrelated to plant operation. The proposed action will not increase the types or amounts of effluents that may be released offsite, nor increase occupational or offsite radiation exposure. The proposed action will not increase the probability or consequences of accidents. Therefore, the Commission concludes that there are no radiological environmental impacts associated with the proposed action. The proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact. Accordingly, the Commission concludes that there are no nonradiological environmental impacts associated with the proposed action. The Commission concludes that granting this one-time exemption would not result in any significant environmental impact.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Monticello Nuclear Generating Plant dated November 22, 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on September 3, 1997, the staff consulted with the Minnesota State official, Mr. Michael McCarthy of the Department of Public Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding Of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 18, 1997, 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 Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 3rd day of September 1997.

For The Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–23822 Filed 9–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–395]

South Carolina Electric and Gas Company (Virgil C. Summer Nuclear Station, Unit No. 1); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. NPF–12, issued to South Carolina Electric and Gas Company (the licensee), for operation of the Virgil C. Summer Nuclear Station, Unit No. 1, located in Fairfield County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which requires a monitoring system that will energize clear audible alarms if accidental criticality occurs in each area in which special nuclear material (SNM) is handled, used, or stored. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed SNM is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for exemption dated July 17, 1997, as supplemented August 6, 1997.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of SNM, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant, the

inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The SNM that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of SNM that is stored on site in any given location is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and features designed to prevent inadvertent criticality, the staff has determined that it is extremely unlikely that an inadvertent criticality could occur due to the handling of SNM at a commercial power reactor. The requirements of 10 CFR 70.24, therefore, are not necessary to ensure the safety of personnel during the handling of SNM at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will likely be precluded through compliance with the Virgil C. Summer Nuclear Station, Unit 1, Technical Specifications (TS), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TS requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50, ''General Design Criteria for Nuclear Power Plants,'' Criterion 62, requires that criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically safe configurations. This is met at Virgil C. Summer Nuclear Station, Unit 1, as identified in the TS. The Virgil C. Summer Nuclear Station, Unit 1, TS Section 5.6.1.2 states that the new fuel storage racks are designed for dry storage of fuel assemblies having a U–235 enrichment less than or equal to 5.0 weight percent, while maintaining a k-effective of less than or equal to 0.95 if flooded with unborated water and less than or equal to 0.98 for low density optimum moderation conditions. FSAR Section 9.1.1.1, New Fuel Storage, specifies that the fuel racks are designed to provide sufficient spacing between fuel assemblies to maintain a subcritical array assuming the most reactive condition, and under all design loadings including the safe shutdown earthquake. FSAR Section 9.1.1.3 also specifies that the new fuel racks are designed to preclude the insertion of a new fuel assembly between cavities.

The proposed exemption would not result in any significant radiological impacts. The proposed exemption would not affect radiological plant effluent nor cause any significant occupational exposures since the TS design controls (including geometric spacing of fuel assembly storage spaces) and administrative controls designed to preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed exemption.

The proposed exemption does not result in any significant nonradiological environmental impacts. The proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed exemption, the staff considered denial of the requested exemption. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Virgil C. Summer Nuclear Station, Unit No. 1,'' dated January 1973, and ''Final Environmental Statement Related to the Operation of the Virgil C. Summer Nuclear Station, Unit 1,'' dated May 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on August 26, 1997, the staff consulted with the South Carolina State official, Mr. Virgil Autry of the Bureau of Solid and Hazardous Waste Management, Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 17, 1997, and supplemental letter dated August 6, 1997, which are 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 Fairfield County Library, 300 Washington Street, Winnsboro, SC.

Dated at Rockville, Maryland, this 26th day of August 1997.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–23984 Filed 9–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of September 8, 15, 22, and 29, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of September 8

There are no meetings scheduled for the week of September 8.

Week of September 15—Tenative

Wednesday, September 17

9:00 a.m. Briefing by DOE on Strategy for MOX Fuel Fabrication and Irradiation Services (PUBLIC MEETING) (Contact: Ted Sherr, 301–415–7218)

10:30 a.m. Affirmation Session (PUBLIC MEETING) (if needed)

Friday, September 19

10:00 a.m. Briefing on Improvements in Senior Management Assessment Process for Operating Reactors

(PUBLIC MEETING) (Contact: Bill Borchardt, 301–415–1257)

1:30 p.m. Briefing by DOE and NRC on Regulatory Oversight of DOE Nuclear Facilities (Public Meeting) (Contact: John Austin, 301–415–7275)

Week of September 22—Tentative

There are no meetings scheduled for the week of September 22.

Week of September 29—Tentative

There are no meetings scheduled for the week of September 29.

THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers: if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary. Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: September 5, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–23993 Filed 9–5–97; 3:00 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a Petition dated March 11, 1997, filed by Ms. Rosemary Bassilakis pursuant to Title 10 of the *Code of Federal Regulations* Section 2.206 (10 CFR 2.206) on behalf of the Citizens Awareness Network and the Nuclear Information and Resource Service (Petitioners). The petition requests that, on the basis of the repeated failures of the radiation protection program at the plant, the NRC (1) commence enforcement action against the Connecticut Yankee Atomic Power Company (CY) by means of a large civil penalty to ensure compliance with safety-based radiological control routines, (2) modify CY's license for the Haddam Neck plant pursuant to 10 CFR 2.202 to prohibit any decommissioning activity, which would include decontamination or dismantling, until CY manages to conduct routine maintenance at the facility without any contamination events for at least 6 months, and (3) place the Haddam Neck plant on the NRC Watch List.

The Director, Office of Nuclear Reactor Regulation, has determined that the Petition should be deferred in part and denied in part for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–97–19), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC, and at the Local Public Document Room for the Haddam Neck Plant at the Russell Library, 123 Broad Street, Middletown, Connecticut.

A copy of this decision has been filed with the Secretary of the Commission for the Commission's review. As provided by 10 CFR 2.206(c), this decision will become final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 3rd day of September 1997.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Nuclear Regulatory Commission

[Docket No. 50–213 (10 CFR 2.206)]

In the Matter of Connecticut Yankee Atomic Power Company, (Haddam Neck Plant)

Partial Director's Decision Under 10 CFR 2.206

I. Introduction

On March 11, 1997, Ms. Rosemary Bassilakis submitted a petition pursuant to Title 10 of the *Code of Federal Regulations* Section 2.206 (10 CFR 2.206) on behalf of the Citizens Awareness Network and the Nuclear Information and Resource Service (Petitioners) requesting that the NRC (1) commence enforcement action against the Connecticut Yankee Atomic Power Company (CY) by means of a large civil penalty to assure compliance with safety-based radiological control routines, (2) modify CY's license for the Haddam Neck plant, pursuant to 10 CFR 2.202, to prohibit any decommissioning activity, which would include decontamination or dismantling, until CY manages to conduct routine maintenance at the facility without any contamination events occurring for at least 6 months, and (3) place the Haddam Neck plant on the NRC Watch List.

In support of their requests, the Petitioners claimed that of particular concern was Northeast Utilities' inability to maintain proper radiological controls at the Connecticut Yankee (Haddam Neck) nuclear reactor. The Petitioners quoted an NRC press release describing continuing problems at the Haddam Neck facility, and stated that in their view the facility's management was making empty verbal assurances to the NRC that contamination problems were being properly controlled. The Petitioners also alleged that the NRC Confirmatory Action Letter (CAL) of March 4, 1997, discussing radiological controls at the Haddam Neck plant, is clearly insufficient.

II. Background

The NRC staff shares the Petitioners' concerns regarding the failures of the Haddam Neck radiological controls program and has detailed these concerns in Inspection Reports 50–213/96–12 (December 19, 1996) and 50–213/97–02 (March 21, 1997), and in the aforementioned CAL (discussed in more detail below). In summary, these failures resulted in the unplanned exposure of two individuals, longstanding discrepancies in the calibration of several radiation monitors that are used to monitor and control radiological effluent releases, and the inadequate control of radioactive material that resulted in the undetected release of contaminated equipment to a non-licensed vendor.

In response, the NRC has taken comprehensive and significant actions to resolve its concerns in the area of radiological controls, including the aforementioned CAL, a required licensee response to the findings in Inspection Reports 96–12 and 97–02, a management meeting with the former CY management held at the NRC Region I office, and a second management meeting with the new CY management held on May 28, 1997, in the NRC Region I offices on these same issues. This second management meeting gave NRC regional and headquarters staff an opportunity to meet the new Haddam Neck management and confirm their commitment to resolve the above problems. The meetings were open to

public observation. As indicated by the CAL, another meeting between the Region I Administrator and CY management will be held before any NRC determination that the issues noted in the CAL have been resolved. Meanwhile, under the CAL, the licensee has agreed not to perform any radiological work except that required to maintain the plant in a safe configuration.

The CAL identifies four significant activities to which the licensee has committed to bring its management and implementation of radiation control programs up to a standard acceptable to the NRC, as follows:

(1) Identify, in writing, specific compensatory measures that CY will put in place to ensure sufficient management control and oversight of ongoing or planned activities that require radiological controls.

(2) Hire an independent assessor to assess the quality and performance of the CY radiological control programs and their implementation.

(3) By May 30, 1997, on the basis of the results of the independent assessment, (a) identify problems, determine root causes, and develop broad-based and specific corrective actions; (b) identify performance measures that may be used to determine the effectiveness of radiological control programs; and (c) submit a plan and schedule to the Regional Administrator, NRC Region I, for implementing improvements in the radiological control programs.

(4) Before eliminating any interim compensatory measures (as committed to in the response to Item 1, above), meet with the Region I Administrator to describe program implementation and performance improvements achieved or planned.

With regard to CAL Item 1, above, the licensee has identified and implemented compensatory measures (a) by limiting work in radiologically controlled areas to only work that is considered necessary, (b) requiring specific radiation work permits (RWPs) for more limited ranges of radiological work, and (c) placing additional controls on work requiring a specific RWP. CY also hired an independent assessor, Millennium Services Incorporated, to perform the required assessments, therefore completing CAL Item 2. The licensee has most recently submitted a response in accordance with CAL Item 3, regarding improvements to its radiation protection program.

The primary objective of the licensee's Radiation Protection Improvement Plan is to institute near and long-term permanent improvements to the site Radiation Protection Program by establishing processes to:

- Identify problems, root causes, improvement items/initiatives and associated corrective actions using site programs and processes;
- Establish responsibility for corrective action implementation;
- Prioritize and implement corrective actions using a logic scheme based on potential risk and/or critical facility decommissioning milestones (e.g. reactor coolant system decontamination, major component removal);
- Track, trend and report corrective action implementation using site programs and processes;
- Verify corrective action adequacy and completeness in addressing the initial improvement initiative through monitoring and feedback;
- Verify that completion of one or more identified corrective actions resolves the identified root cause; and
- Document problem resolution, from identification through corrective action closure, using site programs and process.

The licensee has scheduled completion of its Plan to occur by the end of 1997.

A meeting with the Regional Administrator (CAL Item 4) is expected to occur before the end of 1997.

III. Discussion of Petitioners' Requests

The first request was for a large civil penalty to assure compliance with safety-based radiological control routines.

The NRC is currently considering enforcement action in regard to failed radiation program controls at the Haddam Neck plant. Therefore, this request is deferred pending a decision on NRC action in this area.[1] After the NRC resolves these issues, you will be informed through a future Director's Decision.

The Petitioners also requested that the NRC impose a 6-month moratorium on any decommissioning activities at Haddam Neck until the licensee demonstrated its competence in avoiding contamination events while conducting necessary maintenance. This request is denied for the following reasons. Although contamination events may occur in the future, there is no reason to believe, based on previous semiannual environmental reports and annual exposure reports of plant workers, that 10 CFR Part 20 dose limits will be exceeded at the Haddam Neck plant. Additionally, an NRC Senior Resident Inspector is currently on site to monitor and inspect the licensee's day-to-day performance. Furthermore, the CAL addresses the radiation protection program at Haddam Neck by focusing on the needed improvements in the licensee's radiation control program and by ensuring NRC approval before any of the interim measures in Item 1 of the CAL are withdrawn.

The Petitioner's third request was that the NRC place Haddam Neck on the NRC Watch List. As a general policy, an operating plant is placed on the Watch List when a licensee's performance warrants NRC monitoring beyond that normally required by the NRC inspection program. In this case, the Haddam Neck plant is permanently shut down and will not be returning to operation. Additionally, the NRC's inspection program has led to several actions being taken to respond to the deficiencies identified at Haddam Neck. As described above, these actions include the confirmatory action letter, meetings with licensee management to emphasize NRC expectations, a requirement to improve the radiation protection program, and retention of an onsite senior inspector to monitor licensee performance. The NRC believes that, under these circumstances, the actions taken adequately protect public health and safety and that the current inspection program can appropriately monitor licensee performance. Therefore, this request is denied.

III. Decision

For the reasons stated above, the Petition is deferred in part and denied in part. The decision and the documents cited in the decision are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2210 L Street NW., Washington, DC.

In accordance with 10 CFR 2.206(c), a copy of the decision will be filed with the Secretary of the Commission for the Commission's review. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 3rd day of September 1997.

[1] In a letter dated May 12, 1997, the NRC proposed a $650,000 civil penalty against CY (EA–96–001 et al.) for violations found during inspections conducted between November 21, 1995, and November 22, 1996; the licensee paid the civil penalty on June 11, 1997. Although the violations on which this civil penalty were based do not involve radiological controls, the May 12 action clearly demonstrates the NRC's resolve to impose significant civil penalties on a licensee when appropriate.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–23821 Filed 9–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974, As Amended; Revisions to Existing System of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Nuclear Regulatory Commission (NRC) is issuing public notice of its intent to modify an existing system of records (system), NRC–21, ''Payroll Accounting Records—NRC,'' to add four new routine uses and update other sections of the system notice.

EFFECTIVE DATE: The revised system of records will become effective without further notice on October 9, 1997, unless comments received on or before that date cause a contrary decision. If changes are made based on NRC's review of comments received, NRC will publish a new final notice.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Section. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm Federal workdays. Copies of comments may be examined, or copied for a fee, at the NRC Public Document Room at 2120 L Street, NW., Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jona L. Souder, Freedom of Information/ Local Public Document Room Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7170.

SUPPLEMENTARY INFORMATION: The NRC is proposing to amend the system notice for NRC–21, ''Payroll Accounting Records—NRC,'' to add three new routine use disclosures pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Act). NRC will disclose data from NRC–21 to the Office of Child Support Enforcement (OCSE), Administration for Children and Families, Department of Health and Human Services (DHHS) for use in its Federal Parent Locator System (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074, last published in the **Federal Register** on July 25, 1996 (61 FR 38754).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and/or their employers for purposes of establishing paternity and securing support. Effective October 1, 1997, the FPLS will be enlarged to include the National Directory of New Hires, a database containing information on employees commencing employment, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits.

Effective October 1, 1998, the FPLS will be expanded to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified of the participant's current employer. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

The data to be disclosed by NRC to the FPLS includes employees names, social security numbers, home addresses, wage amounts, reporting periods, and employers names and addresses. Names and social security numbers submitted by NRC to the FPLS will be disclosed by the Office of Child Support Enforcement to the Social Security Administration for verification to ensure that the social security number provided is correct.

The data disclosed by NRC to the FPLS will also be disclosed by the Office of Child Support Enforcement to the Secretary of the Treasury for use in verifying claims for the advance payment of the earned income tax credit or to verify a claim of employment on a tax return.

A new routine use permitting disclosures to the National Archives and Records Administration and the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906 is also being added to the system notice at this time.

In addition, NRC is updating the following sections of the system notice: System Location; Authority for Maintenance of the System; Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System; System Manager(s) and Address; Notification Procedure; Record Access Procedure; Contesting Record Procedure; and Record Source Categories.

A report on the proposed revisions to this system of records, required by 5 U.S.C. 552a(r) and the Office of Management and Budget (OMB) Circular No. A–130, Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' is being sent to the Committee on Governmental Affairs of the U.S. Senate, the Committee on Government Reform and Oversight of the U.S. House of Representatives, and OMB.

Accordingly, the NRC proposes to amend NRC–21 in its entirety to read as follows:

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of the Controller, NRC, 11545 Rockville Pike, Rockville, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, special Government Employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, and allowance histories, which includes, but is not limited to, individuals' names and social security numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 104–193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996; 5 U.S.C. 6334 (1994); 31 U.S.C. 716, 1104, 1108, 1114, 3325, 3511, 3512, 3701, 3711, 3717, 3718 (1994); Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which

the record was collected under the following routine uses:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to the Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for review of budget requests;

i. For withholding and reporting of retirement, reemployed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes;

k. For transmittal to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action.

l. For transmittal to the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

m. For transmittal to the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

n. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906;

o. For any of the routine uses specified in the Prefatory Statement of General Routine uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552A(B)(12): Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in computerized form, on microfiche, and in paper copy. Computerized form includes information stored in memory, on disk and magnetic tape, and on computer printouts.

RETRIEVABILITY:

Information is accessed by name and social security number.

SAFEGUARDS:

Records in the primary system of records are maintained in buildings where access is controlled by a security guard force. File folders, microfiche, tapes, and disks, including backup data, are maintained in secured locked rooms after working hours. All records are in areas where access is controlled by keycard and is limited to NRC and contractor personnel and to others who need the information to perform their official duties. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

a. Individual employee pay record for each employee and consultant maintained in the electronic PAY/PERS system is updated as required in accordance with General Records Schedule (GRS) 2–1.a.

b. Individual employee pay records containing pay data on each employee and consultant maintained in the Annual and Quarterly Employee History Records on microfiche are transferred to the National Personnel Records Center and destroyed when 56 years old.

c. Copies of non-current payroll data maintained on microfiche are destroyed 15 years after close of pay year in which generated in accordance with GRS 2–2.

d. Employee and consultant payroll records:

1. U.S. savings bond authorizations are destroyed when superseded or after separation of employee in accordance with GRS 2–14.a.

2. Combined Federal Campaign allotment authorizations are destroyed after Government Accounting Office (GAO) audit or when 3 years old, whichever is sooner, in accordance with GRS 2–15.a.

3. Union dues and savings allotment authorizations are destroyed after GAO audit or when 3 years old, whichever is sooner, in accordance with GRS 2.15.b.

4. Payroll Change Files consisting of records used to change or correct an individual's pay transaction are destroyed after GAO audit or when 3 years old, whichever is sooner, in accordance with GRS 2–23.a.

5. Tax Files consisting of State and Federal withholding tax exemption certificates, such as Internal Revenue Service (IRS) Form W–4 and the equivalent State form are destroyed 4 years after form is superseded or obsolete or upon separation of employee in accordance with GRS 2–13.a.

6. Agency copy of employee wages and tax statements, such as IRS Form W–2 and State equivalents, are destroyed when 4 years old in accordance with GRS 2–13.b.

7. Leave record prepared upon transfer or separation of employee maintained in the Payroll office is destroyed when 3 years old in accordance with GRS 2–9.b.

e. Time and attendance source records maintained by Time and Attendance clerks and certifying officials are destroyed after GAO audit or when 6 years old, whichever is sooner, in accordance with GRS 2.7.

f. Electronic time and attendance input records maintained in the PAY/PERS system are destroyed after GAO audit or when 6 years old, whichever is sooner, in accordance with GRS 2–8.

g. Payroll system reports providing fiscal information on agency payroll consisting of hardcopy and microfiche reports generated by the PAY/PERS system are destroyed when 3 years old, excluding the long-term Employee History Reports, in accordance with GRS 2–22.c.

h. Payroll system reports serving as error reports, ticklers, system operation reports are destroyed when related actions are completed or when no longer needed, not to exceed 2 years, in accordance with GRS 2–22.a.

i. Official notice of levy or garnishment (IRS Form 668A or equivalent), change slip, work papers, correspondence, release and other

forms, and other records relating to charge against retirement funds or attachment of salary for payment of back income taxes or other debts of Federal employees are destroyed 3 years after garnishment is terminated in accordance with GRS 2–18.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Operations Branch, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Chief, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 and comply with NRC's Privacy Act regulations regarding verification of identity contained in 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity and record access procedures contained in 10 CFR part 9.

CONTESTING RECORD PROCEDURE:

Same as ''Notification Procedure'' and comply with NRC's Privacy Act regulations regarding verification of identity and contesting record procedures contained in 10 CFR part 9.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from sources, including but not limited to the individual to whom it pertains, the Office of Human Resources and other NRC officials, and other agencies and entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated at Rockville, MD, this 3rd day of September, 1997.

For the Nuclear Regulatory Commission.

A.J. Galante,

Chief Information Officer.

[FR Doc. 97–23985 Filed 9–8–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment and Request Form OPM–1386B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506–3507), the Office of Personnel Management is submitting to the Office of Management and Budget an emergency request to extend its approval of form OPM–1386B, Applicant Race and National Origin Questionnaire. The form gathers information concerning the race and national origin of applicants for employment under the Outstanding Scholar provision of the Luevano Consent Decree, 93 F.R.D. 68 (1981).

OPM originally published in the **Federal Register** Notices of Intent to continue form OPM–1386B on October 27, 1995, and February 21, 1996. The process for continuation was not completed in time, thus the request for an emergency continuation.

Under the terms of 44 U.S.C. 3507, the public is invited to comment on the need for this information, its practical utility, the accuracy of OPM's burden estimate, and on ways to minimize the reporting burden.

DATES: Comments will be considered if received on or before September 16, 1997.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6F08, Washington, DC 20415, and Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For copies of the form, and further information, contact Christina Gonzales Vay on 202–606–0830, FAX 202–606–2329, or e-mail address CMVAY@OPM.GOV.

SUPPLEMENTARY INFORMATION:

Purpose of Form OPM–1386B

A Federal court decree, issued in 1981 and still binding, requires recordkeeping on Federal employment selection procedures, including race and national origin (RNO) data, to determine the ''relative impact of the procedure upon Blacks and upon Hispanics as compared with non-Hispanic whites.'' OPM and other agencies use form OPM–1386B to collect the RNO data from applicants being considered for selection under the Outstanding Scholar provision of the decree. Using the standardized form makes it easier to collect and consolidate the required data for use by the Federal Government and by the plaintiffs. OPM and agencies do not need to use form OPM–1386B to collect data on applicants being considered through traditional examining processes; court-required data on those applicants are collected as part of an application process not required for Outstanding Scholars.

The form OPM–1386B is not considered in the selection process, but is used only to collect statistical data.

Annual Reporting Burden

Appoximately 100,000 forms will be processed annually. The average estimated response time is 5 minutes for a total public burden of 8,333 hours.

Office of Personnel Management.

Janice R. Lachance,

Deputy Director.

[FR Doc. 97–23891 Filed 9–8–97; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 8, 1997.

A closed meeting will be held on Tuesday, September 9, 1997, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified hat, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 9, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: September 4, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–23951 Filed 9–5–97; 11:10 a.m.]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Central Wisconsin Airport, Mosinee, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Central Wisconsin Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATE: Comments must be received on or before October 9, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James Hansford, Manager of the Central Wisconsin Airport at the following address: Central Wisconsin Airport, 200 CWA Drive, Suite 201, Mosinee, Wisconsin 54455.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Counties of Marathon and Portage under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy M. Nistler, Assistant Manager, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 54450; 612–713–4361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Central Wisconsin Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 25, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Counties of Marathon and Portage was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 12, 1997.

The following is a brief overview of the application.

PFC application number: 97–03–C–00–CWA.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 2012.

Proposed charge expiration date: November 1, 2021.

Total estimated PFC revenue: $3,529,500.

Brief description of proposed project(s): Extend Runway 17 and parallel taxiway by 800′.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On demand air taxi operators with less than 20 seats.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Central Wisconsin Airport.

Issued in Des Plaines, IL, on September 2, 1997.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–23777 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Port Columbus International Airport and Use the Revenue at Port Columbus International and Bolton Field Airports, Columbus, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Port Columbus International and use the revenue at Port Columbus International and Bolton Field Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 9, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry Hedrick, Executive Director of the Columbus Municipal Airport Authority at the following address: Port Columbus International Airport, 4600 International Gateway, Columbus, Ohio 43219.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Columbus Municipal Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary W. Jagiello, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7296. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Port Columbus International and use the revenue at Port Columbus International and Bolton Field Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 14, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Columbus Municipal Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 13, 1997.

The following is a brief overview of the application.

PFC application number: 97–06–C–00–CMH.

Level of the proposed PFC: $3.00.

Current charge effective date: October 1, 1992.

Proposed revised charge expiration date: February 13, 2004.

Total estimated PFC revenue: $42,077,911.

Brief description of proposed projects:

Port Columbus International Projects

North Airfield Improvements, Skycap Baggage Improvements, Chiller Replacement/Purge Equipment, Structure Removal from Runway 28L BRL, Digital Image Acquisition and ID Card Production System, Terminal Gate Alterations/Consolidation, Satellite Landing System, Runway 10R–28L Centerline Improvements, Development and Enhancement Study, Tree Removal, Terminal Exit Door Modifications, Multi-User Flight Information Display System, ARFF Rapid Intervention Vehicle, Terminal Modernization Program, Taxiway ''E'' Lighting, International Gateway/Stelzer Rd., Interchange Justification Study, Terminal Ramp Aircraft Parking Pads, Lane Apron and Connector/Taxiway C–1 Overlay, Terminal Apron Rehabilitation: Planning and Design, International Gateway Improvements, Residential Soundproofing Phases II–IV, Ticket Counter/Baggage Claim Expansion Study, Addendum to 1993 Part 150 NEM and NCP, West Sanitary Pumping Station and 8″ Force Main, Landside Building Program: Scope Definition and Design Standards, Reconfigure Post Office on the Air Operations Area, Terminal Entrance Improvements, Public Address System, Terminal Directional Signage, Signage Standards Manual, Runway Distance Measuring Equipment, RW 10L–28R NAVAIDS, North Airfield T-Hangar Apron, Airport Economic Impact Analysis, Wetland Delineation Study, Signage and Graphics Consulting Services, Airfield Lighting Electric Vault, South Ramp Settlement Study Safety and Security Equipment, Concourse ''B'' Renovations, Relocation of Taxiway ''G'' Lighting, Landside Building Program: Design and Construction, East Sanitary Lift Station Replacement, PFC Application Formulation Expenses, Backflow Prevention Valves Terminal Heating Piping Replacement.

Bolton Field Projects

Airport Layout Plan and Exhibit ''A'', Automated Weather Observation System, Drainage Improvements, Terminal Restrooms/ADA Requirements, Engineering and Consulting Services, RW 4 End Centerline Rehabilitation, Tree Removal. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application at the Columbus Municipal Airport Authority.

Issued in Des Plaines, Ill. on September 2, 1997.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–23778 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97–9]

Notice of Information Collection Approval

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

ACTION: Notice of information collection approval

SUMMARY: This notice announces OMB approval of a request for extension of approval of an information collection, OMB No. 2137–0595, entitled ''Hazardous Materials: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service''. The information collection has been extended until February 28, 1998.

DATES: The expiration date for information collection OMB No. 2137–0595 is February 28, 1998.

ADDRESSES: Requests for a copy of the 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.

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: Office of Management and Budget (OMB) regulations (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(s) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. RSPA published a final rule in the **Federal Register** (62 FR 44038) on August 18, 1997, entitled ''Hazardous Materials: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service''. RSPA has received approval from OMB for the information collection contained in that final rule under OMB No. 2137–0595. The approval expires on February 28, 1998.

RSPA published Notice No. 97–4 (62 FR 44169) on August 19, 1997, requesting comments on this information collection. The comment period on Notice No. 97–4 closes on September 18, 1997. Based on comments received on Notice 97–4, RSPA will submit a request to OMB for extension of the information collection approval until March 1, 1999, which is the expiration date for requirements in the final rule. RSPA will then publish notice of OMB's action in the **Federal Register**.

Issued in Washington, DC, on September 3, 1997.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 97–23780 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence

Seaway Development Corporation (SLSDC), to be held at 10:00 a.m., September 17, 1997, in the Associate Administrator's Conference Room, SLSDC Administration Building, 180 Andrews Street, Massena, New York. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Review of Programs; New Business; and Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than September 12, 1997, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590; 202–366–6823.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on September 4, 1997.

Marc C. Owen,

Advisory Board Liaison.

[FR Doc. 97–23781 Filed 9–8–97; 8:45 am]

BILLING CODE 4910–61–U

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Committee, Notice of Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., of the following meetings to be held from 8 a.m. to 5 p.m. as indicated below:

Subcommittee for	Date	Location
Nephrology	September 25, 1997.	Washington Plaza Hotel.
Metal Health and Behavioral Sciences	September 29–30, 1997.	Holiday Inn Central.
Surgery	October 4, 1997.	Washington Plaza Hotel.
Aging and Clinical Geriatrics	October 6, 1997.	Holiday Inn Central.
Immunology	October 6, 1997.	Holiday Inn Central.
Neurobiology	October 6–7, 1997.	Washington Plaza Hotel.
Hematology	October 7, 1997.	Washington Plaza Hotel.
Respiration	October 9, 1997.	Holiday Inn Central.
Endocrinology	October 9–10, 1997.	Holiday Inn Central.
Alcoholism and Drug Dependence	October 14, 1997.	Holiday Inn Central.
General Medical Science	October 16–17, 1997.	Holiday Inn Central.
Gastroenterology	October 20–21, 1997.	Hotel Washington.
Cardiovascular Studies	October 20–21, 1997.	Hotel Washington.
Oncology	October 23–24, 1997.	Holiday Inn Central.
Infectious Diseases	October 23–24, 1997.	Holiday Inn Central.
Medical Research Service Merit Review Committee	December 4, 1997.	Washington Plaza Hotel.

Holiday Inn Central, 1501 Rhode Island Avenue, NW, Washington, DC 20005
Hotel Washington, 515–15th Street, NW, Washington, DC 20004
Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

These meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Subcommittee meetings will be closed to the public after approximately one hour from the start for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of the meeting involves discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public law 92–463, as amended by Public law 94–409, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c) (6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 275–6634, at least five days prior to each meeting. Minutes of the

meetings and rosters of the members of the Subcommittees may be obtained from this source.

Dated: August 26, 1997.

By Direction of the Secretary-Designate.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–23754 Filed 9–8–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Cooperative Studies Evaluation Committee Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409, that a meeting of the Research and Development Cooperative Studies Evaluation Committee will be held at the Marriott Residence Inn, 550 Army Navy Drive, Arlington, VA 22202, October 8–9, 1997. The session on October 8 is scheduled to begin at 7:30 a.m. and end at 5:15 p.m. and on October 9 from 7:30 a.m. to 1:00 p.m. The meeting will be for the purpose of reviewing one new protocol for multi-hospital clinical trial on prophylaxis of medical patients for thromboembolism and the progress of five on-going cooperative studies on treatment of alcoholic liver fibrosis, betablocker for heart failure, cancer intervention versus observation trial, treatment of unstable angina and evaluation of geriatric cares.

The Committee advises the Chief Research and Development Officer through the Chief of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public from 7:30 a.m. to 8:00 a.m. on both days to discuss the general status of the program. Those who plan to attend should contact Dr. Ping Huang, Coordinator, Medical Research Service Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202–273–8295), prior to October 3, 1997.

The meeting will be closed from 8:00 a.m. to 5:00 p.m. on October 8, 1997, and from 8:00 a.m. to 1:00 p.m., on October 9, 1997, for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5(c) of Public Law 94–409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 26, 1997.

By Direction of the Secretary-Designate.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–23755 Filed 9–8–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 62, No. 174
Tuesday, September 9, 1997

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 78N-036L]

RIN 0910-AA01

Laxative Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Tentative Final Monograph

Correction

In proposed rule document 97–23122, beginning on page 46223, in the issue of Tuesday, September 2, 1997, make the following correction:

§310.545 [Corrected]

On page 46227, in the second column, in §310.545 (d)(29), in the first line, ''September 2, 1997'' should read ''(Date of publication in the **Federal Register**).

BILLING CODE 1505-01-D

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 704, 715, 726, 750, 752

[AIDAR Notice 97–1]

RIN 0412–AA30

Miscellaneous Amendments to Acquisition Regulations

Correction

In rule document 97–18603, beginning on page 40464, in the issue of Tuesday, July 29, 1997, make the following corrections:

1. On page 40464, in the third column, in the fourth line, ''752.255-70'' should read ''752.225-70''.

2. On page 40465, in the third column, in the first line, ''752.7070'' should read ''752.7010''.

3. On page 40467, in the first column, the heading for Part 704 should read as follows:

PART 704—ADMINISTRATIVE MATTERS

4. On page 40467, in the third column, amendatory instruction 31. and the section heading above it are corrected to read as follows:

715.413-2 [Amended]

31. Section 715.413-2 is amended by removing paragraph (c), introductory text; by removing paragraph (2) at the end of the section; and by revising paragraph (b) to read as follows:

715.613-71 [Corrected]

5. On page 40468, in the first column, 715.613-71(c)(2) is corrected to read as follows:

(2) Based upon this preliminary finding, the cognizant technical office shall establish an evaluation panel consisting of a representative of the cognizant technical office as chairman, a representative of the contracting officer, and any other representatives considered appropriate by the chairman to review the proposed activity for its appropriateness under the collaborative assistance method.

726.7007 [Corrected]

6. On page 40468, in the third column, in amendatory instruction 46., in the last line, ''716.7005'' should read ''726.7005''.

750.7110-5 [Corrected]

7. On page 40469, in the third column, in 750.7110-5, in the fifth line, ''approval'' should read ''approved''.

752.225-71 [Corrected]

9. On page 40470, in the second column, in 752.225-71(b), in the fourth line ''238'' should read ''228''.

752.7001 [Corrected]

10. On page 40470, in the third column, in 752.7001, in the clause, in the second line ''and'' should read ''on''.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1878-97; AG Order No. 2112-97]

RIN 1115-AE26

Designation of Montserrat; Under Temporary Protected Status

Correction

In notice document 97–23118, beginning on page 45685, in the issue of Thursday, August 28, 1997, make the following correction:

On page 25686, in the second column, in the 22nd line from the bottom, ''August 28, 1977'' should read ''August 28, 1997''.

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 1, 3, and 9

RIN 2900-AI73

Servicemen's and Veterans' Group Life Insurance

Correction

In rule document 97–17412, beginning on page 35969, in the issue of Thursday, July 3, 1997, make the following corrections:

1. On page 35969, in the third column, in the **SUMMARY** section, in the 14th line, ''Servicemembers'' should read ''Servicemembers' ''.

2. On the same page, in the **SUPPLEMENTARY INFORMATION** section, in the fourth line from the bottom, ''Servicemembers'' should read 'Servicemembers' ''.

PART 1—[CORRECTED]

3. On page 35970, in the first column, in amendatory instruction 2., in the fourth line, ''Servicemembers'' should read ''Servicemembers' ''.

PART 3—[CORRECTED]

4. On the same page, in the same column, in amendatory instruction 4., ''Servicemembers'' should read ''Servicemembers' ''.

PART 9—[CORRECTED]

5. On the same page, in the second column, in the part heading, ''**VETERANS''** ''should read ''**VETERANS'** ''.

6. On the same page, in the same column, in amendatory instruction 8., in the last line, ''Servicemembers'' should read ''Servicemembers' ''.

BILLING CODE 1505-01-D

Federal Register

Tuesday
September 9, 1997

Part II

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Test Procedures for Externally Vented Refrigerators and Refrigerator-Freezers; Final Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

RIN 1904–AA93

Energy Conservation Program for Consumer Products: Test Procedures for Externally Vented Refrigerators and Refrigerator-Freezers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (Department or DOE) today promulgates test procedures for measuring the energy consumption of an externally vented refrigerator and externally vented refrigerator-freezer, a technological innovation which is not covered by the existing test procedures. Today's final rule does not change the test procedures applicable to refrigerator and refrigerator-freezer designs without external venting.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT:

Michael G. Raymond, U.S. Department of Energy, Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., 20585–0121, (202) 586–9611

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0103, (202) 586–9507

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Authority

Part B of Title III of the Energy Policy and Conservation Act of 1975, Public Law 94–163, as amended, established the Energy Conservation Program for Consumer Products other than Automobiles (Program).[1] The products currently subject to this Program (referred to hereafter as ''covered products'') include electric refrigerators and electric refrigerator-freezers.

Under the Act, the Program consists essentially of three parts: testing, labeling, and the Federal energy conservation standards. This final rule concerns the testing aspect of this program. EPCA, § 323, 42 U.S.C. 6293. The purpose of the test procedures is to produce test results that measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use. The test procedures shall not be unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). One hundred and eighty days after a test procedure for a product is adopted, no manufacturer may make representations with respect to energy use, efficiency or water use of such product, or the cost of energy consumed by such product, except as reflected in tests conducted according to the DOE procedure. 42 U.S.C. 6293(c)(2). The Department, with assistance from the National Institute of Standards and Technology, may amend or establish new test procedures, as appropriate, for any covered product.

Test procedures promulgated by DOE appear at 10 CFR Part 430, Subpart B. The ''Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers'' appears at Appendix A1 to Subpart B.

Section 323(e) of the Act requires DOE to determine to what extent, if any, a proposed test procedure would alter the measured energy efficiency, measured energy use or measured water use of any covered product as determined under the existing test procedure. If DOE determines that an amended test procedure would alter the measured efficiency or measured use of a covered product, DOE is required to amend the applicable energy conservation standard accordingly. In determining the amended energy conservation standard, DOE is required to measure the energy efficiency or energy use of a representative sample of covered products that minimally comply with the existing standard. The average energy use of this representative sample, determined under the amended test procedure, constitutes the amended standard. EPCA, § 323(e)(2), 42 U.S.C. 6293(e)(2).

B. Background

On March 14, 1995, Edward Schulak Equities, Inc. (''ESE'') submitted a letter to the Department regarding the inapplicability of existing test procedures in Appendix A1 to externally vented refrigerators. ESE submitted a description of an externally vented refrigerator from a recently granted patent. ESE claimed that allowing cooler outside air to be passed over the condenser/compressor of a refrigerator would reduce energy consumption of the refrigerator. ESE explained that the existing test procedures address only a closed system without the possibility of transfer of exterior air cooler than the ambient room temperature.

While ESE's letter was submitted as a petition for waiver, the Department concluded that its waiver process was not appropriate because waivers apply to ''basic models,'' and no models are currently being manufactured incorporating this invention, nor is the invention being produced for retrofitting. Therefore, the Department published ESE's letter and issued a Notice of Inquiry inviting public comment on several issues relating to externally vented refrigerators. 60 FR 37603, 37604 (July 21, 1995). No public comments were received in response to this Notice of Inquiry.

On November 13, 1995, acting upon the Department's suggestion, ESE submitted a draft of proposed amendments to the test procedures for refrigerators and refrigerator-freezers. The Department referred this submittal to the National Institute of Standards and Technology (NIST). NIST, the Department and ESE representatives extensively discussed the requirements for test procedures for externally vented refrigerators and refrigerator-freezers.

On April 8, 1997, DOE published a Notice of Proposed Rulemaking (NOPR), to amend the test procedures for refrigerators and refrigerator-freezers. 62 FR 16739. DOE proposed to add test procedure amendments specific to externally vented refrigerators and externally vented refrigerator-freezers. The current test procedures for refrigerators and refrigerator-freezers, found at 10 CFR Part 430, Appendix A1 of Subpart B, do not address testing of externally vented refrigerators and refrigerator-freezers. The existing test procedures apply to a refrigerator system to which cool outside air cannot be introduced for purposes of heat transfer. Externally vented refrigerators would be designed to permit outside air to be introduced across the refrigerator's condenser and compressor and, in some cases, throughout the walls of the refrigerator. The introduction of outside air at temperatures lower than the ambient room air temperature permits more efficient heat transfer, potentially resulting in energy savings.

The Department has therefore revised the test procedures to include provisions tailored to measuring the energy consumption of externally vented refrigerators and refrigerator-freezers. These provisions add to, rather

[1] Part B of Title III of Energy Policy and Conservation Act, as amended, is referred to in this final rule as ''EPCA'' or the ''Act'' Part B of Title III is codified at 42 U.S.C. 6291–6309.

than replace, the existing test procedures, which remain fully applicable to both externally vented vented refrigerators and refrigerator-freezers and refrigerators and refrigerator-freezers that are not externally vented. The amendments provide a method for accurately measuring the energy consumption of an enclosed, externally vented refrigerator or refrigerator-freezer unit and take account of design features (e.g., enclosed condenser, outside air conduits, dampers) peculiar to an externally vented refrigerator or refrigerator-freezer that circulates outside air around its condenser. With these amendments, the test procedures provide a basis for making comparable measurements of energy consumption for both externally vented vented refrigerators and refrigerator-freezers and refrigerators and refrigerator-freezers that are not externally vented. More information about these test procedure amendments may be found in the NOPR. 62 FR 16739 (April 8, 1997).

Today's rule amends the test procedures for electric refrigerators and electric refrigerator-freezers appearing in 10 CFR Part 430, Subpart B, Appendix A1 by: (1) adding a definition of externally vented refrigerators and refrigerator-freezers to which the revisions are applicable, (2) prescribing test conditions for externally vented refrigerators and refrigerator-freezers, (3) specifying energy consumption measurement tests for externally vented refrigerators and refrigerator-freezers, and (4) including calculation methods for deriving results from test measurements.

These test procedure amendments apply only to this product design and do not apply to existing product designs of refrigerators and refrigerator-freezers without this feature. Existing test procedures for non-externally vented refrigerators and refrigerator-freezers remain unchanged. The energy conservation standards for refrigerators and refrigerator-freezers are unaffected by the adoption or use of the new test procedures because the new test procedure amendments do not apply to any refrigerator or refrigerator-freezer that is currently manufactured.

II. Discussion

In response to the April 8, 1997, NOPR, the Department received one comment, which was from Mark L. Perlis, counsel to ESE, urging the adoption of the test procedures in the NOPR. The Department believes it is appropriate to proceed to a final rule promulgating the test procedures as proposed. The Department today amends the test procedures applicable to electric refrigerators and electric refrigerator-freezers (10 CFR Part 430, Subpart B, Appendix A1), as follows:

1. Definitions and applicability of amended test procedures. The Department defines ''externally vented refrigerator or refrigerator-freezer'' as a refrigerator or refrigerator-freezer with an enclosed condenser or an enclosed condenser/compressor compartment, and a set of air ducts for transferring exterior air from outside the building envelope into, through, and out of the refrigerator or refrigerator-freezer condenser or condenser/compressor compartment (section 1.12). Energy consumption savings from an externally vented refrigerator or refrigerator-freezer should be achievable for outside air temperatures between 60 °F and 80 °F. Above 80 °F, outside air may be warmer than ambient room air, making heat transfer in the wrong direction for energy savings. Below 60 °F, outside air may too cool for optimal operation of the unit. The amendments to the test procedures are generally predicated upon a design that permits the exclusion and/or mixing of outside air that is either above 80 °F or below 60 °F. (In the case that the mixing control is not able to maintain an inlet temperature of 60 °F, section 5.4.2.4 is invoked, and energy performance with inlet temperatures of 50 °F and 30 °F are measured.) Accordingly, the amendments to the test procedures will apply only under conditions where the externally vented refrigerator or refrigerator-freezer design is capable of mixing the exterior air drawn in from outside the building envelope with the ambient room air. The modification includes thermostatically controlled dampers or controls that: (1) enable the proper mixing of outside and ambient room air when the outside air temperature is lower than 60 °F, and (2) exclude outside air warmer than 80 °F, or warmer than room air temperature (section 1.12). Externally vented units could have temperature controls that exclude outside air either at a pre-set temperature no lower than 80 °F or when the outside air temperature exceeds the ambient room air temperature (section 1.12). The test procedures require that prior to conducting energy consumption tests, the operability of thermostatic controls be verified (section 5.4.1). All tests must generally be conducted with the thermostatic controls operable. A special rule is provided for testing energy consumption when mixing controls do not operate properly (section 5.4.2.4). The energy consumption of any exterior air fan that draws air to the refrigerator cabinet will be included in the total energy consumption measurements specified in section 5.2.1.

2. Exterior air source. The Department recognizes that actual testing should take place under conditions of variable exterior air temperatures and, therefore, requires that prescribed test conditions include the provision of an external air source that provides air at adjustable temperature and pressure capabilities (section 2.6). The test procedures prescribe the location of temperature sensors for measuring the air temperature at the inlet to the condenser/compressor compartment (section 2.6.2). Air temperature will also be measured at the exterior air source. Temperature measurements are to be made at prescribed intervals.

3. Air ducts. Externally vented refrigerators and refrigerator/freezers depend upon air ducts to transfer exterior air to the refrigerator cabinet. Rather than specifying the length, diameter, shape and material of the duct, the Department specifies air pressure requirements as a uniform test condition (section 2.6.3). Specifically, the test procedures require exterior air pressure at the inlet to the refrigerator unit be maintained at a negative pressure of $0.20'' \pm 0.05''$ water column (62 Pa ± 12.5 Pa). The test procedures also specify location distances for the pressure sensors, relative to the exterior air source (i.e., the inlet to the building envelope) and to the condenser inlet.

4. Applicability of general test method conditions. The amendments to the test procedures are not intended to supplant existing test methods applicable to all other refrigerators and refrigerator-freezers. Accordingly, the amendments provide that, except as expressly modified, the test conditions and specifications included in the existing test procedures also apply to externally vented refrigerators and refrigerator-freezers (section 5.4).

5. Energy consumption correction factor for test measurements. The Department prescribes a series of formulas for determining energy consumption from test measurements. First, the Department recognizes that energy consumption of any refrigerator will be different with and without door openings. Under the existing test procedure, refrigerators are tested at 90 °F without door openings to simulate the energy consumption they would have at normal room temperature with door openings. Normal room temperature for the refrigerator test procedure is considered to be 80 °F, the typical temperature of the ambient air

surrounding the refrigerator's condenser. An externally vented refrigerator will show an artificially low energy consumption compared to an unvented refrigerator when tested at 90 °F room air temperature, because 90 °F is warmer than normal room temperature. The Department therefore requires calculation of a correction factor for each basic model of externally vented refrigerator. The correction factor is the ratio of the energy consumption of an externally vented refrigerator (with external venting disabled) at 90 °F inlet air temperature to the energy consumption of the unit at 80 °F inlet air temperature (sections 5.4.2.1 and 6.3.1).

6. Energy consumption test measurements and calculations. Based on analysis by NIST and its derivation of an algebraic equation for determining energy consumption over a range of outside air temperatures, the Department has determined that test measurements of energy consumption need be taken at only two outside air temperatures, 90 °F and 60 °F (sections 5.4.2.2 and 5.4.2.3). If the outside air temperature is not in this range, mixing controls and dampers will keep the condenser inlet temperature within the range. Accordingly, the Department prescribes an energy profile equation that will allow for the interpolation of energy consumption at outside air temperatures within this range (section 6.3.4). The parameters of the energy profile equation are determined for each basic model of externally vented refrigerator that is tested, based on the measured energy consumption during testing at 90 °F and 60 °F.

Once the parameters of the energy profile equation are determined, the test procedures provide a basis for calculating energy consumption at various temperatures. Because temperatures vary across the country, throughout a day, and throughout the year, the test procedures specify an energy consumption formula that determines a unit's total energy consumption based on weighted averaging of the unit's energy consumption at different exterior air temperatures. The test procedures provide weighting factors for a national average energy consumption (section 6.3.6) and weighting factors for four different regions of the country, which are identified on a map. This procedure was based on the test procedure for heat pumps, for which energy savings are also a function of climate. The regional map is the same as that used in the heat pump test procedure, except Regions I and II from the heat pump test procedure are combined and called Region I. Externally vented refrigerators need only be tested at 90 °F and 60 °F, and from such measurements, application of the correction factor, and application of the energy profile equation, the unit's average per cycle energy consumption can be determined for the nation as a whole and for each of the four regions of the country.

7. Reporting requirements. Refrigerators and refrigerator-freezers are required to report annual energy consumption. For externally vented products, the annual energy consumption will depend on climate. The annual energy consumption reported for externally vented products shall be the national average annual energy use. Separate reporting of regional energy use is not required.

III. Review Under the National Environmental Policy Act of 1969

In this rule, the Department promulgates amendments to the test procedures for refrigerators and refrigerator-freezers to include externally vented refrigerators and refrigerator-freezers. The Department has determined that this rule is covered under the Categorical Exclusion found at paragraph A.5 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to the amendment of an existing rule that does not change the environmental effect of the rule. Implementation of this final rule will not affect the quality or distribution of energy usage and therefore will not result in any environmental impacts. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

IV. Regulatory Review

Today's final rule has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

V. Regulatory Flexibility Review

This rule has been reviewed under the Regulatory Flexibility Act, Pub. L. 96–354 (42 U.S.C. 601–612) which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities. This rule would not have significant economic impact on manufacturers of externally vented refrigerators and refrigerator-freezers (there are presently no such manufacturers). This rule modifies the testing methods to provide a testing procedure for a new design feature of refrigerators and refrigerator-freezers. DOE accordingly certifies that this final rule will not have a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

VI. ''Takings'' Assessment Review

It has been determined pursuant to Executive Order 12630 (52 FR 8859, March 18, 1988) that this final rule will not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

VII. Federalism Review

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations or rules be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of Government. If there are sufficient substantial direct effects, the Executive Order 12612 requires the preparation of a Federalism assessment to be used in decisions by senior policy makers in promulgating or implementing the regulation.

This final rule will not alter the distribution of authority and responsibility to regulate in this area. This rule will only revise a currently applicable DOE test procedure to accommodate a technological development in the manufacture of refrigerators and refrigerator-freezers. Accordingly, DOE has determined that preparation of a federalism assessment is unnecessary.

VIII. Paperwork Reduction Act Review

This rule contains no new collections of information under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

IX. Review Under Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') requires that the Department prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The budgetary impact statement must include: (1) identification of the Federal law under which the rule is promulgated; (2) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal

mandate and an analysis of the extent to which such costs to state, local, and tribal governments may be paid with Federal financial assistance; (3) if feasible, estimates of the future compliance costs and of any disproportionate budgetary effects the mandate has on particular regions, communities, non-Federal units of government, or sectors of the economy; (4) if feasible, estimates of the effect on the national economy; and (5) a description of the Department's prior consultation with elected representatives of state, local, and tribal governments and a summary and evaluation of the comments and concerns presented.

The Department has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to state, local or to tribal governments in the aggregate or to the private sector. Therefore, the requirements of Sections 203 and 204 of the Unfunded Mandates Act do not apply to this action.

X. Review Under Executive Order 12988, "Civil Justice Reform"

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by Section 3(a), Section 3(b) of the Executive Order specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provide a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of the Executive Order requires Executive agencies to review regulations in light of applicable standards Section 3(a) and Section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's rulemaking under the standards of Section 3 of the Executive Order and determined that, to the extent permitted by law, they meet the requirements of those standards.

XI. Congressional Notification

Consistent with the Small Business Regulatory Enforcement Act of 1996, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will note the Office of Management and Budget's determination that this rule does not constitute a "major rule" under that Act. 5 U.S.C. 801, 804.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, D.C., on August 1, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, part 430 of chapter II of title 10, Code of Federal Regulations is amended as follows:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309.

2. Section 430.23(a) is amended by adding the parenthetical phrase "(6.3.6 for externally vented units)" after "determined according to 6.2" in the following locations: paragraph (a)(1)(ii); paragraph (a)(2)(ii); paragraph (a)(3)(ii); paragraph (a)(4)(i)(B); paragraph (a)(4)(ii)(B); paragraph (a)(5).

3. Section 430.23(a) is further amended by adding paragraphs (a)(7), (a)(8), and (a)(9) to read as follows:

§ 430.23 Test procedures for measures of energy consumption.

(a) * * *

(7) The estimated regional annual operating cost for externally vented electric refrigerators and externally vented electric refrigerator-freezers without an anti-sweat heater switch shall be the product of the following three factors:

(i) The representative average-use cycle of 365 cycles per year,

(ii) The regional average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 6.3.7 of appendix A1 of this subpart and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(8) The estimated regional annual operating cost for externally vented electric refrigerators and externally vented electric refrigerator-freezers with an anti-sweat heater switch shall be the product of the following three factors:

(i) The representative average-use cycle of 365 cycles per year,

(ii) Half the sum of the average per-cycle energy consumption for the standard cycle and the regional average per-cycle energy consumption for a test cycle with the anti-sweat heater switch in the position set at the factory just prior to shipping, each in kilowatt-hours per cycle, determined according to 6.3.7 of appendix A1 of this subpart, and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(9) The estimated regional annual operating cost for any other specified cycle for externally vented electric refrigerators and externally vented electric refrigerator-freezers shall be the product of the following three factors:

(i) The representative average-use cycle of 365 cycles per year,

(ii) The regional average per-cycle energy consumption for the specified cycle, in kilowatt-hours per cycle, determined according to 6.3.7 of appendix A1 of this subpart, and

(iii) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

* * * * *

4. Section 1 of Appendix A1 to subpart B is amended by adding the following definition 1.12:

Appendix A1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers

1. Definitions

* * * * *

1.12 "Externally vented refrigerator or refrigerator-freezer" means an electric refrigerator or electric refrigerator-freezer that: has an enclosed condenser or an enclosed condenser/compressor compartment and a set of air ducts for transferring the exterior air from outside the building envelope into, through and out of the refrigerator or refrigerator-freezer cabinet; is capable of mixing exterior air with the room air before discharging into, through,

and out of the condenser or condenser/compressor compartment; includes thermostatically controlled dampers or controls that enable the mixing of the exterior and room air at low outdoor temperatures, and the exclusion of exterior air when the outdoor air temperature is above 80 °F or the room air temperature; and may have a thermostatically actuated exterior air fan.

5. Section 2 of Appendix A1 is amended by adding the following new sections 2.6 through 2.6.3:

2. Test Conditions

* * * * *

2.6 Exterior air for externally vented refrigerator or refrigerator-freezer. An exterior air source shall be provided with adjustable temperature and pressure capabilities. The exterior air temperature shall be adjustable from 35±1 °F (1.7±0.6 °C) to 90±1 °F (32.2±0.6 °C).

2.6.1 Air duct. The exterior air shall pass from the exterior air source to the test unit through an insulated air duct.

2.6.2 Air temperature measurement. The air temperature entering the condenser or condenser/compressor compartment shall be maintained to ±3 °F (1.7 °C) during the stabilization and test periods and shall be measured at the inlet point of the condenser or condenser/compressor compartment (''condenser inlet''). Temperature measurements shall be taken from at least three temperature sensors or one sensor per 4 square inches of the air duct cross sectional area, whichever is greater, and shall be averaged. For a unit that has a condenser air fan, a minimum of three temperature sensors at the condenser fan discharge shall be required. Temperature sensors shall be arranged to be at the centers of equally divided cross sectional areas. The exterior air temperature, at its source, shall be measured and maintained to ±1 °F (0.6 °C) during the test period. The temperature measuring devices shall have an error not greater than ±0.5 °F (±0.3 °C). Measurements of the air temperature during the test period shall be taken at regular intervals not to exceed four minutes.

2.6.3 Exterior air static pressure. The exterior air static pressure at the inlet point of the unit shall be adjusted to maintain a negative pressure of 0.20″±0.05″ water column (62 Pa±12.5 Pa) for all air flow rates supplied to the unit. The pressure sensor shall be located on a straight duct with a distance of at least 7.5 times the diameter of the duct upstream and a distance of at least 3 times the diameter of the duct downstream. There shall be four static pressure taps at 90° angles apart. The four pressures shall be averaged by interconnecting the four pressure taps. The air pressure measuring instrument shall have an error not greater than 0.01″ water column (2.5 Pa).

6. Section 5 of Appendix A1 is amended by adding the following new sections 5.4 through 5.4.2.4:

5. Test Measurements

* * * * *

5.4 Externally vented refrigerator or refrigerator-freezer units. All test measurements for the externally vented refrigerator or refrigerator-freezer shall be made in accordance with the requirements of other sections of this appendix, except as modified in this section 5.4 or other sections expressly applicable to externally vented refrigerators or refrigerator-freezers.

5.4.1 Operability of thermostatic and mixing of air controls. Prior to conducting energy consumption tests, the operability of thermostatic controls that permit the mixing of exterior and ambient air when exterior air temperatures are less than 60 °F must be verified. The operability of such controls shall be verified by operating the unit under ambient air temperature of 90 °F and exterior air temperature of 45 °F. If the inlet air entering the condenser or condenser/compressor compartment is maintained at 60 °F, plus or minus three degrees, energy consumption of the unit shall be measured under 5.4.2.2 and 5.4.2.3. If the inlet air entering the condenser or condenser/compressor compartment is not maintained at 60 °F, plus or minus three degrees, energy consumption of the unit shall also be measured under 5.4.2.4.

5.4.2 Energy consumption tests.

5.4.2.1 Correction factor test. To enable calculation of a correction factor, K, two full cycle tests shall be conducted to measure energy consumption of the unit with air mixing controls disabled and the condenser inlet air temperatures set at 90 °F (32.2 °C) and 80 °F (26.7 °C). Both tests shall be conducted with all compartment temperature controls set at the position midway between their warmest and coldest settings and the anti-sweat heater switch off. Record the energy consumptions ec_{90} and $ec_{80,}$ in kWh/day.

5.4.2.2 Energy consumption at 90 °F. The unit shall be tested at 90 °F (32.2 °C) exterior air temperature to record the energy consumptions $(e_{90})_i$ in kWh/day. For a given setting of the anti-sweat heater, i corresponds to each of the two states of the compartment temperature control positions.

5.4.2.3 Energy consumption at 60 °F. The unit shall be tested at 60 °F (26.7 °C) exterior air temperature to record the energy consumptions $(e_{60})_i$ in kWh/day. For a given setting of the anti-sweat heater, i corresponds to each of the two states of the compartment temperature control positions.

5.4.2.4 Energy consumption if mixing controls do not operate properly. If the operability of temperature and mixing controls has not been verified as required under 5.4.1, the unit shall be tested at 50 °F (10.0 °C) and 30 °F (−1.1 °C) exterior air temperatures to record the energy consumptions $(e_{50})_i$ and $(e_{30})_i$. For a given setting of the anti-sweat heater, i corresponds to each of the two states of the compartment temperature control positions.

7. Section 6 of Appendix A1 is amended by adding the following new sections 6.3 through 6.3.7, table A and figure 1:

6. Calculation of Derived Results From Test Measurements

* * * * *

6.3 Externally vented refrigerator or refrigerator-freezers. Per-cycle energy consumption measurements for the externally vented refrigerator or refrigerator-freezer shall be calculated in accordance with the requirements of this Appendix, as modified in sections 6.3.1–6.3.7.

6.3.1 Correction factor. A correction factor, K, shall be calculated as:

$K = ec_{90}/ec_{80}$

where ec_{90} and ec_{80} = the energy consumption test results as determined under 5.4.2.1.

6.3.2 Combining test results of different settings of compartment temperature controls. For a given setting of the anti-sweat heater, follow the calculation procedures of 6.2 to combine the test results for energy consumption of the unit at different temperature control settings for each condenser inlet air temperature tested under 5.4.2.2, 5.4.2.3, and 5.4.2.4, where applicable, $(e_{90})_i$, $(e_{60})_i$, $(e_{50})_i$, and $(e_{30})_i$. The combined values are ε_{90}, ε_{60}, ε_{50}, and ε_{30}, where applicable, in kWh/day.

6.3.3 Energy consumption corrections. For a given setting of the anti-sweat heater, the energy consumptions ε_{90}, ε_{60}, ε_{50}, and ε_{30} calculated in 6.3.2 shall be adjusted by multiplying the correction factor K to obtain the corrected energy consumptions per day, in kWh/day:

$E_{90} = K \times \varepsilon_{90}$,
$E_{60} = K \times \varepsilon_{60}$
$E_{50} = K \times \varepsilon_{50}$, and
$E_{30} = K \times \varepsilon_{30}$

where,

K is determined under section 6.3.1, and ε_{90}, ε_{60}, ε_{50}, and ε_{30} are determined under section 6.3.2.

6.3.4 Energy profile equation. For a given setting of the anti-sweat heater, the energy consumption E_X, in kWh/day, at a specific exterior air temperature between 80 °F (26.7 °C) and 60 °F (26.7 °C) shall be calculated by the following equation:

$E_X = a + bT_X$,

where,

T_X = exterior air temperature in °F;
$a = 3E_{60} - 2E_{90}$, in kWh/day;
$b = (E_{90} - E_{60})/30$, in kWh/day per °F.

6.3.5 Energy consumption at 80 °F (26.7 °C), 75 °F (23.9 °C) and 65 °F (18.3 °C). For a given setting of the anti-sweat heater, calculate the energy consumptions at 80 °F (26.7 °C), 75 °F (23.9 °C) and 65 °F (18.3 °C) exterior air temperatures, E_{80}, E_{75} and E_{65}, respectively, in kWh/day, using the equation in 6.3.4.

6.3.6 National average per cycle energy consumption. For a given setting of the anti-sweat heater, calculate the national average energy consumption, E_N, in kWh/day, using one of the following equations:

$E_N = 0.523 \times E_{60} + 0.165 \times E_{65} + 0.181 \times E_{75} + 0.131 \times E_{80}$, for units not tested under 5.4.2.4,

$E_N = 0.257 \times E_{30} + 0.266 \times E_{50} + 0.165 \times E_{65} + 0.181 \times E_{75} + 0.131 \times E_{80}$, for units tested under 5.4.2.4,

where,

E_{30}, E_{50}, and E_{60} are defined in 6.3.3,
E_{65}, E_{75}, and E_{80} are defined in 6.3.5, and
the coefficients are weather associated weighting factors.

6.3.7 Regional average per cycle energy consumption. If regional average per cycle energy consumption is required to be calculated, for a given setting of the anti-sweat heater, calculate the regional average per cycle energy consumption, E_R, in kWh/day, for the regions in figure 1 using one of the following equations and the coefficients in the table A:

$E_R = a_1 \times E_{60} + c \times E_{65} + d \times E_{75} + e \times E_{80}$, for a unit that is not required to be tested under 5.4.2.4,

$E_R = a \times E_{30} + b \times E_{50} + c \times E_{65} + d \times E_{75} + e \times E_{80}$, for a unit tested under 5.4.2.4,

where:

E_{30}, E_{50}, and E_{60} are defined in 6.3.3,

E_{65}, E_{75}, and E_{80} are defined in 6.3.5, and

a_1, a, b, c, d, e are weather associated weighting factors for the Regions, as specified in Table A:

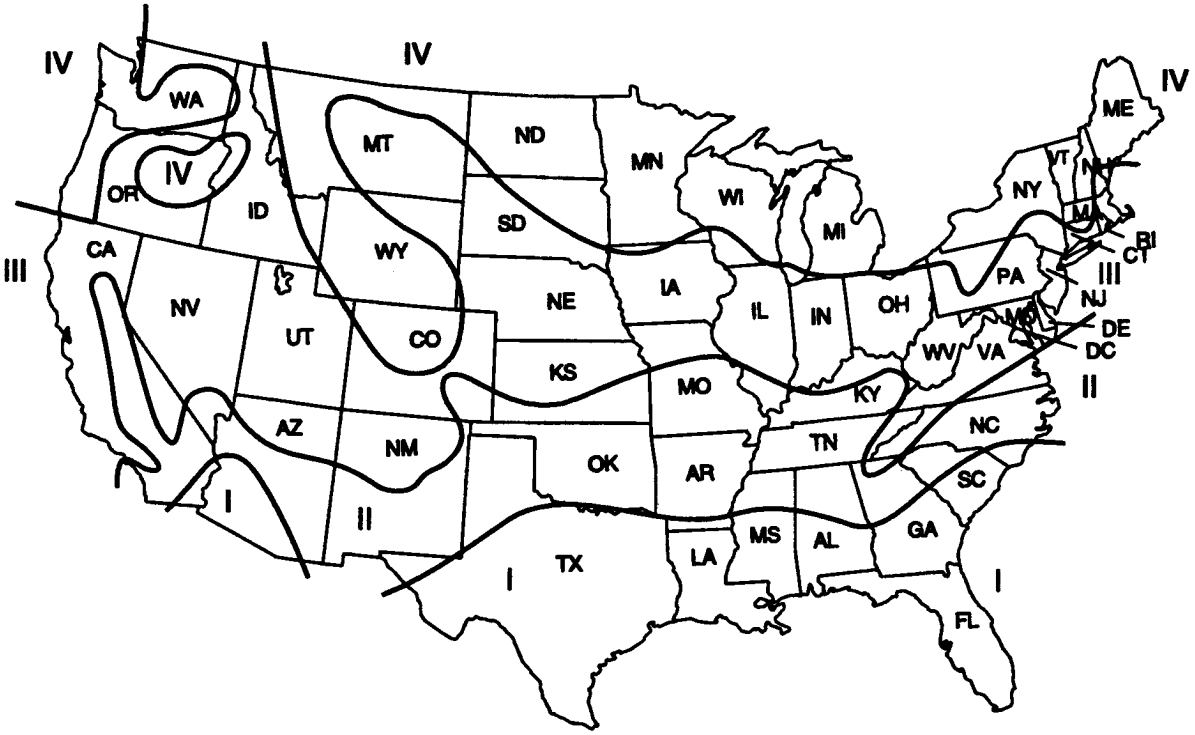
TABLE A.—COEFFICIENTS FOR CALCULATING REGIONAL AVERAGE PER CYCLE ENERGY CONSUMPTION

[Weighting Factors]

Regions	a_1	a	b	c	d	e
I	0.282	0.039	0.244	0.194	0.326	0.198
II	0.486	0.194	0.293	0.191	0.193	0.129
III	0.584	0.302	0.282	0.178	0.159	0.079
IV	0.664	0.420	0.244	0.161	0.121	0.055

BILLING CODE 6450–01–P

FIGURE 1. Weather Regions for the United States



Alaska Region IV

Hawaii Region I

§ 430.62 [Amended]

8. Section 430.62(a)(2) is amended by inserting after ''(for refrigerators, refrigerator-freezers, and freezers),'' in the first sentence, the following: ''the national average annual energy use and adjusted volume (for externally vented refrigerators and refrigerator-freezers),''.

[FR Doc. 97–22379 Filed 9–08–97; 8:45 am]

BILLING CODE 6450–01–C

Federal Register

Tuesday
September 9, 1997

Part III

Environmental Protection Agency

40 CFR Part 170

Pesticide Worker Protection Standard; Glove Requirements; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250120; FRL–5598–9]

RIN 2070-AC93]

Pesticide Worker Protection Standard; Glove Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing two changes to the Worker Protection Standard (WPS) for agricultural pesticides. First, EPA proposes to allow separable glove liners to be worn beneath chemical-resistant gloves. Second, EPA proposes to delete the requirement that pilots must wear chemical-resistant gloves when entering and exiting aircraft used to apply pesticides. All other WPS provisions about glove liners and chemical-resistant gloves are unaffected by this proposal. EPA believes that these changes will reduce the costs of compliance and will increase regulatory flexibility without increasing potential risks.

DATES: Written comments, identified by docket control number OPP–250120, must be received on or before October 9, 1997.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under Unit VII. of this preamble. No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Joshua First, Certification and Occupational Safety Branch (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone: 703/305–7437, e-mail: first.joshua@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Entities potentially regulated by this action are agricultural employers who use pesticides that are regulated by the Worker Protection Standard.

Category	Regulated Entities
Industry	Agricultural employers (farms, greenhouses, nurseries, forestry)

This listing is not intended to be exhaustive, but rather to be a guide for readers regarding entities likely to be regulated by this action. To determine whether or not you are subject to regulation by this action, you should carefully examine 40 CFR part 170.

I. Statutory Authority

This proposal is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. section 136–136y. Under FIFRA, EPA must regulate pesticides so that they do not cause unreasonable adverse effects to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide. In deciding how to regulate pesticides, FIFRA requires EPA to balance the risks to human health and the environment associated with pesticide exposure and the benefits of pesticide use to society and the economy.

II. Background of the Worker Protection Standard

On August 21, 1992, EPA revised the Worker Protection Standard (WPS) (40 CFR part 170) which is intended to protect agricultural workers from risks associated with agricultural pesticides. The 1992 WPS expanded the scope of the original WPS to include not only workers performing hand labor activities in fields treated with pesticides, but also workers in or on farms, forests, nurseries, and greenhouses. It included pesticide handlers who mix, load, apply, or otherwise handle pesticides for use at these locations in the production of agricultural commodities. The WPS requires that workers receive training, be notified of pesticide applications, and be instructed in the use of personal protective equipment (PPE), which includes chemical-resistant gloves. The WPS also established restricted entry intervals (REIs) after pesticides are applied, and required employers to provide decontamination supplies for workers to clean pesticide residues from themselves, and emergency medical assistance.

This proposed WPS amendment is one of a series of Agency actions in response to concerns raised by persons affected by the WPS since its promulgation in 1992. This proposal addresses the prohibition on the use of absorbent glove liners and the requirement that aerial pesticide application pilots wear chemical-resistant gloves when entering or exiting aircraft contaminated by pesticides. The changes in this proposal would increase the flexibility of the WPS without increasing potential risks, and would reduce the costs of compliance.

III. Current Glove Requirements

Exposure of hands and forearms to pesticide residues and mixes is an important route of occupationally-related exposure to pesticides. Studies have demonstrated that the appropriate use of chemical-resistant gloves can greatly reduce the potential exposure of workers' hands to pesticides.

PPE requirements, such as chemical-resistant gloves, are specific to the particular pesticide label. Pesticide labels may require that chemical-resistant gloves be worn in situations when there is a risk of dermal exposure to pesticide mixes or residues that pose a hazard.

The WPS defines and sets minimal standards for the types of PPE that are required on pesticide labels. For example, the WPS generally prohibits glove liners made of absorbent material from being used under chemical-resistant gloves, unless a pesticide label specifically permits them. While this prohibition is intended to stop the use of flocked gloves (where the liner material is an integral part of the glove), it technically includes separable liners as well. For field workers, PPE is only required during early entry into an area under an REI; workers may choose to wear PPE after the REI has expired, if they wish.

The parts of the WPS that affect the types of gloves and glove liners that agricultural workers must wear, which the Agency is proposing to change, are described below.

1. *Agricultural workers*. Section 170.112(c)(4)(vii), contains provisions governing the use of gloves by agricultural workers entering any pesticide treated area during an REI, generally referred to as early entry. This provision states: ''Gloves shall be of the type specified on the [pesticide] product labeling. Gloves or glove linings made of leather, cotton or other absorbent materials must not be worn for early-entry activities unless these materials are listed on the product labeling as acceptable. . . .''

2. *Pesticide handlers*. Section 170.240(c)(5)(i) contains similar provisions for pesticide handlers; it states: ''Gloves shall be of the type specified by the [pesticide] product labeling. Gloves or glove linings made of leather, cotton or other absorbent material shall not be worn for handling activities unless such materials are listed on the product labeling as acceptable. . . .''

3. *Aerial applicators*. Section 170.240(d)(6), applies to people who apply pesticides by air, and specifies: ''Chemical-resistant gloves shall be worn when entering or leaving an aircraft contaminated by pesticide residues.''

For the purposes of this proposal, a glove liner is defined as a separate glove-like hand covering made from a light weight material, with or without fingers. Flocking, which consists of closely placed small tufts of soft material glued or bonded onto the inside of gloves, is not defined as a glove liner. Flocked gloves are prohibited by the WPS because they are nearly impossible to adequately decontaminate, and EPA believes that they are unlikely to be disposed of after they are used.

IV. Glove Liners

A. Reasons for This Proposal

EPA has received written comments and held discussions on this subject with Congressional staff, grower groups, forestry groups, a group representing farmworkers, and sugar and pineapple growers from Hawaii. These groups maintain that the general WPS prohibition against separable, absorbent glove liners is problematic for both field workers and pesticide handlers.

Commenters reported that workers who wear chemical-resistant gloves without absorbent liners frequently develop irritated skin from continuous contact with the non-breathable inside of the gloves. They said that this occurs primarily during hot weather. Commenters also stated that, rather than warming hands during cold weather, unlined rubber and vinyl gloves quickly chill workers' hands and can exacerbate skin conditions or dermatitis. Apparently, health and comfort problems limit workers' efficiency and ability to complete their tasks. As a result, workers often avoid properly wearing the unlined chemical-resistant gloves, thus increasing their chances of exposure to pesticide residues. These problems have been documented in the past, and even though hygiene may play a role in some of the discomfort workers experience, the gloves are fundamentally the cause of the problems.

EPA believes these reports are true. At the very least, compliance with glove requirements may not be good under extreme weather conditions. Allowing workers to wear separable liners underneath their chemical-resistant gloves would most likely improve compliance significantly and therefore result in decreased exposure to pesticides. EPA believes the costs are low enough and the potential risks from exposure are high enough to provide strong support for proposing this refinement of the existing rule.

EPA is concerned about reports from growers that support earlier documentation of the same problems by academia (like R. A. Fenske, 1988, whose work was based on clinical study and field observations and was used in understanding the problem of heat stress in the 1992 WPS) and government researchers like Schneider, F.A., et.al., California Department of Food and Agriculture Report HS-1462, 1988. In that study the workers objected to wearing chemical-resistant gloves because of extreme heat-based discomfort, and the researchers had to modify their study because the workers would not wear the gloves for more than 2 hours at a time. The problem being documented is that many workers experience severe discomfort and dermal health problems from wearing unlined chemical-resistant gloves and that they will not wear the gloves properly as a result of their discomfort. Based on their experience and field observations, growers have stated to EPA that workers should be allowed to wear cotton liners or liners with properties similar to cotton, underneath their chemical-resistant gloves, and thereby reduce or eliminate their discomfort and promote the use of the protective equipment.

These concerns about heat stress and PPE are not new; the Agency raised these same concerns in its 1992 official Response to Comments (which documents EPA's approach to developing the 1992 WPS) after the WPS was published in 1992:

> The Agency has studied the issue of PPE for agricultural field workers who are performing routine hand labor tasks and has concluded that routine use of PPE, such as chemical-resistant gloves...for such field workers is, in general, not only impractical, but also may be risk-inducing due to heat stress concerns. The Agency has determined that hired agricultural workers, especially harvesters, have a disincentive to wear PPE.

The Response to Comments also states ''the Agency recognizes that the use of personal protective equipment in hot, humid, working conditions may lead to heat stress and discomfort, '' and the ''Agency has determined that multiple-use cotton gloves and cotton-lined gloves are not acceptable for use in pesticide handling or early entry because they are difficult to decontaminate after use and are too expensive to be disposable.''

But in 1992, EPA's concern about ''glove liners'' was only about cotton-lined (flocked) chemical-resistant gloves, where the soft lining is permanently attached to the inside of the glove. The Agency was not concerned about separable liners, which were not widely available at the time. The regulatory text in 40 CFR 170.112 and 170.240 clearly reflects this intention because it refers to glove ''linings'', which are permanently attached, as opposed to ''liners'' which are removable from the chemical-resistant glove. In sum, EPA did not originally intend to eliminate separable glove liners from use and EPA believes that the WPS is written too broadly in this respect.

EPA's concerns about flocked liners are still justified, as flocked gloves are quite difficult if not impossible to decontaminate; they are also expensive enough that their relative high cost (from $2.00 to $10.00 per pair, and more for specialized materials) and long durability (several weeks to several months) is a considerable disincentive for their disposal after one or two uses.

EPA is not proposing to change the prohibition against flocked gloves, because its concerns about them have not changed. In this proposal EPA is distinguishing removable (separable) glove liners from flocked gloves. Unlike in 1992, separable glove liners made from cotton or similar material are now quite inexpensive (39 cents per pair and less) and widely available. EPA believes that their low cost is a strong incentive to comply with WPS and dispose of the liners after they are used. Although separable glove liners stand a far better chance of being decontaminated than non-removable flocking, EPA believes

that most attempts to decontaminate separable liners will not be adequate. It is for this reason that EPA is proposing that the liners be thrown away after a single use.

EPA believes that by not wearing gloves, workers are at greater risk of pesticide exposure than if they temporarily wear absorbent liners with some pesticide residues on them.

B. Options Considered

In considering the requests to change the prohibition on glove liners, EPA in part reassessed the initial analysis used to establish the restriction. This reassessment is based on discussions with stakeholders, internal exposure assessments by EPA, and weighing the risks and benefits of possible measures. After considering this information, the Agency has decided to propose changes to the WPS limitations on absorbent glove liners. EPA considers the proposed change to be a refinement of the current rule and not a substantive risk-based decision.

As previously stated, although the Agency remains concerned about workers' possible exposure to potential pesticide residues retained in absorbent separable glove liners, it is willing to propose changes to the current limitations and requirements listed above. EPA's initial and primary concern about glove liners stemmed from the inability to decontaminate flocked gloves and the unlikelihood that flocked chemical-resistant gloves would be thrown away after only one or two uses. The prohibition, as worded, is too broad for the narrow class of glove liner EPA meant to prohibit. By proposing the change, EPA is seeking to clarify its position. Given that separable glove liners are inexpensive (39 cents per pair or less), EPA believes that it is likely that the used liners will be properly thrown away after use.

EPA believes that, under certain conditions, the benefits of allowing the use of separable absorbent glove liners under chemical-resistant gloves outweigh the risk of potential pesticide exposure associated with the use of the liners. EPA believes that the potential but unquantified exposure scenarios associated with contaminated glove liners are lower than the known exposure and risks associated with not wearing the gloves. Certain measures can reduce the potential exposure associated with wearing liners contaminated with pesticide residues; these measures are discussed below.

1. EPA considered the option of allowing absorbent liners to be worn beneath chemical-resistant gloves only during certain weather conditions. For example, absorbent glove liners could be used when the weather is too hot or too cold to comfortably use chemical-resistant gloves without the liners. The determination of when to wear the liners would be made by the workers themselves and would not involve monitoring for specific temperatures or humidity levels.

The Agency believes that this option could promote the use of chemical-resistant gloves among those workers who need to wear them the most. In hot and cold weather, workers wearing chemical-resistant gloves often experience discomfort and skin irritation, due to the skin of their hands continuously contacting the surface of the glove, which traps moisture against the skin. In hot weather, hands sweat but the sweat cannot evaporate and is trapped against the skin. In cold weather, the unlined chemical-resistant gloves immediately transfer the cold to the workers' hands. The effects of unlined gloves from heat and cold results in workers rarely wearing chemical-resistant gloves or not wearing them at all. But if workers are allowed to wear absorbent liners, both problems can be alleviated.

2. EPA considered the option of allowing absorbent liners when the weather reaches specific temperatures (or humidity levels). EPA considered the low temperature of 50 degrees Fahrenheit and the high of 78 degrees Fahrenheit to be the two thresholds beyond which workers could wear absorbent liners beneath their chemical-resistant gloves. Specifying temperatures could provide a concrete way to monitor compliance. However, EPA is unsure of the potential for enforcement of temperature-based limits, and actual temperature readings would not take into account the relative humidity in a given area, which could dramatically augment the discomfort posed by extreme temperatures at either end of the thermometer. Moreover, temperatures may differ significantly within small areas, such that workers at one end of a field could wear the liners and workers at the other end could not. For these reasons, EPA believes that this option is not practical.

3. EPA considered the option to allow the use of absorbent liners but require those workers using the liners to frequently wash their hands. This could alleviate concerns about exposure to residues in the liners. However, EPA believes that requiring this measure would run counter to the goal of regulatory flexibility and simplicity. Moreover, both WPS and the Occupational Safety and Health Administration already require that workers be trained about the need for washing because of hygiene and pesticide residue risk concerns. This training also includes cautions for washing before eating, smoking, and using toilets.

4. EPA considered allowing workers unlimited reuse of liners, or to reuse absorbent liners several times before disposing of them, so long as the liners were thoroughly laundered daily or after each use. Laundering would have to be done with appropriate amounts of clean tap water and detergent. EPA is not proposing this option because of concerns (raised in previous **Federal Register** Notices, including the WPS itself), based on studies, that laundering will not adequately remove residues from liners. More important, it is likely that this measure cannot be monitored, and its potential for being enforced is unknown.

Along with allowing the re-use of liners, EPA considered requiring that chemical-resistant gloves be taped down when separable liners are worn beneath them. This measure was rejected because, although it may be suitable in some climates, in many climates it will trap moisture inside the glove and create discomfort. It would thereby defeat the very purpose of allowing glove liners in the first place. For this reason it was rejected for all scenarios where liners would be used.

C. Proposal

EPA is proposing to allow all agricultural workers, including pesticide handlers, to wear separable glove liners made from absorbent materials beneath the chemical-resistant gloves whenever chemical-resistant gloves are required, unless the label specifically states that such liners are not allowed.

Under this proposal, used liners must be discarded after a total of 8 hours of use or at the end of every 24-hour period during which they were used, whichever comes first. Each 8-hour and 24-hour period would begin when the liners were first donned by the worker. The liners could be worn several times during the 24-hour period to a total of 8 hours, but they would have to be disposed of immediately at the end of the 24-hour period or replaced immediately if directly contacted by pesticides (in keeping with 40 CFR 170.240(f)).

EPA also proposes that the liners must be no longer than the chemical-resistant glove under which they are worn, and that they may not protrude beyond the edge of the glove. The Agency is proposing this length restriction because, when exposed to

quantities of pesticides, absorbent glove liners can act as a ''wick'' and conduct pesticide residues inside the glove, where they may contact the worker's hands.

Although EPA is proposing to allow employers more flexibility by letting them choose when to allow workers to use absorbent glove liners, employers must be aware that § 170.240(f) would still apply. Section 170.240(f) requires that all PPE be used, cleaned, maintained and stored properly. This would apply to any glove liners that are worn by employees. For example, a glove liner upon which a pesticide is directly splashed or poured would have to be immediately removed, disposed of, and replaced by a new one.

EPA has proposed the 8/24-hour period for wearing the liners because the Agency believes that any potential pesticide residues that contact the liners will be mitigated by having the liners disposed of at the end of the 24-hour period. Moreover, EPA believes that an early-entry worker wearing the liners will work only one or two shifts during the entire 24-hour period. By current law, a worker's early-entry time cannot exceed more than 8 hours total in a 24-hour period. During early-entry work, the chances for serious contamination of the liner during this period is low. A direct spill or splash is more likely to pose significant risks, but only some mixers and loaders might be at risk from a direct splash or spill. The WPS requires that all PPE thus exposed to pesticides be removed, replaced immediately with clean PPE, and be decontaminated or disposed of.

For pesticide handlers, a 1995 National Institute of Occupational Safety and Health (NIOSH) study (''Dirty Bird,'' HETA 95-0248-2562) demonstrated that pesticide exposure to and contamination of mixer/loaders' removable glove liners over 8 to 9–hour work days can run from non-detectable to substantial. In that study, NIOSH concluded that the insides of mixer/loaders' protective (chemical-resistant) gloves generally become contaminated over time, especially when the liners are reused. NIOSH concluded that reusing the liners in mixer/loaders' chemical-resistant gloves ''increases skin exposure [to pesticide residues].'' EPA believes that these data support the proposed prohibition against reusing glove liners, especially those used by pesticide handlers. Two other NIOSH studies on chemical-resistant gloves and pesticide residues (HETA 92-0022-2327 and HETA 94-0096-2433) demonstrate that disposing of either the chemical-resistant liners or the gloves themselves will significantly reduce potential exposure to pesticide residues. The studies also provide strong support for the 8–hour limit.

In sum, EPA is proposing this measure because the Agency believes that it will reduce workers' exposure to pesticides. EPA wants to reduce exposure that results from workers not wearing chemical-resistant gloves they are required to wear because of the discomfort they experience while wearing the gloves in both hot and cold weather. The Agency believes that the separable liners will alleviate that discomfort and will lead more workers to wear chemical-resistant gloves. EPA believes that the potential, but low and unquantified, exposures posed by pesticide residues penetrating the liners is far less than the very real risk of exposure from workers not wearing the protective gloves at all.

EPA has changed its previous determination that no glove liners whatsoever should be allowed because flocked gloves alone posed insurmountable problems. EPA now recognizes that its previous prohibition against any and all glove liners was too broad. EPA intends to maintain the narrow prohibition against flocked gloves and the use of cotton gloves alone.

D. Glove Liner Requirement: Comments Solicited

Public comments will assist EPA in determining whether the conditions resulting from the proposed change to the WPS could pose unreasonable risks to workers. EPA desires comments on the proposal, the options it considered, and on any other appropriate considerations.

Specifically, EPA would like to receive comments on the following issues:

1. The feasibility and value of requiring pesticide handlers and workers engaged in re-entry work to frequently wash their hands when using glove liners.

2. The need or value of further documentation of the extent and severity of the reported problems with skin irritation resulting from wearing unlined chemical-resistant gloves.

3. The feasibility of laundering the liners.

4. The feasibility of requiring liners to be changed during a work day that is less than 24 hours, such as after every shift, including ones less than 8 hours.

5. The extent to which workers need and wear chemical-resistant gloves.

6. The feasibility of allowing glove liners only under certain weather conditions (such as specified cold and hot temperatures).

7. The possible requirement that liners be changed every ''n'' days, where ''n'' = 1, 2, 3 ... ; or every ''n'' hours.

8. The feasibility of allowing glove liners only when workers could potentially contact certain classes of pesticides, such as Toxicology Category I or II, where the result of a worker not wearing chemical-resistant gloves at all may be much more severe.

9. The cost of liners, if disposal and regular replacement are required.

10. The feasibility and value of specifying which types of materials can be used to make glove liners.

11. Whether or not only workers engaged in early-entry should be able to wear glove liners, or if pesticide handlers should be allowed as well, as EPA is proposing.

V. Chemical-Resistant Gloves Requirement for Aerial Applicators

A. Reasons for This Proposal

In 1992, EPA believed that agricultural pilots were at substantial risk from exposure to pesticide residues when entering and exiting aircraft used to apply pesticides. EPA implemented the current requirement of chemical-resistant gloves to counter potential risks of exposure. After reviewing relevant studies and considering field demonstrations, EPA no longer believes that the required chemical-resistant gloves are necessary to protect agricultural pilots from potential pesticide residues when entering and exiting their cockpits.

The National Agricultural Aviation Association (NAAA) represents the interests of airplane and helicopter pilots who apply agricultural pesticides. The NAAA opposed the glove requirement in 1992 before the WPS was finalized; NAAA and EPA met again in 1995 and 1996 to further discuss and evaluate the WPS requirement that chemical-resistant gloves must be worn when people enter or exit aircraft contaminated by pesticide residues.

The NAAA has stated that many of the PPE requirements for agricultural aircraft pilots lack merit, and they believe that this is especially true with the gloves requirement. NAAA objects to the requirement not just because they believe it is superfluous, but because it can itself represent an unnecessary burden on pilots. For example, the chemical-resistant gloves may affect pilot dexterity, may add a superfluous package to the cockpit, and they could possibly contaminate items in the cockpit and the cockpit itself.

NAAA noted that studies done on the relative health of agricultural pilots

indicate that pilots do not suffer from chronic or long-term risks associated with the pesticides they apply any differently than the U.S. population does. EPA was not sure that those studies were comprehensive. But taking into consideration the results of agricultural pilot health surveys and the required annual Federal Aviation Administration (FAA) medical examinations of pilots, EPA believes that current pilot work practices certainly appeared to satisfy the intent of the WPS gloves requirement, and may therefore render the requirement unnecessary.

After meeting with NAAA, EPA sought answers to its remaining concerns. EPA subsequently evaluated pilot incident data from California and the FAA, pesticide exposure scenarios for pilots who do not mix or load pesticides, pilot work practices, and spray drift studies using colored dyes. EPA also considered technical developments such as modern agricultural aircraft construction, satellite-based aircraft guidance systems, and pesticide application methods and equipment. A discussion of the most pertinent considerations follows.

First, data submitted and used (Deere Co.) for development of the 1992 WPS indicated that pesticide-contaminated clothing, such as gloves, is the largest contributor of pesticides contamination into a tractor cab. EPA acted on these data when forming the WPS requirements for enclosed cabs, by requiring that the contaminated PPE be removed before entry into the cab. EPA believes that the same principle holds true for aircraft, that is, the presence of the chemical-resistant gloves, if they were in fact contaminated by pesticide residues from the outside of the aircraft, would most probably contaminate the cockpit. Pilots' chemical-resistant gloves may not necessarily get contaminated from the outside of the aircraft, but from the general environment in which pilots work.

Additionally, the Agency reviewed FAA pilot and aircraft safety records, FAA pilot medical records and crash data. As a result of the data reviews, both EPA and FAA concluded that there was no evidence supporting the general requirement that chemical-resistant gloves be worn when people enter or exit aircraft. The very small number of pesticide-related accidents were determined to be related to gross exposure to large amounts of highly toxic pesticides, which were unrelated to entering and exiting the cockpit. Both agencies determined that the chemical-resistant gloves would not have mitigated any accidents, nor would the gloves be at all likely to affect pilots' health, which is closely monitored by FAA.

Finally, a 1995 NIOSH study (''Dirty Bird,'' HETA 95-0248-2562) of an aerial applicator business in Arkansas included an assessment of the pilots' potential exposure to pesticides and the value of some of the WPS PPE requirements for pilots. The NIOSH study found that, unless they also mix and load pesticides, agricultural pilots are exposed to ''low, or less than detectable, levels of surface [pesticide] contamination'' and ''negligible airborne [pesticide] exposures'' inside their aircraft. This description includes surface wipe samples of pesticide residues that were taken from around the cockpit entrance.

This NIOSH study, though not a large random sample of the aerial applicator industry, provides strong support for the reassessment of the chemical-resistant gloves requirement for pilots because it reinforces what EPA has heard and observed. Potentially at greater risk from exposure to incremental amounts of residues, those pilots who do mix and load the pesticides they apply must still wear the PPE required for mixing and loading; however, there is evidence that few aerial applicators do mix and load the pesticides that they apply.

B. Options Considered

Because there is no WPS definition of a contaminated aircraft, and based on the determination that not all aircraft used to apply pesticides are contaminated, EPA considered the option to keep the chemical-resistant glove requirement and define how contaminated aircraft could be identified. Thus, chemical-resistant gloves would not always have to be worn when entering and exiting aircraft that had applied pesticides. Chemical-resistant gloves would be required only when a clear determination had been made that the gloves would, in fact, be protecting the wearer from exposure to pesticide residues.

EPA did not propose this option for two reasons. First, EPA believes that there is substantial merit to the concerns about pilot dexterity, complicated working environment, and possible contamination of cockpits. Second and more important, the Agency rejected this option due to a lack of objective criteria available which would enable both pilots and EPA enforcement personnel to consistently identify contaminated aircraft.

C. Proposal

EPA believes it is highly unlikely that, as a result of pesticide application, significant pesticide residues will occur in areas commonly touched by people accessing the cockpit. Those areas on an aircraft which are usually exposed to pesticides, such as places immediately behind and around the nozzles, must always be handled with PPE, as they are part of the application equipment. EPA believes that chemical-resistant gloves would not add any appreciable protection against the minimal pesticide residues that might be encountered around the cockpit of an aircraft. In sum, there is low risk of exposure from entering and exiting the cockpit, and a low benefit from the chemical-resistant gloves.

EPA also believes that, as much as possible, the WPS should regulate similar situations consistently. The WPS requirements for exiting an enclosed cab to contact treated surfaces state that PPE must be removed before reentering the cab. The same approach should apply to pilots, whose cockpits are much smaller than ground cabs and are more susceptible to contamination.

Therefore, EPA is proposing to eliminate the current WPS requirement that chemical-resistant gloves must be worn when pilots enter and exit aircraft that have been used to apply pesticides.

D. Aerial Applicator Glove Requirement: Comments Solicited

The Agency seeks comments on this proposal and the considered options. EPA wants comments on whether or not chemical-resistant gloves could still provide a measurable, useful, amount of protection to pilots. EPA is also especially interested in receiving comments and suggestions on other ways to identify contaminated aircraft that will meet the needs of pilots and of enforcement personnel.

VI. Statutory Requirements

As required by FIFRA section 25, this proposed rule was provided for review to the U.S. Department of Agriculture and to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. No comments were received from USDA or Congress. The FIFRA Scientific Advisory Panel waived its review.

VII. Public Docket

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number ''OPP–250120'' (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment 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 control number OPP–250120. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

VIII. Regulatory Requirements

A. Executive Order 12866 and 13045

It has been determined that this proposed rule is not a ''significant regulatory action'' that requires review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action proposes to amend existing regulations and does not contain any new requirements that would increase the cost of compliance to any person. Any changes implemented as a result of this proposal would reduce the regulatory burden and lower costs.

B. Unfunded Mandates Reform Act and Executive Order 12875

This proposed action does not contain any new requirements or impose any additional burden. In proposing to amend existing requirements to provide flexibility or relief in the specific situations involved, this action will result in savings and burden relief for affected parties, including States, local or tribal governments and the private sector, and will not result in any unfunded federal mandates as defined by Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This action does not contain any federal mandates on States, localities or tribes, and is not subject to the requirements of Executive Order l2875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993).

C. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency certifies that this regulatory action does not have any significant adverse economic impacts on a substantial number of small entities. This proposed action provides regulatory relief and regulatory flexibility. In accordance with Small Business Administration (SBA) policy, this determination will be provided to the Chief Counsel for Advocacy of the SBA upon request. Any comments regarding the economic impacts that this regulatory action may impose on small entities should be submitted to the Agency at the address listed in **ADDRESSES**.

D. Paperwork Reduction Act

This proposed action does not contain any new information collection requirements that would need approval by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The information collection requirements contained in the existing Worker Protection Standards were approved by OMB under control number 2070–0148. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

The Agency is interested in any comments on whether or not this action will impact existing burden estimates, including the accuracy of the estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. The final rule will respond to any comments received.

E. Executive Order 12898

Pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities and has determined that this proposed change will not adversely affect environmental justice.

List of Subjects in Part 170

Environmental protection, Intergovernmental relations, Occupational safety and health, Pesticides and pests, and Reporting and recordkeeping requirements.

Dated: September 2, 1997.

Carol M. Browner,

Administrator.

Therefore, it is proposed that 40 CFR part 170 be amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 would continue to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.112 is amended by revising paragraph (c)(4)(vii) to read as follows:

§ 170.112 Entry restrictions.

* * * * *

(c) * * *

(4) * * *

(vii) Gloves shall be of the type specified on the pesticide product labeling. Gloves made of leather, cotton, or other absorbent materials must not be worn for early-entry activities, unless those materials are listed as acceptable on the product labeling. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable for tasks with roses or other plants with sharp thorns, leather gloves may be worn over chemical-resistant gloves or chemical-resistant glove liners (if available). Once leather gloves have been used this way, they shall not be worn thereafter for any other purpose, and they shall only be worn over chemical-resistant gloves or chemical-resistant glove liners.

(A) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. The liners may be made of cotton or other absorbent materials. Glove liners are defined as a separate glove-like hand covering made from a light weight material, with or without fingers. Work gloves made from light cotton or poly-type material are considered to be a glove liner if worn beneath a chemical-resistant glove. Liners may not be longer than the glove under which they are worn. Chemical-resistant gloves with flocking and other non-separable soft lining materials are prohibited.

(B) Used glove liners must be discarded immediately after a total of 8 hours of use or at the end of the 24-hour period during which they were used, whichever comes first. The 8-hour and 24-hour periods begin when the liners are first donned. The liners must be

replaced immediately if directly contacted by pesticide solution (in keeping with 170.240(f)). Used glove liners may not be cleaned and re-used.

* * * * *

3. Section 170.240 is amended by revising paragraph (c)(5) and removing (d)(6)(i) and redesignating (d)(ii) and (d)(iii) as (d)(i) and (d)(ii), respectively to read as follows:

§ 170.240 Personal protective equipment.

* * * * *

(c) * * *

(5) Gloves shall be of the type specified on the pesticide product labeling. Gloves made of leather, cotton, or other absorbent materials may not be worn while mixing, loading, applying, or otherwise handling pesticides, unless those materials are listed as acceptable on the product labeling.

(i) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. The liners may be made of cotton or other absorbent materials. Glove liners are defined as a separate glove-like hand covering made from a light weight material, with or without fingers. Work gloves made from light cotton or poly-type material are considered to be a glove liner if worn beneath a chemical-resistant glove. Liners may not be longer than the glove under which they are worn. Chemical-resistant gloves with flocking and other non-separable soft lining materials are prohibited.

(ii) Used glove liners must be discarded immediately after a total of 8 hours of use or at the end of the 24-hour period during which they were used, whichever comes first. The 8-hour and 24-hour periods begin when the liners are first donned. The liners must be replaced immediately if directly contacted by pesticide solution. Used glove liners may not be cleaned and re-used.

* * * * *

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FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

26 CFR

1.....46876, 46877

29 CFR

Proposed Rules:
2560.....47262

30 CFR

914.....47138

Proposed Rules:
100.....47330
917.....46933
934.....46695

31 CFR

103.....47141
344.....46443
357.....46860

Proposed Rules:
103.....47156
212.....46428

32 CFR

199.....46877
311.....46445

33 CFR

100.....46553, 46669
117.....46879, 46880
151.....46446
165.....46670, 46671

Proposed Rules:
117.....46697
334.....47166

36 CFR

Proposed Rules:
292.....47167

38 CFR

1.....47532
3.....47532
9.....47532

39 CFR

Proposed Rules:
20.....47394
111.....47178

40 CFR

9.....47114
32.....47149
52 .....46199, 46202, 46208, 46446, 46880, 47369
55.....46406
81.....46208
86.....47114
180 .....46882, 46885, 46888, 46894, 46900
186.....46900
300.....46211

Proposed Rules:
9.....46937
52 .....46228, 46229, 46451, 46938, 47399
60.....46453
63.....46804
70.....46451
79.....47400
81 .....46229, 46234, 46238
86.....46937
170.....47544
260.....47401
261.....47401, 47402
273.....47401
300.....46938

41 CFR

Proposed Rules:
101–1.....47179
101–46.....47179

42 CFR

416.....47237

Proposed Rules:
416.....46698
1000.....47182
1001.....47182, 47195
1002.....47182
1005.....47182

46 CFR

28.....46672
298.....47149

47 CFR

54.....47369
64 .....46447, 47152, 47237, 47369
68.....47371
69.....47369
73.....47371
90.....46211

Proposed Rules:
1.....46241
54.....47404
64.....47404
73 .....46707, 46708, 47406
76.....46453
80.....46243
90.....46468

48 CFR

212.....47153
225.....47153
231.....47154
244.....47153
252.....47153
704.....47532
715.....47532
726.....47532
750.....47532
752.....47532

Proposed Rules:
212.....47407
225.....47407
252.....47407
833.....47411
852.....47411

49 CFR

172.....46214
174.....46214
175.....46214
176.....46214
177.....46214
571.....46907
575.....46447
1002.....46217
1108.....46217
1206.....46919

Proposed Rules:
571.....47414

50 CFR

20.....46420
25.....47372
32.....47372
622.....46677, 46679
660.....46920
679.....46680, 46681

Proposed Rules:
17.....46709, 46710
20.....46801
630.....47416
648.....46470

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 9, 1997

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; published 9-9-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Arizona et al.; published 9-9-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Feed and drinking water of animals—

Selenium supplementation; published 8-25-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Hunting and fishing:

Refuge-specific regulations; published 9-9-97

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Loan interest rates; published 7-31-97

SECURITIES AND EXCHANGE COMMISSION

Organization, functions, and authority delegations:

Regional Directors et al.; published 9-9-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Pratt & Whitney; published 8-25-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Pears (winter) grown in Oregon et al.; comments due by 9-19-97; published 8-20-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle—

State and area classifications; comments due by 9-16-97; published 7-18-97

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:

Payment guarantees; expanding export transactions; comments due by 9-15-97; published 8-15-97

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Natural or regenerated collagen sausage casings; labeling requirements; comments due by 9-15-97; published 7-17-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Coho salmon—

Southern Oregon/Northern California coast; comments due by 9-16-97; published 7-18-97

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Crab; comments due by 9-15-97; published 7-15-97

Magnuson Act provisions

National standard guidelines; comments due by 9-18-97; published 8-4-97

Northeastern United States fisheries—

Northeast multispecies; comments due by 9-15-97; published 8-27-97

West Coast States and Western Pacific fisheries—

Northern anchovy; comments due by 9-15-97; published 8-21-97

Ocean and coastal resource management:

Marine sanctuaries—

Thunder Bay National Marine Sanctuary, MI; designation; comments due by 9-18-97; published 6-23-97

ENERGY DEPARTMENT

Acquisition regulations:

Management and operating contracts—

Performance-based management contracting, fines, penalties, etc.; comments due by 9-19-97; published 8-20-97

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Property and oil pipeline units accounting regulations; comments due by 9-15-97; published 7-31-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 9-15-97; published 8-15-97

Iowa; comments due by 9-15-97; published 8-15-97

Missouri; comments due by 9-15-97; published 8-15-97

Pennsylvania; comments due by 9-17-97; published 8-18-97

South Carolina; comments due by 9-19-97; published 8-20-97

Tennessee; comments due by 9-15-97; published 8-15-97

Wisconsin; comments due by 9-15-97; published 7-10-97

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Texas; comments due by 9-18-97; published 8-19-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Corn gluten; comments due by 9-16-97; published 7-18-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 9-15-97; published 8-15-97

FARM CREDIT ADMINISTRATION

Farm credit system:

Loan policies and operations—

Short- and intermediate-term credit; System and non-System lenders; comments due by 9-15-97; published 7-17-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Unauthorized changes of consumer's long distance carriers (slamming); policies and rules; comments due by 9-15-97; published 8-14-97

Frequency allocations and radio treaty matters:

Television channels 60—69; 746—806 MHz band; comments due by 9-15-97; published 7-31-97

Radio services, special:

Maritime services—

Licensing process simplification and flexibility for public coast stations; comments due by 9-15-97; published 9-2-97

Radio stations; table of assignments:

Kansas; comments due by 9-15-97; published 7-31-97

Pennsylvania et al.; comments due by 9-15-97; published 7-31-97

FEDERAL DEPOSIT INSURANCE CORPORATION

International banking regulations; consolidation and simplification; comments due by 9-15-97; published 7-15-97

FEDERAL TRADE COMMISSION

Trade regulation rules:

Leakproof, guaranteed leakproof, etc.; deceptive use as descriptive of dry cell batteries; comments due by 9-18-97; published 8-19-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Class III preamendment devices; lung water monitor, powered vaginal muscle stimulator for therapeutic use, and stair-climbing wheelchair; comments due by 9-16-97; published 6-18-97

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**

Last List August 19, 1997

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