10–21–97
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federal register

Tuesday
October 21, 1997

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WASHINGTON, DC

WHEN: November 18, 1997 at 9:00 am.
WHERE: Office of the Federal Register
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800 North Capitol Street, NW
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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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.

Federal Register
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Presidential Documents

Title 3—

The President

Presidential Determination No. 98–2

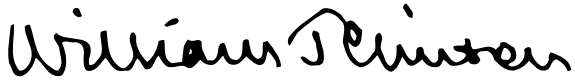
Presidential Determination on the Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Peaceful Uses of Nuclear Energy

Memorandum for the Secretary of State [and] the Secretary of Energy

I have considered the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Peaceful Uses of Nuclear Energy, along with the views, recommendations, and statements of the interested agencies.

I have determined that the performance of the agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b)), I hereby approve the proposed agreement and authorize you to arrange for its execution.

The Secretary of State is authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, October 9, 1997.

[FR Doc. 97–28026
Filed 10–20–97; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 62, No. 203
Tuesday, October 21, 1997

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–056–7]

Mediterranean Fruit Fly; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL, from the list of quarantined areas. We have determined that the Mediterranean fruit fly has been eradicated from these areas and that restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

DATES: Interim rule effective October 15, 1997. Consideration will be given only to comments received on or before December 22, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–056–7, Regulatory Analysis and Development, PPD, APHIS, suite 3c03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–056–7. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

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

The Mediterranean fruit fly regulations (contained in 7 CFR 301.78 through 301.78–10 and referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Since an initial finding of Medfly infestation in Hillsborough County, FL, in June 1997, quarantined areas have included all or portions of Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL.

In an interim rule effective on June 16, 1997, and published in the **Federal Register** on June 20, 1997 (62 FR 33537–33539, Docket No. 97–056–2), we added a portion of Hillsborough County, FL, to the list of quarantined areas and restricted the interstate movement of regulated articles from that quarantined area. In a second interim rule effective on July 3, 1997, and published in the **Federal Register** on July 10, 1997 (62 FR 36976–36978, Docket No. 97–056–3), we expanded the quarantined area in Hillsborough County, FL, and added areas in Manatee and Polk Counties, FL, to the list of quarantined areas. In a third interim rule effective on August 7, 1997, and published in the **Federal Register** on August 13, 1997 (62 FR 43269–43272, Docket No. 97–056–4), we further expanded the quarantined area by adding new areas of Hillsborough County, FL, and an area in Orange County, FL, to the list of quarantined areas. In that third interim rule, we also revised the entry for Manatee County, FL, to make the boundary lines of the quarantined area more accurate. In a fourth interim rule effective on September 4, 1997, and published in the **Federal Register** on September 10, 1997 (62 FR 47553–47558, Docket No. 97–056–5), we quarantined a new area in Polk County, FL, and an area in Sarasota County, FL.

We have determined, based on trapping surveys conducted by the Animal and Plant Health Inspection Service (APHIS) and Florida State and county agency inspectors, that the Medfly has been eradicated from all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL. The last finding of the Medfly thought to be associated with the infestation in these areas occurred on July 24, 1997. Since then, no evidence of infestation has been found in these areas. We are, therefore, removing these areas from the list of areas in § 301.78–3(c) quarantined because of the Medfly. As a result of this action, there are no longer any quarantined areas in Manatee, Orange, and Sarasota Counties, FL. Portions of Hillsborough and Polk Counties remain quarantined.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. The areas in Florida affected by this document were quarantined to prevent the Medfly from spreading to noninfested areas of the United States. Because the Medfly has been eradicated from these areas, and because the continued quarantine status of these areas would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve restrictions.

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

amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule amends the Medfly regulations by removing all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL. This action affects the interstate movement of regulated articles from these areas. There are approximately 592 small entities that could be affected, including 9 transportation terminals, 223 fruit stands, 28 flea markets, 4 processing plants, 25 farmers' markets, 189 nurseries (primarily retail), 149 mobile produce vendors, 113 food stores, 2 fruit shippers, 3 commercial growers, 6 garbage service firms, 1 vegetable packinghouse, and 1 hauler/harvester.

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

Therefore, removing all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL, should have a minimal economic effect on the small entities operating there. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

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

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–3, paragraph (c), the entry for Florida is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

FLORIDA

Hillsborough County. That portion of Hillsborough County beginning at the intersection of I–75 and the Hillsborough/Pasco County line; then west along the Hillsborough/Pasco County line to the section line dividing sections 5 and 6, T. 27 S., R. 18 E.; then south along the section line dividing sections 5 and 6, T. 27 S., R. 18 E. to Veterans Expressway; then south along Veterans Expressway to Erhlich Road; then west along Erhlich Road to Gunn Highway; then north along Gunn Highway to Mobley Road; then west along Mobley Road to Racetrack Road; then southwest along Racetrack Road to the Pinellas/Hillsborough County line; then south along the Pinellas/Hillsborough County line to I–275; then east along I–275 to the western most land mass at the eastern end of the Howard Franklin Bridge; then along an imaginary line along the shoreline of the Old Tampa Bay, Tampa Bay, and Hillsborough Bay (including the Interbay Peninsula, Davis Island, Harbour Island, Hooker's Point, and Port Sutton) to the northern shoreline of the Alafia River's extension; then east along the northern shoreline of the Alafia River to I–75; then north along I–75 to the point of beginning.

Polk County. That portion of Polk County beginning at the intersection of State Highway 60 (Van Fleet Drive) and West Van Fleet Drive (not Business 60); then east along State Highway 60 (Van Fleet Drive) to U.S. Highway 17; then north along U.S. Highway 17 to the section line dividing sections 27 and 28 , T. 29 S., R. 25 E.; then north along the section line dividing sections 27 and 28, T. 29 S., R. 25 E. to Thornhill Road; then north along Thornhill Road to State Highway 540; then west along State Highway 540 to the section line dividing sections 31 and 32, T. 28 S., R. 25 E.; then north along the section line dividing sections 31 and 32, T. 28 S., R. 25 E. to State Highway 542; then west along State Highway 542 to State Highway 37 (South Florida Avenue); then south along State Highway 37 (South Florida Avenue) to State Highway 572 (Drane Field Road); then west along State Highway 572 (Drane Field Road) to Harden Boulevard; then south along Harden Boulevard to Lake Miriam Drive; then west along Lake Miriam Drive to Old State Road 37; then south along Old State Road 37 to State Highway 37; then south along State Highway 37 to State Highway 60; then east along State Highway 60 to the point of beginning.

Done in Washington, DC, this 15th day of October 17, 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27813 Filed 10–20–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–102–1]

Mediterranean Fruit Fly; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Los Angeles County, CA, to the list of quarantined areas, and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the continental United States.

DATES: Interim rule effective October 16, 1997. Consideration will be given only to comments received on or before December 22, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–102–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–102–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW.,

Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

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

The Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78–10; referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of Medfly has occurred in a portion of Los Angeles County, CA.

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

Less than an entire State will be designated as a quarantined area only if the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles, and the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Medfly. The boundary lines for a portion of a State being designated as quarantined are set up approximately four-and-one-half miles from the detection sights. The boundary lines may vary due to factors such as the location of Medfly host material, the location of transportation centers such as bus stations and airports, the patterns of persons moving in that State, the number and patterns of distribution of the Medfly, and the use of clearly identifiable lines for the boundaries.

In accordance with these criteria and the recent Medfly findings described above, we are amending § 301.78–3 by adding a portion of Los Angeles County, CA, to the list of quarantined areas. The new quarantined area is described in the rule portion of this document.

Emergency Action

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

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

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule amends the Medfly regulations by adding a portion of Los Angeles County, CA, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Medfly into noninfested areas of the United States.

This interim rule affects the interstate movement of regulated articles from the quarantined area of Los Angeles County, CA. We estimate that there are 613 entities in the quarantined area of Los Angeles County, CA, that sell, process, handle, or move regulated articles; this estimate includes 2 farmers' markets, 2 community gardens, 31 distributors, 4 food banks, 529 fruit sellers, 4 growers, 30 nurseries, and 11 swapmeets. The number of these entities that meet the U.S. Small Business Administration's (SBA) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's gross receipts or number of employees) is not currently available. However, it is reasonable to assume that most of the 613 entities are small in size, since the overwhelming majority of businesses in California, as well as the rest of the United States, are small entities by SBA standards.

Few, if any, of the 613 entities will be significantly affected by the quarantine action taken in this interim rule because few of those entities move regulated articles outside the State of California during the normal course of their business. Nor do consumers of products purchased from those entities generally move those products interstate. The effect on any small entities that do move regulated articles interstate from the quarantined area will be minimized by the availability of various treatments that, in most cases, will allow those small entities to move regulated articles interstate with very little additional costs. Also, many of those small entities sell other items in addition to regulated articles, so the effect, if any, of the interim rule should be minimal.

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

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The site specific environmental assessment and programmatic Medfly environmental impact statement provide a basis for our conclusion that implementation of integrated pest management to achieve

eradication of the Medfly would not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–3, paragraph (c) is amended by adding an entry for Los Angeles County, CA, in alphabetical order, to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

CALIFORNIA

Los Angeles County. That portion of Los Angeles County in the Walnut Park and Huntington Park areas bounded by a line beginning at the intersection of State Highway 60 and Interstate Highway 5; then southeast along Interstate Highway 5 to Garfield Avenue; then southwest along Garfield Avenue to Florence Avenue; then southeast along Florence Avenue to Old River School Road; then southwest along Old River School Road to Firestone Boulevard; then southeast along Firestone Boulevard to Paramount Boulevard; then southwest along Paramount Boulevard to Interstate Highway 105; then west along Interstate Highway 105 to Interstate Highway 710; then southwest along Interstate Highway 710 to Rosecrans Avenue; then west along Rosecrans Avenue to Interstate Highway 110; then north along Interstate Highway 110 to Interstate Highway 105; then west along Interstate Highway 105 to Normandie Avenue; then north along Normandie Avenue to Martin Luther King, Jr. Boulevard; then east along Martin Luther King, Jr. Boulevard to Interstate Highway 110; then north along Interstate Highway 110 to Adams Boulevard; then southeast along Adams Boulevard to San Pedro Street; then northeast along San Pedro Street to Interstate Highway 10; then east along Interstate Highway 10 to State Highway 60; then east along State Highway 60 to the point of beginning.

* * * * *

Done in Washington, DC, this 16th day of October 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27815 Filed 10–20–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–040–2]

Change in Disease Status of Spain Because of Hog Cholera

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by removing Spain from the list of countries considered to be free from hog cholera. We took this action based on reports we received from Spain's Ministry of Agriculture that an outbreak of hog cholera had occurred in Spain. As a result of this action, there are additional restrictions on the importation of pork and pork products into the United States from Spain, and the importation of swine from Spain is prohibited.

EFFECTIVE DATE: The interim rule was effective on April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Products Program, National Center for Import and Export, VS, APHIS, suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective on April 18, 1997, and published in the **Federal Register** on May 27, 1997 (62 FR 28619–28620, Docket No. 97–040–1), we amended the regulations in §§ 94.9(a) and 94.10(a) by removing Spain from the list of countries considered to be free from hog cholera.

Comments on the interim rule were required to be received on or before July 28, 1997. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988, and the Paperwork Reduction Act.

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

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by removing Spain from the list of countries that are considered to be free of hog cholera. We took this action based on reports we received from Spain's Ministry of Agriculture that an outbreak of hog cholera had occurred in Spain. As a result of this action, there are additional restrictions on the importation of pork and pork products into the United States from Spain, and the importation of swine from Spain is prohibited.

The United States produced 17,697 million pounds of pork with a gross income of $10 billion in 1995. Pork imports in 1995 were approximately 593 million pounds, while exports were 582 million pounds. Prior to the interim rule, the United States did not import any live swine from Spain. In 1995, the United States imported 57,320 pounds of pork from Spain and exported 37,480 pounds to Spain. This is equivalent to 0.01 percent and 0.006 percent of the total U.S. imports and exports of pork, respectively. As these proportions show,

U.S. pork trade with Spain has been very small. The interim rule could result in less pork being imported into the United States from Spain.

Among the potential entities that may be affected by the interim rule are U.S. producers, consumers, and importers. Since the amount of pork imported from Spain has been so small compared to the amount produced domestically and total pork imports, no impact on consumer and producer prices is expected. Also, there should be little or no impact on importers. Because the amount of pork imported from Spain has been so small, importers should easily find replacements from other approved sources.

Further, if pork imports from Spain were not restricted and hog cholera was introduced into the United States from Spain, the economic impact on consumers, tax payers, and exporters could be great. Consumers would be affected by increased costs and reduced availability of pork. The cost to tax payers to eradicate or contain the disease would be considerable. Exporters would likely face restrictions on exporting pork to traditional foreign markets. Affected producers would face increased production costs. The benefits of avoiding the potential cost of a disease outbreak outweighs by far the minimal impact of this rule on consumers, producers, and importers of pork products.

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAQUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 94 and that was published at 62 FR 28619–28620 on May 27, 1997.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 15th day of October 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27812 Filed 10–20–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–CE–23–AD; Amendment 39–10171; AD 86–07–02 R1]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. (Formerly Britten-Norman) BN2A MK. 111 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 86–07–02, which currently requires repetitively inspecting the junction of the torque link lug and upper case of the main landing gear (MLG) torque link assemblies for cracks on Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2A, BN–2B, BN–2T, and BN2A MK. 111 series airplanes, and replacing any part found cracked with a like part. This AD removes from the applicability the BN–2A, BN–2B, and BN–2T series airplanes, and retains the repetitive inspection and replacement (if necessary) requirements of AD 86–07–02 for the BN2A MK. 111 series airplanes. This AD results from the Federal Aviation Administration's determination that additional AD action needs to be taken on the BN–2A, BN–2B, and BN–2T series airplanes. This additional action will be addressed in a separate AD. The actions specified by this AD are intended to prevent failure of the main landing gear caused by cracks in the torque link area, which could lead to loss of control of the airplane during landing operations.

DATES: Effective November 28, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 28, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Fairey Hydraulics Limited, Claverham, Bristol, England; or Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–1983 872511; facsimile 44–1983 873246. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Pilatus Britten-Norman BN2A MK. 111 series airplanes was published in the **Federal Register** as a notice of proposed rulemaking on May 27, 1997 (62 FR 28644). The NPRM proposed to revise AD 86–07–02 by removing the BN–2A, BN–2B, and BN–2T series airplanes from the applicability of that AD. The NPRM proposed to retain the requirement of repetitively inspecting the junction of the torque link lug and upper case of the MLG torque link assemblies for the BN2A MK. 111 series airplanes. The FAA is issuing a separate AD action for the BN–2A, BN–2B, and BN–2T series airplanes to require a modification that, when incorporated, would eliminate the repetitive inspection requirement currently required by AD 86–07–02. Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Fairey Hydraulics Limited Service Bulletin (SB) 32–7, Issue 3, dated January 30, 1990; and Fairey Hydraulics Limited SB 32–10, Issue 2, dated November 10, 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed AD or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the AD as proposed except for minor editorial corrections. The FAA has

determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 9 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $540 or $60 per airplane. This figure only takes into account the cost of the initial inspection and does not take into account the cost of any repetitive inspections. The FAA has no way of determining the number of repetitive inspections each of the owners/operators will incur over the life of the affected airplanes.

In addition, the inspections are currently required by AD 86–07–02 on the 9 affected airplanes. This AD does not require any additional actions over that already required by AD 86–07–02.

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 86–07–02, Amendment 39–5382, and by adding a new AD to read as follows:

86–07–02 R1 Pilatus Britten-Norman Ltd: Amendment 39–10171; Docket No. 86–CE–23–AD. Revises AD 86–07–02, Amendment 39–5382.

Applicability: Models BN2A MK. 111, BN2A MK. 111–2, and BN2A MK. 111–3 airplanes (all serial numbers), 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 (f) 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 prior to further flight after the effective date of this AD (see **Note 2**) or within 100 hours time-in-service (TIS) after the last inspection accomplished in accordance with AD 86–07–02, whichever occurs later, and thereafter at intervals not to exceed 100 hours TIS.

Note 2: The ''prior to further flight after the effective date of this AD'' compliance time was the original initial compliance time of AD 86–07–02, and is being retained to provide credit and continuity for already-accomplished and future inspections.

To prevent failure of the main landing gear caused by cracks in the torque link assembly area, which could lead to loss of control of the airplane during landing operations, accomplish the following:

(a) Inspect the junction of the torque link lug and upper case for cracks (using a 10-power magnifying glass or by dye penetrant methods) in accordance with Fairey Hydraulics Limited Service Bulletin (SB) 32–7, Issue 3, dated January 30, 1990; or Fairey Hydraulics SB 32–10, Issue 2, dated November 10, 1992, as applicable. Pilatus Britten-Norman SB BN–2/SB. 173, Issue 3, dated November 16, 1990, references Fairey Hydraulic Limited SB 32–7; and Pilatus Britten-Norman SB BN–2/SB.209, Issue 1, dated November 30, 1992, references Fairey Hydraulic Limited SB 32–10.

(b) If cracked parts are found during any of the inspections required by this AD, prior to further flight, replace the cracked parts with airworthy parts in accordance with the applicable maintenance manual.

(c) If the landing gear is replaced, only equal pairs of the same manufacturer are approved as replacement parts. Mixing of different manufacturer landing gears is not authorized.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these actions along with other scheduled maintenance on the airplane.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106.

(1) The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) Alternative methods of compliance approved for AD 86–07–02 are considered approved as alternative methods of compliance for this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) The inspections required by this AD shall be done in accordance with Fairey Hydraulics Limited Service Bulletin 32–7, Issue 3, dated January 30, 1990, or Fairey Hydraulics Service Bulletin 32–10, Issue 2, dated November 10, 1992, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairey Hydraulics Limited, Claverham, Bristol, England; or Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–10171) revises AD 86–07–02, Amendment 39–5382.

(i) This amendment (39–10171) becomes effective on November 28, 1997.

Issued in Kansas City, Missouri, on October 14, 1997.

Mary Ellen Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–27785 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–25–AD; Amendment 39–10170; AD 97–22–01]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. (Formerly Britten-Norman) BN–2A, BN–2B, and BN–2T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive that applies to Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2A, BN–2B, and BN–2T series airplanes. This AD requires repetitively inspecting the junction of the torque link lug and upper case of the main landing gear (MLG) torque link assemblies for cracks, and replacing any MLG torque link assembly with a Modification A39 MLG torque link assembly, either immediately when cracks are found or after a certain period of time if cracks are not found. Replacing all MLG torque link assemblies with Modification A39 MLG torque link assemblies eliminates the need for the repetitive inspections. These repetitive inspections are currently required by AD 86–07–02 for the BN–2A, BN–2B, and BN–2T series airplanes, as well as the BN2A MK. 111 series airplanes. There are no improved design parts for the BN2A MK. 111 series airplanes. The Federal Aviation Administration (FAA) is issuing in a separate action a revision to AD 86–07–02 to retain the repetitive inspection and replacement (if necessary) requirements for the BN2A MK. 111 series airplanes. The actions specified in this AD are intended to prevent failure of the main landing gear caused by cracks in the torque link area, which could lead to loss of control of the airplane during landing operations.

DATES: Effective November 28, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 28, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Fairey Hydraulics Limited, Claverham, Bristol, England; or Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–1983 872511; facsimile 44–1983 873246. This information may also be examined at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket 96–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Pilatus Britten-Norman BN–2A, BN–2B, and BN–2T series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 27, 1997 (62 FR 28646). The NPRM proposed to require repetitively inspecting the junction of the torque link lug and upper case of the MLG torque link assemblies for cracks, and replacing any MLG torque link assembly with a Modification A39 MLG torque link assembly, either immediately when cracks are found or at a certain period of time if cracks are not found. Installation of the improved part would eliminate the need for the repetitive inspections. Accomplishment of the proposed inspections and installation as specified in the NPRM would be in accordance with Fairey Hydraulics Limited SB 32–4, Issue 4, dated January 30, 1990.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA's Aging Commuter-Class Airplane Policy

This AD applies to the FAA's aging commuter-class airplane policy. This policy simply states that reliance on repetitive inspections of critical areas on commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. The alternative to issuing this AD would be to rely on repetitive inspections to detect failure of the MLG torque link assemblies on the affected airplanes.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. Of the approximately 112 airplanes in the U.S. registry that would be affected by this AD, the FAA has determined that approximately 25 percent are operated in scheduled passenger service by 11 different operators. A significant number of the remaining 75 percent are operated in other forms of air transportation such as air cargo and air taxi.

This AD allows at least 1,000 hours TIS after the effective date of the AD before mandatory accomplishment of the design modification (upon the accumulation of 5,000 hours TIS or within the next 1,000 hours TIS after the effective date of the AD, whichever is later). The average utilization of the fleet for those airplanes in commercial commuter service is approximately 25 to 50 hours TIS per week. Based on these figures, operators of commuter airplanes involved in commercial operation will have to accomplish the replacement within 5 to 10 calendar months (at the least) after this AD becomes effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this will allow 5 to 10 years (at the least) before the replacement becomes mandatory. The time it would take those in air cargo/air taxi operations before the replacement becomes mandatory is unknown because of the wide variation between each airplane used in this service. The exact numbers would fall somewhere between the average for commuter operators and private operators.

Cost Impact

The FAA estimates that 112 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 13 workhours per airplane to accomplish this AD (1 workhour per inspection and 12 workhours for the installation), and that the average labor rate is approximately $60 an hour. Parts cost approximately $6,200 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is

estimated to be $781,760 or $6,980 per airplane.

The inspections are currently required on the 112 affected airplanes by AD 86–07–02. This AD would not require any additional inspection requirements over that already required by AD 86–07–02. In addition, the cost figures referenced above are based on the presumption that no affected airplane operator has incorporated the inspection-terminating installation. Pilatus Britten-Norman does not know the number of parts distributed to the affected airplane owners/operators. Numerous sets of parts were sent out to the owners/operators of the affected airplanes, but over the years Pilatus Britten-Norman has not retained these records.

Regulatory Flexibility Determination and Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionally burdened by government regulations. The RFA requires government agencies to determine whether rules would have a ''significant economic impact on a substantial number of small entities,'' and, in cases where they would, conduct a Regulatory Flexibility Analysis in which alternatives to the rule are considered. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, outlines FAA procedures and criteria for complying with the RFA. Small entities are defined as small businesses and small not-for-profit organizations that are independently owned and operated or airports operated by small governmental jurisdictions. A ''substantial number'' is defined as a number that is not less than 11 and that is more than one-third of the small entities subject to a rule, or any number of small entities judged to be substantial by the rulemaking official. A ''significant economic impact'' is defined by an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types.

The entities that would be affected by this AD are mostly in the portion of Standard Industrial Classification (SIC) 4512, Operators of Aircraft for Hire, classified as ''unscheduled.'' FAA Order 2100.14A sets the size threshold for small entities operating aircraft in this category at nine or fewer aircraft owned and the annualized cost thresholds of at least $4,975 (1996 dollars) for unscheduled operators. A four-year life for the torque link assembly and capital cost of 15-percent would establish an annualized cost of $2,445 (1996 dollars). This is less than 50-percent of the threshold cost of $4,975 per year. In order to incur costs of at least $4,975, an entity would have to operate three or more of the airplanes referenced in this AD. FAA data shows that only five small entities operate three or more of these airplanes. In addition, this data shows that approximately 60 entities operate the airplanes referenced in this AD, but that only 15 of these entities (one-fourth) operate two or more of these airplanes.

Based on this information, less than one-third of the entities will incur significant operating costs under FAA Order 2100.14A. Therefore, this AD will not significantly affect a number of small entities.

A copy of the full Cost Analysis and Regulatory Flexibility Determination for this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–22–01 Pilatus Britten-Norman: Amendment 39–10170; Docket No. 96–CE–25–AD.

Applicability: Models BN–2, BN–2A, BN–2A–2, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, and BN–2T airplanes (all serial numbers), 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 (f) of this AD. The request should include an assessment of the effect of the replacement, 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 after the effective date of this AD, unless already accomplished.

To prevent failure of the main landing gear caused by cracks in the torque link assembly area, which could lead to loss of control of the airplane during landing operations, accomplish the following:

(a) Prior to further flight after the effective date of this AD or within the next 100 hours time-in-service (TIS) after the last inspection required by AD 86–07–02, whichever occurs later, and thereafter at intervals not to exceed 100 hours TIS until the installations required by paragraph (c) of this AD are accomplished, inspect the junction of the torque link lug and upper case of all main landing gear (MLG) torque link assemblies for cracks (using a 10-power magnifying glass or by dye penetrant methods). Accomplish these inspections in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairey Hydraulics Limited Service Bulletin (SB) 32–4, Issue 4, dated January 30, 1990. Pilatus Britten-Norman SB BN–2/SB.170, Issue 4, November 16, 1990, references this service bulletin.

Note 2: The inspections required by paragraph (a) of this AD were initially a part of AD 86–07–02, which applied to the BN2A MK. 111 series airplanes as well as the airplanes affected by this AD. The ''prior to further flight after the effective date of this AD'' compliance time was the original initial compliance time of AD 86–07–02, and is being retained to provide credit and continuity for already-accomplished and future inspections.

(b) If any cracks are found during any of the inspections required by this AD, prior to further flight, replace the MLG torque link assembly with a Modification A39 MLG torque link assembly in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairey Hydraulics Limited SB No. 32–4, Issue 4, dated January 30, 1990.

(1) Repetitive inspections are no longer required when all MLG torque assemblies are replaced with Modification A39 MLG torque link assemblies.

(2) Repetitive inspections may no longer be required on one MLG torque assembly, but still be required on another if all haven't been replaced with a Modification A39 MLG torque link assembly.

(c) Upon the accumulation of 5,000 hours TIS or within the next 1,000 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished as specified in paragraph (b) of this AD, replace each MLG torque link assembly with a Modification A39 MLG torque link assembly in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairey Hydraulics Limited SB No. 32–4, Issue 4, dated January 30, 1990.

(d) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these actions along with other scheduled maintenance on the airplane.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) The inspections and replacement required by this AD shall be done in accordance with Fairey Hydraulics Limited Service Bulletin (SB) 32–4, Issue 4, dated January 30, 1990. 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 Fairey Hydraulics Limited, Claverham, Bristol, England; or Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–10170) becomes effective on November 28, 1997.

Issued in Kansas City, Missouri, on October 14, 1997.

Mary Ellen Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–27795 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–246–AD; Amendment 39–10169; AD 97–19–16]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 97–19–16, that was sent previously to all known U.S. owners and operators of Fokker Model F28 Mark 0100 series airplanes equipped with Rolls-Royce Tay 650–15 engines, by individual notices. This AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) to include procedures to prohibit use of reverse engine thrust power settings between idle and emergency maximum; and submission of a report to the airplane manufacturer. This action is prompted by a report that, during preparation for takeoff, an engine fan blade failure occurred, followed by an engine fire. The actions specified by this AD are intended to prevent uncontained engine fan blade failure due to high cycle fatigue cracking, which could result in loss of thrust from the affected engine and secondary damage to aircraft and/or fire.

DATES: Effective October 27, 1997, to all persons except those persons to whom it was made immediately effective by emergency AD 97–19–16, issued on September 12, 1997, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before November 20, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–246–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1320.

SUPPLEMENTARY INFORMATION: On September 12, 1997, the FAA issued emergency AD 97–19–16, which is applicable to Fokker Model F28 Mark 0100 series airplanes equipped with Rolls-Royce (RR) Tay 650–15 engines.

That action was prompted by a report that during preparation for takeoff, a Fokker Model F28 Mark 0100 series airplane equipped with Rolls-Royce Tay 650–15 engines sustained an engine fan blade failure, followed by an engine fire. Investigation revealed that five fan blades failed at the root area, three fan blades failed at mid-height, and the remainder were severely damaged.

Further investigation revealed that all five fan blades failed due to rapid high cycle fatigue cracking with low cycle fatigue cracking origin. Evidence of rapid high cycle fatigue cracking indicates that an operational effect is causing high vibratory stresses. Rolls Royce considers that the high cycle fatigue cracking was caused by vibration during previous thrust reverser applications. This condition, if not corrected, could result in uncontained engine fan blade failure due to high cycle fatigue cracking, which could result in loss of thrust from the affected engine and secondary damage to aircraft and/or fire.

FAA's Conclusions

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

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 97–19–16 to require a revision to the FAA-approved Airplane Flight Manual (AFM). The

revision includes procedures to prohibit use of reverse engine thrust power settings between idle and emergency maximum.

This AD also requires that operators submit a report to the airplane manufacturer describing any occurrence where the idle reverse thrust limitations specified in this AD are exceeded.

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

Publication and Effectivity of AD

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on September 12, 1997, to all known U.S. owners and operators of Fokker Model F28 Mark 0100 series airplanes equipped with Rolls-Royce Tay 650–15 engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications 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–246–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, 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:

97–19–16 Fokker: Amendment 39–10169. Docket 97–NM–246–AD.

Applicability: Model F28 Mark 0100 series airplanes equipped with Rolls-Royce (RR) Tay 650–15 engines, 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 uncontained failure of the engine fan blades, which could result in loss of thrust from the affected engine, and secondary damage to the airplane and/or fire, accomplish the following:

(a) Within 72 hours after the effective date of this AD, revise the Limitations Section, Subsection 2.06.01 ''Thrust Reverser,'' of the FAA-approved Airplane Flight Manual (AFM) to add the following. This may be accomplished by inserting a copy of this AD in the AFM.

''THRUST REVERSER

Thrust reversers are intended for ground use only. Intentional use of reverse thrust in flight is prohibited. After reverse thrust has been initiated, a full stop landing must be made.

Maximum Reverse Thrust Lever Positions

Normal Operation:

—The idle detent position shall not be exceeded in normal operation.

Emergency Operation:

—In case of emergency, the emergency maximum reverse thrust may be used.

—Stabilized operation with the reverse lever in an intermediate position between idle reverse and emergency maximum reverse is prohibited.

—If directional control problems occur, select forward idle.

Exceeding the idle reverse thrust limitations must be reported.''

(b) If the idle reverse thrust limitations specified in paragraph (a) of this AD are exceeded, within 10 days after exceeding the idle reverse thrust limitations, submit a report of that occurrence to Fokker Services, Technical Support Department, P. O. Box 75047, 1117 ZN Schiphol Airport, The Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the

provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Note 3: The subject of this AD is addressed in Netherlands airworthiness directive BLA 1997–091(A), dated September 9, 1997.

(e) This amendment becomes effective on October 27, 1997, to all persons except those persons to whom it was made immediately effective by emergency AD 97–19–16, issued on September 12, 1997, which contained the requirements of this amendment.

Issued in Renton, Washington, on October 15, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–27787 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28968; Amdt. No. 1808]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

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

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (air).

Issued in Washington, DC on July 11, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

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

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

** * * Effective August 14, 1997*

Champaign-Urbana, IL, University of Illinois-Willard, VOR RWY 18, Orig
Champaign-Urbana, IL, University of Illinois-Willard, GPS RWY 18, Orig
Champaign-Urbana, IL, University of Illinois-Willard, GPS RWY 36, Orig
Kendallville, IN, Kendallville Muni, VOR or GPS–A, Amdt 6, CANCELLED
Kendallville, IN, Kendallville Muni, VOR/DME–A, Orig
La Porte, IN, La Porte Muni, VOR or GPS–A, Amdt 6
La Porte, IN, La Porte Muni, LOC RWY 2, Orig
La Porte, IN, La Porte Muni, VOR/DME RNAV or GPS RWY 20, Amdt 5
Fort Worth, TX, Fort Worth Alliance, ILS RWY 16L, Amdt 3
Houston, TX, William P. Hobby, VOR/DME RWY 17, Amdt 1

** * * Effective September 11, 1997*

Burbank, CA, Burbank-Glendale-Pasadena, GPS–A, Orig
Upland, CA, Cable, GPS RWY 6, Orig
Victorville, CA, Southern California International, GPS RWY 17, Orig
Montrose, CO, Montrose Regional, GPS RWY 13, Orig
Montrose, CO, Montrose Regional, GPS RWY 17, Orig
Montrose, CO, Montrose Regional, GPS RWY 35, Orig
Deland, FL, Deland Muni-Sidney H Taylor Field, VOR or GPS RWY 23, Amdt 2
West Palm Beach, FL, Palm Beach Intl, LOC BC RWY 27R, Amdt 12A, CANCELLED
Agana, Guam, Guam International, GPS RWY 6L, Orig
Agana, Guam, Guam International, GPS RWY 24R, Orig
Houlton, ME, Houlton Intl, VOR RWY 5, Amdt 10
Des Moines, IA, Des Moines Intl, RADAR-1, Amdt 17, CANCELLED
Majuro Atoll, Marshall Islands, Marshall Islands Intl, GPS RWY 7, Orig
Majuro Atoll, Marshall Islands, Marshall Islands Intl, GPS RWY 25, Orig
Sand Island, Midway Islands, Midway Atoll-Henderson Field, GPS RWY 6, Orig
Sand Island, Midway Islands, Midway Atoll-Henderson Field, GPS RWY 24, Orig
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, NDB or GPS RWY 30L, Amdt 24
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, NDB or GPS RWY 30R, Amdt 12
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS RWY 4, Amdt 26
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS RWY 22, Amdt 5
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS RWY 12L, Amdt 4
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS RWY 30R, Amdt 8
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS RWY 12R, Amdt 6
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold-Chamberlain, ILS RWY 30L, Amdt 42
Rochester, NY, Greater Rochester Intl, RADAR 1, Amdt 14, CANCELLED
Rota Island, North Mariana Islands, Rota Intl, GPS RWY 9, Orig
Rota Island, North Mariana Islands, Rota Intl, GPS RWY 27, Orig
Saipan Island, North Mariana Islands, Saipan Intl, GPS RWY 7, Orig
Saipan Island, North Mariana Islands, Saipan Intl, GPS RWY 25, Orig
Tinian Island, North Mariana Islands, West Tinian, GPS RWY 8, Orig
Tinian Island, North Mariana Islands, West Tinian, GPS RWY 26, Orig
John Day, OR, John Day State, GPS RWY 9, Orig
Babelthuap Island, Palau, Babelthuap/Koror, GPS RWY 9, Orig
Babelthuap Island, Palau, Babelthuap/Koror, GPS RWY 27, Orig
Charleston, SC, Charleston AFB/Intl, VOR/DME or TACAN or GPS RWY 3, Amdt 13
Charleston, SC, Charleston AFB/Intl, VOR/DME or TACAN or GPS RWY 21, Amdt 13
Laurens, SC, Laurens County, GPS RWY 8, Orig
Kosrae Island, States of Micronesia, Kosrae, GPS RWY 5, Orig
Kosrae Island, States of Micronesia, Kosrae, GPS RWY 23, Orig
Pohnpei Island, States of Micronesia, Pohnpei Intl, GPS RWY 9, Orig
Pohnpei Island, States of Micronesia, Pohnpei Intl, GPS RWY 27, Orig
Weno Island, States of Micronesia, Chuuk International, GPS RWY 4, Orig
Weno Island, States of Micronesia, Chuuk International, GPS RWY 22, Orig
Yap Island, States of Micronesia, Yap International, GPS RWY 7, Orig
Yap Island, States of Micronesia, Yap International, GPS RWY 25, Orig

[FR Doc. 97–27743 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1228 and 1234

RIN 3095–AA70

Transfer of Electronic Records to the National Archives

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This rule revises NARA regulations relating to the transfer of permanent electronic records to the National Archives of the United States. The rule clarifies the timing of transfers and expands the forms of acceptable transfer media. The rule affects Federal agencies.

DATES: Effective November 20, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of November 20, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas E. Brown at 301–713–6630.

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on July 29, 1996 (61 FR 39373) for a 60-day comment period. Comments were received from four agencies.

One agency expressed concern that the regulation does not change the requirement that records be transferred in either ASCII (American National Standard Code for Information Interchange) or EBCDIC (Extended binary-coded decimal interchange code). While the regulation expands the media which NARA will accept, we are unwilling at this time to expand the coding formats for transfer beyond ASCII or EBCDIC. However NARA continues to explore additional formats which will meet our long-term preservation and access needs. To ensure the ability to access the records over time, the archival format is ASCII or EBCDIC. Conversion to these formats is easier while the records are in their creating systems rather than outside of the creating systems after transfer. Therefore, we have not modified the

requirement for data to be in ASCII or EBCDIC format when being transferred to NARA.

One comment stated that NARA should accept relational database files with embedded control characters associated with a particular database management system. Such a format would be proprietary and dependent on a particular software product. Following the transfer to NARA, it would be problematic as to whether the records would be accessible. Rather the new regulation calls for the export of tables from a relational data base as software independent files. The transfer format is, in fact, the logical format used in a relational database. Hence the regulation outlines the procedure through which NARA will accept records from relational databases but free of the proprietary control characters which would limit access.

One comment recommended that NARA should investigate adding to the list of acceptable media CD–ROMs that meet ISO standard 13346. As a result of this comment, NARA technical staff has begun investigating this standard to determine whether NARA can process records from a CD–ROM recorded in this format. If this investigation proves successful, NARA will further amend the CFR.

One agency stated that NARA must not permit public access to non-permanent software on a CD–ROM unless (1) NARA has appropriate permission to use and the public has permission to reproduce the software and (2) the software is necessary to access permanent records. We agree that the public should not be allowed to reproduce copyrighted software without permission. NARA will establish internal controls for managing the research complex to prevent unauthorized reproduction of CD–ROMs which contain copyrighted software. However, section 109 of the Copyright Act of 1976 outlined the ''first sale doctrine.'' This provision allows NARA's researchers to use copyrighted software in the NARA research complex for access to records on a CD–ROM.

One comment stated that NARA should not provide access to temporary files. This comment led us to reconsider the proposed use of CD–ROMs in NARA's research complex, and we concluded that we will not provide access to temporary records. If an agency transfers both permanent and temporary records on a CD–ROM, NARA will copy only the permanent records and return the CD–ROM to the agency or destroy it. In this final rule, we have amended 36 CFR 1228.188(c)(2)(ii) to reflect this policy.

One comment objected that NARA permits but does not require agencies to submit textual documents including formatting codes, because such codes may carry essential structural information. NARA agrees with this comment. Section 1228.188(d)(2) of the regulation adds an option for transferring electronic documents that contain formatting codes. At this time, only SGML formats can be preserved permanently. NARA will explore other possibilities to preserve structure and format of electronic documents. We have not changed the regulation in response to this comment.

One comment stated that the regulations encourage the use of CD–ROMs for the storage of electronic records. It went on to conclude that the proposed regulation may cause technical personnel to argue that CD–ROM is an appropriate storage media. 36 CFR 1228.188 concerns the use of CD–ROMs for the transfer of records to the NARA. It does not address the use of any media for the storage of records. The selection of storage media for electronic records is addressed in 36 CFR 1234.30. An agency may store records on any media but must be able to migrate permanent records to media acceptable for transfer to the National Archives. To clarify the scope of the regulation, we have modified § 1228.188(c) to state: ''This section covers the transfer of permanent records to the National Archives; it does not apply to the use and storage of records in agency custody. See 36 CFR 1234.30 for the requirements governing the selection of electronic records storage media.'' We are also clarifying 36 CFR 1234.30 to reinforce this distinction between storage and transfer media.

One comment noted that a distinction exists between storing records and disseminating information. Specifically, the comment stated that WORM (Write Once—Read Many Times) technology should be used to store records, and CD–ROM technology should be used to disseminate information. NARA agrees that there is a difference between the storage of records and the dissemination of records. Since dissemination of information can include the transfer of records to the National Archives, the comment endorses our proposed change in the regulations. This change in the regulation does not cover the storage of records. See 36 CFR 1234.28 for the requirements governing the selection of electronic records storage media. This latter regulation does not dictate storage media for the records while in agency use; the regulation makes clear that it is an agency option. NARA will, however, continue to monitor the status of standardization of WORM technology.

One comment objected that export of tables from a relational database to flat files is expensive because it requires application programming. Most records schedules for permanent databases require periodic transfers, but special programming would only have to be done once, if at all. Special programming is not necessary in many cases because the files could be exported using any of a variety of off-the-shelf tools for data extraction. Export costs can also be minimized by including migration in the design of those databases that contain permanent records.

One comment thought that NARA should accept imaged documents on WORM media. This raises two issues: (1) acceptance of image formats, and (2) acceptance of WORM media. Currently, with the exception of the CCITT format for digital facsimile (FAX) transmissions, ANSI and ISO standards do not exist for any image format or for any WORM disk. Consequently the acceptance of image documents on WORM media would result in the archival records being stored in a proprietary format dependant on a proprietary retrieval system. The result would be either the loss of information as a result of technological obsolescence or extremely expensive preservation costs to migrate the images and storage media to new technologies.

In § 1228.188(c)(2)(i), we have provided more complete identification of the cited industry standard for CD–ROMs that is incorporated by reference. In § 1228.188(d)(3), we have provided more complete identification of the cited standard for digital spatial data files and its ordering source.

We recognize the concerns that this regulation is narrow in scope and does not fully address the needs of Federal agencies for NARA guidance in an increasingly electronic environment. Impressive developments in technology for creating records have not been matched by technological developments for managing them. Because of these constraints, NARA has taken a conservative approach in this regulation to ensure that the electronic records we accession today are usable 25 and 50 years from now when current software, hardware, and media are no longer available. NARA is working to expand our capabilities to handle electronic formats and media that Federal agencies are using today. We are developing a successor to NARA's Archival Preservation System (APS) for electronic records, and in FY 1999, we will increase APS processing capacity to

50,000 files per year. NARA plans to develop the capability for preserving document image files in FY 2000, textual electronic records by FY 2001, and raster and vector files by FY 2002. We will seek the involvement and assistance of agencies in this effort.

This rule is a significant regulatory action for the purposes of Executive Order 12866, and has been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking.

List of Subjects in 36 CFR Parts 1228 and 1234

Archives and records, Computer technology, Incorporation by reference.

For the reasons set forth in the preamble, Chapter XII of title 36, Code of Federal Regulations, is amended as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read:

Authority: 44 U.S.C. chs. 21, 29, and 33.

2. Section 1228.188 is revised to read as follows:

§ 1228.188 Electronic records.

(a) *Timing of transfers.* Each agency is responsible for the integrity of the records it transfers to the National Archives. To ensure that permanently valuable electronic records are preserved, each Federal agency shall transfer electronic records to NARA promptly in accordance with the agency's records disposition schedule. Furthermore, if the agency cannot provide proper care and handling of the media (see part 1234 of this chapter), or if the media are becoming obsolete and the agency cannot migrate the records to newer media, the agency shall contact NARA to arrange for timely transfer of permanently valuable electronic records, even when sooner than provided in the records schedule.

(b) *Temporary retention of copy.* Each agency shall retain a second copy of any permanently valuable electronic records that it transfers to the National Archives until it receives official notification from NARA that the transfer was successful and that NARA has assumed responsibility for continuing preservation of the records.

(c) *Transfer media.* This paragraph covers the transfer of permanent records to the National Archives; it does not apply to the use or storage of records in agency custody. See 36 CFR 1234.30 for the requirements governing the selection of electronic records storage media. The agency shall use only media that is sound and free from defects for such transfers; the agency shall choose reasonable steps to meet this requirement. The media forms that are approved for transfer are open reel magnetic tape, magnetic tape cartridge, and Compact-Disk, Read Only Memory (CD–ROM), as described in paragraphs (c) (1) and (2) of this section.

(1) *Magnetic tape.* Agencies may transfer electronic records to the National Archives on magnetic tape using either open-reel magnetic tape or tape cartridges. Open-reel magnetic tape shall be on ½ inch 9-track tape reels recorded at 1600 or 6250 bpi that meet ANSI X3.39–1986, American National Standard: Recorded Magnetic Tape for Information Interchange (1600 CPI, PE) or ANSI X3.54–1986, American National Standard: Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording), respectively. Tape cartridges shall be 18-track 3480-class cartridges recorded at 37,871 bpi that meet ANSI X3.180–1990, American National Standard: Magnetic Tape and Cartridge for Information Interchange—18-Track, Parallel, ½ inch (12.65 mm), 37871 cpi (1491 cpmm), Group-Coded—Requirements for Recording. The data shall be blocked at no more than 32,760 bytes per block. The standards cited in this paragraph are available from the American National Standards Institute, (ANSI), Inc., 11 West 42nd Street, New York, NY 10036. They are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. 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. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

(2) *Compact-Disk, Read Only Memory (CD–ROM).* Agencies may use CD–ROMs to transfer electronic records scheduled to be preserved in the National Archives. The files on such a CD–ROM must comply with the format and documentation requirements specified in paragraphs (d) and (e) of this section.

(i) CD–ROMs used for this purpose must conform to ANSI/NISO/ISO 9660–1990, American National Standard for Volume and File Structure of CD–ROM for Information Exchange. The standard is available from the National Information Standards Organization (NISO), P.O. Box 1056, Bethesda, MD or the American National Standards Institute, 11 West 42nd Street, 13th floor, New York NY 10036. It is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. 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. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

(ii) Permanently valuable electronic records must be stored in discrete files. The CD–ROMs transferred may contain other files, such as software or temporary records, but all permanently valuable records must be in files that contain only permanent records. Agencies should indicate at the time of transfer if a CD–ROM contains temporary records and, if so, where those records are located on the CD–ROM. The agency must also specify whether NARA should return the CD–ROM to the agency or dispose of it after copying the permanent records to an archival medium.

(iii) In some cases, permanently valuable electronic records that an agency disseminates on CD–ROM exist on other media, such as magnetic tape. In such cases, the agency and NARA will mutually agree on the most appropriate medium for transfer of the records to the National Archives.

(d) *Formats.* The agency may not transfer to the National Archives electronic records that are in a format dependent on specific hardware and/or software. The records shall be written in ASCII or EBCDIC with all control characters and other non-data characters removed (except as specified in paragraphs (d) (1), (2), and (3) of this section). The records must not be compressed unless NARA has approved the transfer in the compressed form in advance. In such cases, NARA may require the agency to provide the software to decompress the records.

(1) *Data files and databases.* Data files and databases shall be transferred to the National Archives as flat files or as rectangular tables; i.e., as two-dimensional arrays, lists, or tables. All ''records'' (within the context of the computer program, as opposed to a Federal record) or ''tuples,'' i.e., ordered collections of data items, within a file or table should have the same logical format. Each data element within a record should contain only one data value. A record should not contain

nested repeating groups of data items. The file should not contain extraneous control characters, except record length indicators for variable length records, or marks delimiting a data element, field, record, or file. If records or data elements in different files need to be linked or combined, then each record must contain one or more data elements that constitute primary and/or foreign keys enabling valid linkages between the related records in separate files.

(2) *Textual documents.* Electronic textual documents shall be transferred as plain ASCII files; however, such files may contain Standard Generalized Markup Language (SGML) tags.

(3) *Digital spatial data files.* Digital spatial data files shall be transferred to NARA in accordance with the Spatial Data Transfer Standard (SDTS) as defined in the Federal Information Processing Standard 173–1 (June 10, 1994) which is incorporated by reference. Digital geospatial data files created on systems procured prior to February 1994 which do not have a SDTS capability are exempt from this requirement. Agencies should consult with NARA for guidance on transferring noncompliant digital geospatial data files created between February 1, 1994 and the effective date of this paragraph. The standard cited in this paragraph is available from the National Technical Information Service, Department of Commerce, Springfield, VA 22161. When ordering, cite FIPSPUB173–1, Spacial Data Transfer Standard (SDTS). This standard is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C. 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. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**.

(4) *Other categories of electronic records.* Agencies should identify any foreseeable problems in the possible transfer of potentially permanent electronic records in accordance with paragraphs (d) (1), (2), and (3) of this section at the time the records are scheduled. Special transfer requirements agreed upon by NARA and the agency shall be included in the disposition instructions.

(5) *NARA consultation.* The agency shall consult with NARA for guidance on the transfer of types of electronic records other than those prescribed in paragraphs (d) (1), (2), and (3) of this section.

(e) *Documentation.* Documentation adequate to identify, service and interpret electronic records that have been designated for preservation by NARA shall be transferred with the records. This documentation shall include completed NARA Form 14097, Technical Description for Transfer of Electronic Records, and a completed NARA Form 14028, Information System Description Form, or their equivalents. Where possible, agencies should submit required documentation in an electronic form that conforms to the provisions of this section.

(1) *Data files.* Documentation for data files and data bases must include record layouts, data element definitions, and code translation tables (codebooks) for coded data. Data element definitions, codes used to represent data values and interpretations of these codes must match the actual format and codes as transferred.

(2) *Digital spatial data files.* Digital spatial data files shall include the documentation specified in paragraph (e)(1) of this section. In addition, documentation for digital spatial data files may include metadata that conforms to the Federal Geographic Data Committee's Content Standards for Digital Geospatial Metadata, as specified in Executive Order 12906 of April 11, 1994 (3 CFR, 1995 Comp., p. 882).

(3) *Documents containing SGML tags.* Documentation for electronic files containing textual documents with SGML tags shall include a table for interpreting the SGML tags, when appropriate.

PART 1234—ELECTRONIC RECORDS MANAGEMENT

3. The authority citation for part 1234 continues to read:

Authority: 44 U.S.C. 2904, 3101, and 3105

4. In § 1234.30, paragraph (a)(4) is revised to read:

§ 1234.30 Selection and maintenance of electronic records storage media.

(a) * * *

(4) If the media contains permanent records and does not meet the requirements for transferring permanent records to NARA as outlined in § 1228.188 of this chapter, permit the migration of the permanent records at the time of transfer to a medium which does meet the requirements.

* * * * *

Dated: October 15, 1997.

John W. Carlin,

Archivist of the United States.

[FR Doc. 97–27822 Filed 10–20–97; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA079–5020a; FRL–5909–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia—General Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision consists of Virginia's regulation for General Conformity which sets forth policy, criteria, and procedures for demonstrating and assuring conformity of non-transportation related federal projects to all applicable implementation plans. The intended effect of this action is to approve Virginia's General Conformity Rule as a SIP revision.

DATES: This action is effective December 22, 1997 unless notice is received on or before November 20, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M. Street, S.W., Washington, D.C. 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566–2182, at the EPA Region III office or via e-mail at quinto.rose@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On January 27, 1997, the Virginia Department of Environmental Quality (DEQ) submitted a formal revision to its State Implementation Plan (SIP) to EPA for the purpose of meeting the

requirements of 40 CFR 51.851, State Implementation Plans, found under 40 CFR 51, subpart W, Determining Conformity of General Actions to State and Federal Implementation Plans. Part 51, subpart W is commonly referred to as the federal General Conformity Rule. The DEQ submittal, which is the subject of this approval action, is Regulation 9 VAC 5 Chapter 160—Regulation for General Conformity. The Commonwealth of Virginia adopted a rule by the State Air Pollution Control Board on August 13, 1996 in accordance with the requirements of § 10.1–1308 of the Virginia Air Pollution Control Law and 40 CFR Part 51, with an effective date of January 1, 1997. This action to approve Virginia's General Conformity regulation as a SIP revision is being taken under section 110 of the Clean Air Act (CAA).

Summary of SIP Revision

Virginia Regulation 9 VAC 5 Chapter 160, Regulation for General Conformity, establishes standards and procedures to follow when evaluating conformity of non-transportation related federal projects to all applicable implementation plans developed pursuant to section 110 and part D of the CAA.

At 40 CFR part 51, subpart W, EPA promulgated the federal rule for General Conformity to implement section 176(c) of the CAA. This rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of federal actions to all applicable implementation plans developed pursuant to section 110 and part D of the CAA. The rule generally applies to federal actions except:

(1) Those required under the transportation conformity rule (40 CFR part 93, subpart A);

(2) Actions with associated emissions below specified de minimis levels; and

(3) Certain other actions which are exempt or presumed to conform to applicable air quality implementation plans.

At 40 CFR 51.851, State Implementation Plans, EPA promulgated the requirements that must be adopted by the state and submitted as a SIP revision to implement the General Conformity provisions. The provisions adopted by the Commonwealth of Virginia for General Conformity are those contained in and required by the federal rule. EPA has reviewed Virginia Regulation 9 VAC 5 Chapter 160, Regulation for General Conformity, and has determined that it satisfies the requirements of 40 CFR 51.851. A Technical Support Document (TSD) has been prepared which details the EPA's evaluation of Virginia Regulation 9 VAC 5 Chapter 160. Interested parties may obtain a copy of the TSD by contacting the EPA Regional Office listed in the **ADDRESSES** section of this document.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse and critical comments be filed. This action will be effective December 22, 1997 unless, by November 20, 1997, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 22, 1997.

Final Action

EPA is approving the final SIP revision of Virginia Regulation 9 VAC 5 Chapter 160, Regulation for General Conformity, submitted by the Commonwealth of Virginia on January 27, 1997, effective January 1, 1997.

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

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting

Office prior to the publication of the rule of today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action to approve revisions to the Virginia SIP must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such a rule or action. This action pertaining to the Virginia General Conformity Rule may not be challenged later in the proceedings to enforce its requirements. (See section (b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 29, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(118) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(118) Revision to the Virginia State Implementation Plan on January 27, 1997 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) A letter of January 27, 1997 from the Virginia of Department Environmental Quality transmitting the General Conformity Rule.

(B) Virginia Regulation 9 VAC 5 Chapter 160—Regulation for General Conformity, effective January 1, 1997.

(ii) Additional Material from the Virginia's January 27, 1997 submittal pertaining to Regulation 9 VAC 5 Chapter 160.

[FR Doc. 97–27846 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 193–054; FRL–5907–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on July 11, 1997. The revisions concern rules from the following District: Bay Area Air Quality Management District (BAAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to implement the transportation conformity provisions of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules define the criteria and procedures for transportation conformity actions and consultation for the Bay Area. EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals.

DATES: This action is effective on November 20, 1997.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Air Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; Ruth Verlar, 415–744–1208.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW., Washington, DC 20460.

California Air Resources Board, Transportation Strategies Group, 2020 ''L'' Street, Sacramento, CA 92123–1095; Eric Simon, 916–322–2700.

Bay Area Air Quality Management District , 939 Ellis St., San Francisco, CA 94109, David Marshall, 415–749–4678.

FOR FURTHER INFORMATION CONTACT: Mark Brucker, Air Planning Office, AIR–2, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: 415–744–1231, brucker.mark@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: BAAQMD, ''The San Francisco Bay Area Transportation Air Quality Conformity Procedures,'' which include sections 93.100–93.104 and sections 93.106–93.136 and ''The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures''. These rules were submitted by the California Air Resources Board to EPA on December 16, 1996.

II. Background

On July 11, 1997 in 62 FR 37172, EPA proposed to approve the following rules into the California SIP: BAAQMD: ''The San Francisco Bay Area Transportation Air Quality Conformity Procedures,'' which includes sections 93.100–93.104 and sections 93.106–93.136 and ''The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures''. The rules were adopted by BAAQMD on November 6, 1996. The California Air Resources Board (CARB) submitted these revisions to EPA on December 16, 1996. These rules were adopted as part of BAAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) and in response to section 176(c) transportation conformity requirements of the Clean Air Act (CAA). A detailed discussion of the background for each of the above rules is provided in the proposed rule cited above.

EPA has evaluated the above rule(s) for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the proposed rule cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in the proposed rule and in the technical support document (TSD), dated June, 1997, which is available at EPA's Region IX office.

III. Response to Public Comments

A 30-day public comment period was provided in 62 FR 37172. No comments were received, so no response has been prepared.

IV. EPA Action

EPA is finalizing this action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of sections 110(a) and 176(c)(4) of the CAA. This approval action will incorporate these rule(s) into the Federally approved SIP. The intended effect of approving these rule(s) is to regulate actions of agencies which affect emissions from on-road mobile sources in accordance with the requirements of the CAA.

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

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 26, 1997.

Felicia Marcus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(243) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(243) Transportation Air Quality Conformity Procedures and Transportation Conformity Consultation Procedures for the following AQMD were submitted on December 16, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(*1*) ''The San Francisco Bay Area Transportation Air Quality Conformity Procedures,'' which includes sections 93.100-93.104 and sections 93.106–93.136, adopted on November 6, 1996.

(*2*) ''The San Francisco Bay Area Transportation Air Quality Conformity Interagency Consultation Procedures,'' adopted on November 6, 1996.

* * * * *

[FR Doc. 97–27857 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[NM–33–1–7331a; LA–39–1–7332; FRL–5910–9]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, New Mexico; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills; Correction for Same, Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document approves the New Mexico State Plan for controlling landfill gas emissions from existing municipal solid waste (MSW) landfills. The plan was submitted to fulfill the requirements of the Clean Air Act (the Act). The State Plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits, except those located in Indian Country. Finally, this action makes a correction to a typographical error found in the direct final rulemaking for Louisiana's landfill gas control State Plan.

DATES: This action is effective on December 22, 1997, unless notice is postmarked by November 20, 1997, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State Plan and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

New Mexico Environment Department, Air Quality Program, 1190 St. Francis Drive, Harold Runnels Bldg., Santa Fe, NM 87501.

Anyone wishing to review this State Plan at the EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

I. Background

The Act requires that States submit plans to EPA to implement and enforce the Emission Guidelines (EG) promulgated for MSW landfills pursuant to Section 111(d) of the Act. Section 111(d) requires that the State submit the State Plan not later than 9 months after EPA promulgates the EG. On March 12, 1996, EPA promulgated the EG at 40 CFR part 60, subpart Cc. Thus, the State Plans were due no later than December 12, 1996. The State of New Mexico submitted its State Plan to EPA on January 7, 1997.

Under section 111(d) of the Act, the EPA established procedures whereby States submit plans to control existing sources of designated pollutants. Designated pollutants are defined as pollutants which are not included on a list published under section 108(a) of the Act (i.e., National Ambient Air Quality Standard pollutants), but to which a standard of performance for new sources applies under section 111. Under section 111(d), emission standards are to be adopted by the States and submitted to EPA for approval. The standards limit the emissions of designated pollutants from existing facilities which, if new, would be subject to the New Source Performance Standards (NSPS). Such facilities are called designated facilities.

The procedures under which States submit these plans to control existing sources are defined in 40 CFR part 60, subpart B. According to subpart B, the States are required to develop plans within Federal guidelines for the control of designated pollutants. The EPA publishes guideline documents for development of State emission standards along with the promulgation of any NSPS for a designated pollutant. These guidelines apply to designated pollutants and include information such as a discussion of the pollutant's effects, description of control techniques and their effectiveness, costs and potential impacts. Also as guidance for the States, recommended emission limits and times for compliance are set forth, and control equipment which will achieve these emission limits are identified. The emission guidelines for landfill gas are promulgated in 40 CFR part 60. The final section 111(d) emission standards and guidelines for landfill gas were promulgated on March 12, 1995 (61 FR 9905), and codified in the CFR at 40 CFR subparts WWW and Cc, respectively. The emission guideline's specified limits for landfill gas requires affected facilities to operate a control system designed to reduce collected non-methane organic compounds (NMOC) concentrations by 98 weight-percent, or reduce the outlet NMOC concentration to 20 parts per million or less, using the test methods specified under section 60.754(d).

II. Analysis of State Submittal

The official procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. The EPA promulgated the original provisions on November 17, 1975, and then amended them on December 19, 1995, to incorporate changes specific to solid waste incineration. These changes, which were necessary to conform with the solid waste incineration requirements under section 129 of the Act, are not relevant to MSW landfills. Thus, the procedures described in the original provisions for adopting and submitting State Plans still apply to MSW landfills and are reflected in 40 CFR part 60, subpart B, sections 60.23 through 60.26. Subpart B addresses public participation, legal authority, emission standards and other emission limitations, compliance schedules, emission inventories, source surveillance, compliance assurance, and enforcement requirements, and cross-references to the MSW landfill EG.

The New Mexico State Plan includes documentation that all applicable subpart B requirements have been met. Please see the evaluation report for a detailed description of EPA's analysis of the Plan's compliance with the subpart B requirements.

The New Mexico Environment Department (NMED) incorporates the NSPS and cross-references the NSPS for existing facilities to adopt the requirements of the Federal rule. The State has ensured, through this cross-reference process, that all the applicable requirements of the Federal rule have been adopted into the State Plan. The emission limits, reporting and recordkeeping requirements, and other aspects of the Federal rule have been adopted into 20 NMAC 2.64, *Municipal Solid Waste Landfills.*

Subpart Cc requires affected existing landfills to be capable of attaining the specified level of emissions within 30 months after the State Plan is federally approved. For compliance schedules for MSW landfills extending more than 12 months beyond the date required for submittal of the plan (December 12, 1996), the compliance schedule must include legally enforceable increments

of progress towards compliance for that MSW landfill. Each increment of progress in section 60.21(h) of subpart B must have a compliance date and must be included as an enforceable date in the State Plan. As an alternative, the State must negotiate specific dates for the increments of progress on a facility-by-facility basis, and submit them to the public participation process. A revision to New Mexico's State Plan must be submitted to EPA once the dates for the increments of progress are established for each affected facility. The State Plan may include such additional increments of progress as may be necessary to permit close and effective supervision of progress towards final compliance. The State did not submit evidence of authority to regulate sources in Indian Country. Therefore, EPA is not approving this State Plan as it relates to those sources.

NMED must submit an updated source inventory once the affected facilities have reported their design capacities and NMOC emissions as required under 40 CFR part 60, subpart Cc (60.35c). In addition, Title V permit applications for the affected facilities are due within one year from the due date of the design capacity reports.

III. Correction of Typographical Error

On August 29, 1997 (62 FR 45730), EPA published the direct final approval of Louisiana's section 111(d) State Plan for the control of landfill gases. Two typographical errors and the omission of a center heading occurred. Sections 62.4631 and 62.4632 were incorrectly numbered 62.4931 and 62.4932, and the center heading ''LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS'' was omitted. Subpart T of 40 CFR part 62 is corrected in the rulemaking portion of this document to reflect these changes.

IV. Final Action

In this final action EPA is promulgating a revision to the New Mexico State Plan and the Code of Federal Regulations, part 62, to adopt the New Mexico State Plan for the control of landfill gas from MSW landfills, except those located in Indian Country. On January 7, 1997, the State of New Mexico submitted to EPA a plan identifying the existing MSW landfills in the State and establishing standards for the control of landfill gas emissions from these facilities. The State Plan includes regulation 20 NMAC 2.64, *Municipal Solid Waste Landfills*, documentation of the public participation process, a source inventory, and other required elements.

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

V. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. *See* 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

State Plan approvals under section 111 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning State Plans on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2) of the Act.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Non-methane organic compounds, Reporting and recordkeeping requirements.

Dated: October 7, 1997.

Jerry Clifford,

Acting Regional Administrator.

40 CFR Part 62 is amended as follows:

PART 62—[AMENDED]

Subpart GG—New Mexico

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

Authority: 42 U.S.C. 7401–7642.

2. A new center heading consisting of §§ 62.7855 and 62.7856 is added to read as follows:

* * * * *

LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS

62.7855 Identification of Plan.

Control of landfill gas emissions from existing municipal solid waste landfills, submitted on January 7, 1997.

62.7856 Identification of Sources.

The plan applies to all existing municipal solid waste landfills with design capacities greater than or equal to 2.5 million megagrams and non-methane organic emissions greater than or equal to 50 megagrams per year as described in 40 CFR part 60, subpart Cc.

Subpart T is amended (corrected) to read as follows:

PART 62—[AMENDED]

Subpart T—Louisiana

A new center heading, consisting of Sections 62.4631 and 62.4632 is added to read as follows:

LANDFILL GAS EMISSIONS FROM EXISTING MUNICIPAL SOLID WASTE LANDFILLS

62.4631 Identification of Sources.

The plan applies to all existing municipal solid waste landfills with design capacities greater than 2.5 million megagrams and non-methane organic emissions greater than 50 megagrams per year as described in 40 CFR part 60, subpart Cc.

62.4632 Effective Date.

The effective date of the portion of the plan applicable to existing municipal solid waste landfills is October 28, 1997.

[FR Doc. 97–27849 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–121; Amdt. 195–58]

RIN 2137–AD 05

Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

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

ACTION: Direct final rule; extension of time for compliance.

SUMMARY: This direct final rule extends the time for compliance with the requirements for pressure testing of older hazardous liquid and carbon dioxide pipelines. Plans for testing, or establish maximum operating pressure, which were to be completed by December 7, 1997, would now be required by December 7, 1998. The dates for actual completion of the testing, previously December 7, 1999, and December 7, 2002, are also extended by one year. RSPA is extending these compliance dates to allow time to complete a rulemaking based on the American Petroleum Institute's (API) petition for a risk-based alternative to the required pressure testing rule. In a separate notice, RSPA intends to issue a proposed rule for a risk-based alternative to the existing pressure testing rule.

DATES: *Effective date:* This direct final rule takes effect January 20, 1998. If RSPA does not receive any adverse comment or notice of intent to file an adverse comment by December 22, 1997, the rule will become effective on the date specified. RSPA will issue a subsequent document in the **Federal Register** by January 5, 1998, to confirm that fact and reiterate the effective date. If an adverse comment or notice of intent to file an adverse comment is received, RSPA will issue a timely notice in the **Federal Register** to confirm that fact and RSPA would withdraw the direct final rule in whole or in part. RSPA may then incorporate the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

Compliance dates: The deadline that establishes regulations for planning and scheduling pressure testing is to be extended to December 7, 1998. All other deadlines are extended by a year.

ADDRESSES: Written comments must be submitted in duplicate and mailed to the Docket Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street SW., Washington, DC 20590–0001. Comments should identify the docket number and the RSPA rulemaking number. All comments received before December 22, 1997, will be considered before final action is taken. Late-filed comments will be considered so far as practicable. All comments and other docketed material will be available for inspection and copying in room 401 Plaza between the hours of 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this document, or the Dockets Unit (202) 366–9329, for copies of this document or other information in the docket.

SUPPLEMENTARY INFORMATION:

API Proposal

In a petition dated June 23, 1995, API submitted a risk-based alternative to the pressure testing rule and requested that RSPA delay implementation of the rule until the API proposal was given full consideration. A copy of the API proposal is available in the docket. API argued that the rule on pressure testing older hazardous liquid and carbon dioxide pipelines presents an opportunity to apply a risk-based approach to pressure testing, and proposed a risk-based alternative to the final rule issued on June 7, 1994 (59 FR 29379).

RSPA has been working with the pipeline industry to develop a risk management framework for pipeline regulation and decided to carefully evaluate the API proposal. Because substantial planning is required before pressure testing older pipelines, an extension of time for compliance was needed to avoid unnecessary costs in planning.

RSPA decided to initiate rulemaking on the API proposal. A notice of proposed rulemaking on risk-based alternative to pressure testing of older hazardous liquid and carbon dioxide pipelines is being published separately.

RSPA published a Final Rule (Docket PS–121; 61 FR 43026; August 20, 1996) extending the compliance deadline to plan and schedule pressure testing or establish maximum operating pressure to December 7, 1997. The dates for actual completion of testing were extended by one year.

To determine merits of the API proposal, RSPA held a public meeting on March 25, 1996. On May 8 and November 6, 1996, and again on May 7, 1997, RSPA briefed the Technical Hazardous Liquid Pipeline Safety

Committee (THLPSSC) on the API proposal and changes proposed by RSPA. RSPA also discussed those changes at the API conference on March 13, 1997, in Dallas, Texas.

RSPA received several comments from the industry during these meetings that all the compliance deadlines for the current pressure test rule should be extended. Industry argued that they were not sure what changes RSPA might suggest in the risk-based alternative rulemaking, so they could not plan in advance.

RSPA agrees with the comments about the need for extension of the comment period while rulemaking on the risk-based alternative is conducted. These new compliance dates are as follows:

—Before December 7, 1998, plan and schedule testing; or establish the pipeline's maximum operating pressure under § 195.406(a)(5).
—Before December 7, 2000, pressure test each pipeline containing more than 50 percent by mileage of electric resistance welded pipe manufactured before 1970; and at least 50 percent of the mileage of all other pipelines; and
—Before December 7, 2003, pressure test the remainder of the pipeline mileage.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures

The Office of Management and Budget (OMB) does not consider this final rule to be a significant regulatory action under section 3(f) of Executive Order 12866. Therefore, OMB did not review the direct final rule under that order. Also, DOT does not consider the direct final rule to be significant under its regulatory policies and procedures (44 FR 11034, February 26, 1979). This extension of compliance dates does not warrant preparation of a Regulatory Evaluation.

Executive Order 12612

We analyzed the final rule under the principles and criteria in Executive Order 12612 (''Federalism''). The final rule does not have sufficient federalism impacts to warrant preparation of a federalism assessment.

Regulatory Flexibility Act

I certify, under section 605 of the Regulatory Flexibility Act, that this final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

List of Subjects in 49 CFR Part 195

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

In consideration of the foregoing, RSPA amends part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—[AMENDED]

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

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

2. Section 195.302, paragraphs (c)(1), introductory text, and (c)(2)(i), introductory text, and (c)(2)(ii) are revised to read as follows:

§ 195.302 General requirements.

* * * * *

(c) * * *

(1) Before December 7, 1998, for each pipeline each operator shall—

* * * * *

(2) * * *

(i) Before December 7, 2000, pressure test—

* * * * *

(ii) Before December 7, 2003, pressure test the remainder of the pipeline mileage.

* * * * *

Issued in Washington, DC, on October 15, 1997.

Kelley S. Coyner,

Acting Administrator.

[FR Doc. 97–27740 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 101697A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the amount of the 1997 pollock total allowable catch (TAC) apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 16, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. processors is governed by regulations implementing the FMP at Subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 1997 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 365,837 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the amount of the 1997 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 365,587 mt, and is setting aside the remaining 250 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the amount of the 1997 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI. Providing prior notice and an opportunity for public comment is impracticable and contrary to the public interest. The fleet has taken the amount of the 1997 pollock TAC apportioned to vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI. Further delay would only result in overharvest which would disrupt the FMP's objective of providing sufficient pollock as bycatch to support other anticipated groundfish fisheries. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

Classification

This action is required by Sec. 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 16, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–27885 Filed 10–18–97; 3:55 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 203
Tuesday, October 21, 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.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

Rules Implementing the Freedom of Information Act

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Proposed rule.

SUMMARY: The Defense Nuclear Facilities Safety Board (Board) is proposing to amend its Freedom of Information Act (FOIA) rules to provide for expedited processing of certain requests, to conform response deadlines with those now provided in the statute, and to add a category of documents to be made available in the Public Reading Room. These changes result from new statutory provisions in the Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104–231. A minor change is also made in the Board's fee provision.

DATES: Comments should be submitted no later than November 20, 1997.

ADDRESSES: Comments should be sent to Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004–2901.

FOR FURTHER INFORMATION CONTACT: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Ave. NW, Suite 700, Washington, D.C. 20004–2901, (202) 208–6387.

SUPPLEMENTARY INFORMATION: The Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104–231, require that all Federal agencies promulgate new regulations on expedited processing of FOIA requests in cases of ''compelling need'' or other circumstances determined by the agency. 5 U.S.C. 552(a)(6)(E)(i). To implement this requirement, the Board is proposing to add a new paragraph (d) to 10 CFR 1703.105, ''Requests for Board Records Not Available Through the Public Reading Room (FOIA Requests).'' The text of the new paragraph is self-explanatory.

The Board is also amending its rules to provide a twenty-working-day time limit for response to initial requests. The Board notes, however, that it has provided documents in response to FOIA requests, during the eight years of Board operations, within ten working days in nearly every case. Regardless of the statutory changes, the Board will endeavor to provide requested documents promptly. This is usually within a few days unless an extensive search is required, a large number of documents must be reproduced, or national security concerns require a classification review of documents subject to the request. The Board provides a Public Reading Room with many documents immediately accessible to the public, computer access to the Board's electronic files, and is continuing to upload new categories of records to the Board's Internet home page, http://www.dnfsb.gov. These measures should ensure that the public continues to have speedy access to requested documents, generally within time less than the statutory requirements.

The Board will maintain in its Public Reading Room documents released pursuant to a FOIA request, along with an index of documents so released. In view of the small number of requests received in the past, the Board will include all documents released, beginning in calendar year 1997.

Finally, the Board is making one minor change to its fee provision, § 1703.107, by removing paragraph (b)(2)(iv). The Board has never made it a practice to charge mailing fees responding to FOIA requests, so this provision is not reflective of actual practice.

Executive Order No. 12866

These amendments do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to Office of Management and Budget review.

Regulatory Flexibility Act

These amendments will not have a significant economic impact on a substantial number of small entities since these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations will impose no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

List of Subjects in 10 CFR Part 1703

Freedom of information.

For the reasons stated in the preamble, the Board proposes to amend 10 CFR Part 1703 as follows:

Defense Nuclear Facilities Safety Board

PART 1703—PUBLIC INFORMATION AND REQUESTS

1. The authority citation for part 1703 continues to read as follows:

Authority: 5 U.S.C. 552 as amended, 42 U.S.C. 2286b(c).

2. Section 1703.103 is proposed to be amended by adding paragraph (b)(12) to read as follows:

§ 1703.103 Requests for Board records available through the public reading room.

* * * * *

(b) * * *

(12) Copies of records released pursuant to FOIA requests, along with an index to these records. The format will generally be the same as the format of the released records.

3. Section 1703.105 is proposed to be amended by adding a new paragraph (e) to read as follows:

§ 1703.105 Requests for Board records not available through the public reading room (FOIA requests).

* * * * *

(e)(1) Expedited processing—A person may request expedited processing of a FOIA request when a compelling need for the requested records has been shown ''Compelling need'' means:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal Government activity, if the request is made by a person primarily engaged in disseminating information; or

(iii) The records pertain to an immediate source of risk to the public health and safety or worker safety at a defense nuclear facility under the Board's jurisdiction.

(2) A requester seeking expedited processing should so indicate in the initial request, and should state all facts supporting the need to obtain the requested records rapidly. The requester must also state that these facts are true and correct to the best of the requester's knowledge and belief.

(3) When a request for expedited processing is received, the Board will respond within ten calendar days from the date of receipt of the request, stating whether or not the request has been granted. If the request for expedited processing is denied, any appeal of that decision will be acted upon expeditiously.

§ 1703.107 [Removed and Reserved]

4. Section 1703.107(b)(2)(iv) is proposed to be removed and reserved.

5. Section 1703.108 is proposed to be revised to read as follows:

§ 1703.108 Processing of FOIA requests

* * * * *

(b) Action pursuant to this section to provide access to requested records shall be taken within twenty working days. This time period may be extended up to ten additional working days, in unusual circumstances, by written notice to the requester. If the Board will be unable to satisfy the request in this additional period of time, the requester will be so notified and given the opportunity to—

(1) Limit the scope of the request so that it can be processed within the time limit, or

(2) Arrange with the Designated FOIA Officer an alternative time frame for processing the original request or a modified request.

* * * * *

Dated: October 14, 1997.

John T. Conway,

Chairman.

[FR Doc. 97–27704 Filed 10–20–97; 8:45 am]

BILLING CODE 3670–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–69–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. (Formerly Piper Aircraft Corporation), Models PA–31, PA–31–300, PA–31–325, PA–31–350, PA–31P, PA–31T, and PA–31T1 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 80–26–05, which currently requires the following on certain The New Piper Aircraft, Inc. (Piper) Models PA–31, PA–31–300, PA–31–325, PA–31–350, PA–31P, PA–31T, and PA–31T1 airplanes: repetitively inspecting the main landing gear (MLG) inboard door hinges and attachment angles for cracks, and replacing any cracked MLG inboard door hinge or attachment angle. The proposed AD results from the Federal Aviation Administration's policy on aging commuter-class aircraft and the determination that an improved design MLG inboard door hinge and attachment assembly (or approved hinges and angles made of steel), when incorporated, will eliminate the need for the currently required repetitive short-interval inspections. The proposed AD would retain the current repetitive inspections contained in AD 80–26–05, and would require installing these improved design or approved steel parts as terminating action for the repetitive inspection requirement. The actions specified in the proposed AD are intended to prevent separation of the MLG inboard door from the airplane caused by a cracked inboard door hinge or attachment angle, which could result in the MLG becoming jammed with consequent loss of control of the airplane during landing operations.

DATES: Comments must be received on or before December 26, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–69–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that relates to the proposed AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6079; facsimile (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the rules docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–CE–69–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–69–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

On December 1, 1995, the FAA issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Piper Models PA–31, PA–31–325, PA–31–350, PA–31P, PA–31T, and PA–31T1 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 7, 1995 (60 FR 62774), and proposed to supersede AD 80–26–05, Amendment 39–3994. The NPRM proposed to (1) retain the requirement of repetitively inspecting the main landing gear (MLG) inboard door hinges and attachment angles for cracks, and replacing any cracked MLG inboard door hinge or attachment angle; and (2) require incorporating a MLG inboard

door hinge and attachment angle assembly of improved design (part number 47529–32) or FAA-approved hinges and angles made of steel, as terminating action for the repetitive inspection requirement. Accomplishment of the proposed inspections would have been in accordance with Piper Service Bulletin (SB) No. 682, dated July 24, 1980.

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

Explanation of the Comment Received on the NPRM

The comment received on the NPRM contained information that the improved design hinge assemblies, part number (P/N) 47529–32, are also susceptible to fatigue cracking, and that installing this assembly should not eliminate the need for the repetitive inspections currently required by AD 80–26–05. The commenter states that its airplane fleet has experienced three failures and three incidents related to fatigue cracking of the P/N 47529–32 hinge assemblies.

Subsequent Actions

The FAA conducted a review of the manufacturer's service history and service difficulty reports in the FAA database associated with the P/N 47529–32 MLG inboard door hinge assembly. Based on a review of this information, including the information received from the commenter, the FAA determined that more information and analysis were needed before MLG inboard door hinge assembly replacements were mandated through an AD, as terminating action for the repetitive inspections currently required by AD 80–26–05.

With the above information in mind, the FAA issued, on February 11, 1997, an advance notice of proposed rulemaking (ANPRM) to provide an opportunity for the general public to participate in the decision as to what course of rulemaking the FAA should take. The ANPRM was published in the **Federal Register** on February 19, 1997 (62 FR 7375). At this time, the FAA also withdrew the NPRM.

Interested persons were encouraged to provide information that describes what they consider the best action (if any) to be taken regarding the P/N 47529–32 MLG hinge assembly. No information or comments were received on the ANPRM.

The FAA's Analysis and Determination

The FAA service difficulty database contains 10 reports of failure or cracks found in the MLG inboard door hinge assembly on the affected airplanes. Six of these reports were submitted by the commenter to the NPRM, with three of these incidents attributed to the original MLG inboard door hinge assemblies. The other four reports are not clear as to whether the original MLG inboard door hinge assemblies were installed or the improved design assemblies were installed. However, the incidents occurred on high service time airplanes and, since there is no AD action mandating the installation of the improved design MLG inboard door hinge assemblies, the FAA presumes that the original hinge assemblies were installed.

The FAA has reviewed the three incident reports on the improved design MLG inboard door hinge assemblies and performed extensive testing and analysis of the improved design MLG inboard door hinge assemblies. The FAA has determined that the incidents were isolated and that mandating repetitive inspections is not needed when the P/N 47529–32 MLG inboard door hinge assemblies are installed. The FAA has determined that Piper Model PA–31–300 airplanes incorporate the same type design as the other PA–31 series airplanes and could incorporate the same part number MLG inboard door hinge assemblies.

After reviewing all available information related to this subject, including the referenced service information, the FAA has determined that AD action should be taken to (1) eliminate the repetitive short-interval inspections required by AD 80–26–05; and (2) prevent separation of a MLG door from the airplane caused by a cracked inboard door hinge or attachment angle, which could result in the MLG becoming jammed with consequent loss of control of the airplane during landing operations.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Models PA–31, PA–31–300, PA–31–325, PA–31–350, PA–31P, PA–31T, and PA–31T1 airplanes of the same type design, the FAA is proposing an AD. The proposed AD would supersede AD 80–26–05 with a new AD that would (1) retain the requirement of repetitively inspecting the MLG inboard door hinges and attachment angles for cracks, and replacing any cracked MLG inboard door hinge or attachment angle; and (2) require incorporating a MLG inboard door hinge and attachment angle assembly of improved design (part number 47529-32) or FAA-approved hinges and angles made of steel, as terminating action for the repetitive inspection requirement. Accomplishment of the proposed inspections would be in accordance with Piper SB No. 682, dated July 24, 1980.

The FAA's Aging Commuter-Class Aircraft Policy

The actions proposed in this AD are part of the FAA's aging commuter-class aircraft policy, which briefly states that, when a modification exists that could eliminate or reduce the number of required critical inspections, the modification should be incorporated. This policy is based on the FAA's determination that reliance on critical repetitive inspections on aging commuter-class airplanes carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

The alternative to installing the improved design hinge assemblies on the affected airplanes would be to rely on the repetitive inspections required by AD 80–26–05 to detect cracks in these areas.

Cost Impact

The FAA estimates that 1,769 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $2,000 per airplane ($500 per assembly × 4 assemblies per airplane). Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,750,280 or $2,120 per airplane. This figure is based on the presumption that no affected airplane owner/operator has accomplished the proposed replacement.

Piper has informed the FAA that hinge assemblies have been distributed to equip approximately 400 (1,600

separate assemblies) of the affected airplanes. Presuming that 400 of the affected airplanes have four of these hinge assemblies incorporated, the cost impact of the proposed AD upon U.S. owners operators of the affected airplanes would be reduced by $848,000 from $3,750,280 to $2,902,280.

The intent of the FAA's aging commuter airplane program is to ensure safe operation of commuter-class airplanes that are in commercial service without adversely impacting private operators. The FAA believes that a large number of the remaining 1,369 affected airplanes (1,769 affected airplanes—400 airplanes) that would be affected by the proposed AD are operated in various types of air transportation. This includes scheduled passenger service, air cargo, and air taxi.

The proposed AD would allow 800 hours time-in-service (TIS) after the effective date of the proposed AD before mandatory accomplishment of the design modification. The average utilization of the fleet for those airplanes in air transportation is between 25 to 40 hours TIS per week. Based on these figures, operators of commuter-class airplanes involved in commercial operation would have to accomplish the proposed modification within 5 to 8 months after the proposed AD would become effective. For private owners, who typically operate between 100 to 200 hours TIS per year, this would allow 4 to 8 years before the proposed modification would be mandatory.

Compliance Time of the Proposed AD

The FAA established the 800 hours TIS replacement compliance time based on its engineering evaluation of the problem. Among the issues examined in this engineering evaluation were analysis of service difficulty reports, the difficulty level of the inspection, and how critical the situation would be if cracks occurred in the subject area despite accomplishment of the repetitive inspections.

Usually, the FAA establishes the mandatory design modification compliance time on AD's affecting aging commuter-class airplanes upon the accumulation of a certain number of hours TIS on the airplane. For this action, the FAA is proposing to mandate the modification for all operators ''within the next 800 hours TIS after the effective date of this AD.'' The total TIS levels of the airplane fleet vary from under 1,000 hours TIS to over 5,000 hours TIS, and annual accumulation rates vary from 50 hours TIS to over 1,000 hours TIS. Establishing a long-term set compliance time of hours TIS accumulated on Piper Models PA–31, PA–31–300, PA–31–325, PA–31–350, PA–31P, PA–31T, and PA–31T1 airplanes (such as 5,000 hours TIS) would impose an undue burden on the manufacturer of having to maintain a supply of replacement parts for the entire fleet when many airplanes in the fleet may never reach this compliance time.

Instead, the FAA believes that Piper should maintain parts for several years; in this case about 8 years to allow low-usage airplanes time to accumulate the 800 hours after the effective date of the AD. The FAA has determined that the compliance time of the proposed rule provides the level of safety required for commuter air service and general aviation, while still minimizing the impact on the private airplane owners of Piper Models PA–31, PA–31–300, PA–31–325, PA–31–350, PA–31P, PA–31T, and PA–31T1 airplanes.

Regulatory Impact

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

For the reasons discussed above, I certify that this 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the rules docket. A copy of it may be obtained by contacting the rules docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 80–26–05, Amendment 39–3994, and by adding a new AD to read as follows:

The New Piper Aircraft, Inc. (formerly Piper Aircraft Corporation): Docket No. 96–CE–69–AD. Supersedes AD 80–26–05, Amendment 39–3994.

Applicability: The following model and serial number airplanes, certificated in any category, that are not equipped with Piper part number (P/N) 47529–32 main landing gear (MLG) inboard door hinge assemblies or FAA-approved MLG inboard door hinges and attachment angles made of steel at all four hinge assembly locations:

Models	Serial numbers
PA–31, PA–31–300, and PA–31–325.	31–2 through 31–8012077.
PA–31–350	31–5001 through 31–8052168.
PA–31P	31P–3 through 31P–7730012.
PA–31T	31T–7400002 through 31T–8020076.
PA–31T1	31T–7804001 through 31T–8004040.

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

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

To prevent separation of a MLG door from the airplane caused by a cracked MLG inboard door hinge or attachment angle, which could result in the MLG becoming jammed with consequent loss of control of the airplane during landing operations, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (compliance with AD 80–26–05), and thereafter at intervals not to exceed 100 hours TIS until the modification required by paragraph (c) or (d) of this

AD is incorporated, inspect (using dye penetrant methods) the MLG inboard door hinges and attachment angles for cracks. Accomplish the inspections in accordance with the INSTRUCTIONS section of Piper Service Bulletin No. 682, dated July 24, 1980.

(b) The initial dye penetrant inspection type must be utilized for all future repetitive inspections. Dye penetrant inspection types consist of Type I: fluorescent; Type II: non-fluorescent or visible dye; and Type III: dual sensitivity.

(c) If cracks are found during any of the inspections required in paragraph (a) of this AD, prior to further flight, install a Piper P/N 47529–32 MLG inboard door hinge and attachment angle assembly or install FAA-approved MLG inboard door hinges and angles made of steel.

(d) Within the next 800 hours TIS after the effective date of this AD, unless already accomplished as required by paragraph (c) of this AD, install a Piper P/N 47529–32 MLG inboard door hinge and attachment angle assembly in all four hinge assembly locations or install FAA-approved MLG inboard door hinges and angles made of steel in all four hinge assembly locations.

(e) Installing a Piper P/N 47529–32 MLG inboard door hinge and attachment angle assembly in all four assembly locations or installing FAA-approved MLG inboard door hinges and angles made of steel in all four assembly locations as required by paragraphs (c) and (d) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

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

(g) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

(2) Alternative methods of compliance approved in accordance with AD 80–26–05 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

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

(h) All persons affected by this directive may obtain copies of the document referred to herein upon request to The New Piper Aircraft, Inc., 2926 Piper Drive,Vero Beach, Florida 32960; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(i) This amendment supersedes AD 80–26–05, mendment 39–3994.

Issued in Kansas City, Missouri, on October 14, 1997.

Mary Ellen Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–27794 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. 96–47, FHWA 97–2295, Notice No. 1]

RIN 2125–AE11

National Standards for Traffic Control Devices; Revision of the Manual on Uniform Traffic Control Devices; Markings, Signals, and Traffic Control Systems for Railroad-Highway Grade Crossings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendment to the Manual on Uniform Traffic Control Devices (MUTCD), reopening and extension of comment period.

SUMMARY: The FHWA is reopening and extending the comment period for a notice of proposed amendment to the MUTCD which was published January 6, 1997, at 62 FR 691. The original comment period was set to close on August 30, 1997. This extension responds to concern expressed by the National Committee on Uniform Traffic Control Devices (NCUTCD) that the August 30 closing date does not provide sufficient time for appropriate response to the proposed MUTCD change. The FHWA recognizes that other commenters may be subject to similar time constraints and agrees that the comment period should be reopened and extended. Therefore, the closing date for comments is extended to December 22, 1997, in order to provide the NCUTCD and other interested commenters additional time to evaluate the proposed changes and to submit responses.

DATES: Submit comments on or before December 22, 1997.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: For information regarding the notice of proposed amendment contact Ms. Linda Brown, Office of Highway Safety, Room 3408, (202) 366–2192, or Mr. Raymond Cuprill, Office of Chief Counsel, Room 4217, (202) 366–0834, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: As noted, the original comment period for the January 6, 1997, notice of proposed amendment to the MUTCD closed on August 30, 1997. The NCUTCD has expressed concern that this closing date does not provide sufficient time to review the proposed change, consolidate comments, and submit these comments to its member organizations for approval. The NCUTCD only meets in January and June of each year to vote as a full body on proposals and issues relating to the MUTCD. Judging from the number of comments received so far to this docket and considering the large amount of materials contained in this docket, we believe there may be other interested persons who need additional time to respond.

The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. It may be purchased for $44.00 from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954, Stock No. 650–001–00001–0.

Authority: 23 U.S.C. 315, 49 CFR 1.48.

Issued: October 8, 1997.

Gloria J. Jeff,

Acting Federal Highway Administrator.

[FR Doc. 97–27741 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX 57–1–7183: FRL–5911–6]

Approval and Promulgation of State Implementation Plans (SIP) for Texas: Houston Vehicle Miles Traveled (VMT) Offset Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is proposing to disapprove the SIP revision submitted by the State of Texas for the Houston/ Galveston Area (HGA) severe ozone nonattainment area to meet the VMT offset plan requirements of section 182 of the Clean Air Act, as amended (the Act). The EPA is proposing disapproval because the State's VMT Offset SIP uses modeling which relies upon an Inspection and Maintenance (I/M) program that was halted. This action is being taken under sections 110 and 182 of the Act.

DATES: Comments must be received on or before November 20, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Region 6 Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Rennie, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7367.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(d)of the Act, requires ozone nonattainment areas classified as severe or above to develop plans for VMT offsets. Section 182(d)(1)(A) requires the State to submit plans which will identify and adopt specific enforceable transportation control strategies and Transportation Control Measures (TCMs) to offset growth in vehicle emissions so that, as vehicle trips and vehicle miles traveled increase, vehicle emissions stay below an established ceiling as projected out to the attainment date for the National Ambient Air Quality Standards for the nonattainment area requiring the VMT Offsets plan. The HGA is classified as a severe ozone nonattainment area with an attainment deadline of 2007. Reduction in vehicle emissions is to be attained as necessary, in combination with other emission reduction requirements to comply with periodic emissions reduction requirements. States were directed to consider, choose, and implement measures as specified in section 108(f). The VMT Offsets Plans were due to be submitted to EPA by November 15, 1992. The State submitted a ''committal'' SIP to the EPA for VMT offsets for the HGA nonattainment area on November 15, 1992. This submittal committed to submitting subsequent SIPs in 1993 and 1994 to parallel the development of the Rate-of-Progress SIP revision due November 15, 1993 and the demonstration of attainment SIP revision due by November 1994.

On November 12, 1993, and November 6, 1994, the State of Texas submitted a revision to the SIP for the VMT Offsets Plan to fulfill the ''committal'' SIP requirement. The Plan was submitted using specific modeling for vehicle emissions based on, among other things, a vehicle inspection and maintenance test-only program with most vehicles receiving an I/M loaded mode transient emission test known as the ''IM240.'' EPA approved the I/M program on August 22, 1994 (59 FR 43046). This program began operation in January 1995, before being halted by the Texas Legislature and Governor.

Various states, including Texas, desired greater flexibility in implementing their I/M programs. On September 18, 1995, EPA revised and finalized I/M rules that gave states much greater flexibility in implementing I/M programs. One element of the I/M flexibility amendments included a provision for a new low enhanced performance standard that would allow for less stringent I/M programs if overall air quality goals were met. In addition, on November 28, 1995, President Clinton signed the National Highway System Designation Act of 1995 (NHSDA) which allowed even greater flexibility in I/M programs for states, especially in the area of emission reduction estimates.

In response to this additional flexibility, the State of Texas submitted a revised I/M program to EPA. The EPA proposed conditional interim approval of this new plan on October 3, 1996 (61 FR 51651). As a result, the State of Texas has implemented a decentralized testing network which allows for both test-and-repair and test-only stations, and includes remote sensing. Vehicles are subject to a two-speed idle test, and an optional Acceleration Simulation Mode (ASM) loaded mode test. This program is referred to as the Texas Motorist Choice Program. Therefore, the modeling in the VMT Offset SIP is no longer current. The Plan's modeling does not reflect the Texas Motorist Choice I/M program; it reflects a program no longer in use. The EPA believes this is a significant deficiency which prohibits approval of the SIP under sections 110 and 182 of the Act.

For further information regarding EPA's analysis of the State submittal, refer to the Technical Support Document for this action found in the official docket.

II. Evaluation of Houston VMT SIP

While the current Texas Motorist Choice vehicle emission testing program appears to fulfill the requirements of the NHSDA, the Clean Air Act, and Federal I/M Rules, it presents a significant inconsistency within the VMT Offset SIP. This review compares the State's VMT Offset SIP submittal with the Act to determine compliance with requirements in the Act. The following narrative highlights the deficiency and rationale for disapproving this SIP revision.

The EPA interprets 182(d)(1)(A) to require sufficient measures be adopted so that projected motor vehicle volatile organic compound emissions will stay beneath a ceiling level established through modeling of mandated transportation-related controls. When growth in VMT and vehicle trips would otherwise cause a motor vehicle emissions upturn, this upturn must be prevented by VMT offset measures. If projected total motor vehicle emissions during the ozone season in one year are not higher than during the ozone season the year before due to the control measures in the SIP, the VMT offset requirement is satisfied.

In order to make these projections, two curves of vehicle emissions are calculated. The upper curve includes the effects of mandated controls such as reformulated gasoline, Reid Vapor Pressure control of gasoline, the employer trip reduction program, transportation control measures committed to in the 1993 TCM SIP, and an enhanced I/M program. The lower curve is produced by using an enhanced I/M program expanded into additional counties and other TCMs.

The November 15, 1993, VMT Offset SIP revision included a projection of the mobile source emissions profile for the HGA nonattainment area through the year 2010. The profile included the effects of required reductions from the mandatory vehicle I/M program in Harris and Galveston Counties, Reid vapor pressure controls, reformulated gasoline, an employee trip reduction program, Stage II vapor recovery for refueling, and a clean fuel fleets program. An estimation of the lowest point in these emissions projections was established as a ceiling for mobile source emissions. The lower curve includes the expansion of the enhanced

I/M program into three additional counties in 1995 and another three counties in 1997.

The November 6, 1994, submittal included a modification of the mobile source emissions projections and ceiling level to reflect updated information and methodology as well as TCMs and mobile source controls necessary to achieve VMT offset at least through the year 2010.

The final emissions estimates for Volatile Organic Compounds (VOCs) were obtained by multiplying the VMT times the vehicle emissions factor. Vehicle miles traveled data was generated from the Texas Travel Demand Package developed and maintained by the Texas Department of Transportation. Transit mode-choice estimates were performed by the Metropolitan Transit Authority using their mode choice models. Mobile source emission factors were obtained using the MOBILE5a model approved by EPA. Results of the updated modeling demonstration are found in Appendix B of the 1994 SIP submittal. The MOBILE5a model estimated emissions based on a number of input parameters. Among these were I/M program type and test type. The estimates were obtained using a test only I/M program type with either a loaded/idle test or a transient test. The geographic coverage of the I/M program in the Houston area was assumed to cover eight counties to include the commuting areas surrounding Harris County.

In the Texas Motorist Choice I/M Program, adopted by the State and in operation, not only has the program type changed to primarily a test-and-repair format, but the majority of the test stations offer only the loaded/idle test. In addition, the geographic area for mandatory testing has been reduced to just Harris County, with remote testing proposed, but not yet implemented, to monitor traffic coming into Harris County from the surrounding counties. With these major changes in mobile source emission parameters, the modeling may project different estimates of mobile source emissions, thereby impacting the emission levels projected to demonstrate the VMT Offset SIP requirements of the Act. The submitted SIP does not reflect any of the changes discussed above.

Employee Trip Reduction (ETR) programs are no longer required under the Act. Texas has dropped its ETR program and requested a withdrawal of the ETR program from the SIP. However, ETR credits were used in modeling VMT offsets. The ETR credits can no longer be used in VMT modeling, further emphasizing the need to revise the SIP submittal.

In summary, the HGA VMT SIP submittal is based on out-of-date modeling and must be revised. Motor vehicle emission reductions claimed for the vehicle I/M program will have changed since the SIP revision was submitted in 1993 and 1994. Elimination of the ETR program by the State eliminates the use of ETR emission reductions in the VMT SIP modeling demonstration. Based on the above analysis, EPA cannot approve the HGA VMT SIP.

III. Proposed Action

The EPA proposes to disapprove the HGA VMT Offset SIP under sections 110(k) and 182 of the Act because one or more of the elements of the VMT SIP submitted on November 12, 1993, and August 16, 1994, are incorrect. The VMT SIP submittal represents vehicle emission credits at one level based on modeling using a test-only I/M loaded mode transient emission test (IM240). That particular program was halted after a few weeks of operation. The State has since chosen to implement a different program, the Texas Motorist Choice Program, which is a test and repair program with a two-speed idle test or ASM loaded mode test, in a reduced geographic area, plus remote sensing to cover the outlying commuter areas. It is EPA's position that the emission reduction credits for the Texas Motorist Choice Program will be significantly different than those for an IM240 test only program. Consequently, the projected motor vehicle emissions in the August 16, 1994, VMT Offset SIP submittal are incorrect. They are based on an I/M program that is not in existence. They also do not reflect the projections of the new program.

In addition, due to the elimination of the ETR program, the modeling is based on incorrect information. Therefore, the emission reductions projected could not be reflecting the trends of VMT in the Houston area.

The State recently approved and submitted a revision to the HGA VMT offset SIP to correct concerns raised in this notice. We expect to review and take appropriate action on the latest revision rather than finalize this disapproval.

Under section 179(a)(2), if the EPA Administrator takes final disapproval action on a submission under section 110(k) for an area designated nonattainment based on the submission's failure to meet one or more of the elements required by the Act, and the deficiency is not corrected within 18 months of the effective date of the final disapproval action, the Administrator must apply one of the sanctions set forth in section 179(b) of the Act. Section 179(b) provides two sanctions available to the Administrator: revocation of highway funding and the imposition of emission offset requirements. If the administrator imposes the first sanction and the deficiency is not corrected within six months, the second sanction shall apply. The sanctions shall apply until the administrator determines that the State has come into compliance. This sanctions process is set forth in 40 CFR 52.31. Today's action serves only to propose disapproval of the State's revision, and does not constitute final agency action. Thus, the sanctions process described above does not commence with today's action. The 18 month period for the State to correct the deficiency would begin upon the effective date of a final disapproval action.

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

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. *See* 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The EPA's proposed disapproval of the State request under sections 110 and 301, and subchapter I, part D of the Act does not affect any existing requirements applicable to small entities. Any preexisting Federal requirements remain in place after this proposed disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, the EPA certifies that this proposed

disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements, nor does it impose any new Federal requirements.

C. Small Business Regulatory Enforcement Fairness Act

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

D. Unfunded Mandates Act

Under section 202 of the Unfunded Mandate Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local or tribal governments in aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the proposed disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action does not impose new requirements. Accordingly, no additional costs to State, local, or tribal governments, or private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Dated: October 8, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97–27848 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA079–5020b; FRL–5910–1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia, General Conformity Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of establishing the requirements for determining conformity of general federal actions to applicable air quality implementation plans (General Conformity). In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views them as noncontroversial SIP revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 20, 1997.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566–2182, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title (Virginia General Conformity Rule) which is located in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 29, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 97–27845 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 62

[NM–33–1–7331b; FRL–5911–1]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, New Mexico; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This document proposes approval of the New Mexico State Plan for controlling landfill gas emissions from existing municipal solid waste landfills. The plan was submitted to fulfill the requirements of the Clean Air Act. The State Plan establishes emission limits for existing MSW landfills, and provides for the implementation and enforcement of those limits, except those located in Indian Country. Please see the direct final rule of this action located elsewhere in today's **Federal Register** for a detailed description of the State Plan.

DATES: Comments on this proposed rule must be postmarked by November 20, 1997. If no adverse comments are received, then the direct final rule is effective on December 22, 1997.

ADDRESSEES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's plan and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

New Mexico Environment Department, Air Quality Program, 1190 St. Francis

Drive, Harold Runnels Bldg., Santa Fe, NM 87501.

Anyone wishing to review this plan at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), EPA Region 6, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Paper and paper products industry, Sulfuric acid plants, Sulfuric oxides, Landfill gas emissions from municipal solid waste landfills.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 7, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97–27850 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 62, No. 203

Tuesday, October 21, 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.

COMMODITY CREDIT CORPORATION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., November 3, 1997.

PLACE: Room 104–A, Jamie Whitten Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the Special Open meeting of February 5, 1996.
2. Memorandum re: Update of Commodity Credit Corporation (CCC)-Owned Inventory.
3. Memorandum re: Commodity Credit Corporation's (CCC's) Financial Condition Report.
4. Memorandum re: Resolution for Docket CZ–266, Resolution No. 33, Amendment 2, ratification of Commodities Available for Public Law 480 during Fiscal Year 1996.
5. Resolution re: Amendment of Bylaws of the Commodity Credit Corporation.
6. Resolution re: Termination of Obsolete CCC Board Dockets.
7. Resolution re: Amendment of Dockets Requiring Only a Change in Nomenclature.
8. Docket GCX–326, Rev. 1, re: Market Access Program for Fiscal Year 1996 and Subsequent Years.
9. Docket GCZ–136, Rev. 2, re: Policy with Respect to Establishment of Valuation Reserves Against Assets of the Commodity Credit Corporation.
10. Docket CZ–266, Rev. 2, re: Operations Under Agricultural Trade Development and Assistance Act.
11. Docket CZ–148, Rev. 4 re: Capital Fund Commitments and Control of Valuation Reserves Against Assets of the Commodity Credit Corporation.
12. Docket P–CON–96–02, re: Environmental Activities.
13. Docket P–CON–96–03, re: Delegating Authority for CCC Conservation Programs.
14. Docket CZ–332, Rev. 1, re: Food for Progress Program.

CONTACT PERSON FOR MORE INFORMATION: Juanita B. Daniels, Acting Secretary, Commodity Credit Corporation, Stop 0571, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, D.C. 20250–0571.

Dated: October 16, 1997.

Juanita B. Daniels,

Acting Secretary, Commodity Credit Corporation.

[FR Doc. 97–27928 Filed 10–16–97; 4:34 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Conduct an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request approval for a new information collection, the Respondent Information Evaluation.

DATES: Comments on this notice must be received by December 26, 1997 to be assured of consideration.

ADDITIONAL INFORMATION: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Respondent Information Evaluation.

Type of Request: Intent to seek approval to conduct an information collection.

Abstract: The NASS is initiating a coordinated effort to increase survey cooperation. This effort will include the development of a program to educate producers about the functions of NASS and the uses of survey data. The importance of unbiased NASS estimates and the potential consequences of estimates being unavailable are expected to be a major part of the program. Ways to disseminate this message will also be investigated. Data users will be surveyed to gain insight into uses of NASS data. Data providers will be surveyed to obtain their opinions of how NASS survey data are used. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: Subscribers to National Agricultural Statistics Service commodity reports and producers (data providers to NASS commodity reports).

Estimated Number of Respondents: 1,000 report subscribers and 4,000 producers.

Estimated Total Annual Burden on Respondents: 833 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

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

1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000.

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

Signed at Washington, D.C., October 3, 1997.

Rich Allen,

Acting Administrator, National Agricultural Statistics Service.

[FR Doc. 97–27748 Filed 10–20–97; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Commodity Survey Test.

Form Number(s): MA25Z, MA28X, MA28Z.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 4,380 hours.

Number of Respondents: 2,900.

Avg Hours Per Response: 1.5 hours.

Needs and Uses: The proposed information collection is a test of an alternate method of collecting manufacturers' product shipments data. Currently, we collect product class shipments from the establishments in the Annual Survey of Manufactures (ASM) and product shipments in the Census of Manufactures every five years. We also collect product shipments for various products from a combination of companies and establishments in the Current Industrial Reports (CIR) series. The data from the CIR, while quite detailed, do not cover all manufactured products. The data from the ASM, while comprehensive, does not provide sufficient detail for some users.

The Census Bureau would like to design a survey that would satisfy the need for both comprehensive and more detailed product data. The survey would collect detailed product shipments data from a sample of all manufacturing companies. The survey would cover all manufacturers' products at greater detail than the current ASM but less detail that is available in the existing CIR. If it is possible to successfully design such a survey, we could reduce the size of the ASM and eliminate much of the existing CIR program and divert those resources to the new survey.

Before we give additional consideration to implementation, we are planning to test the concept. We plan to select a sample of approximately 2,900 companies and ask them to report their company level product shipments for data year 1997. We have drafted questionnaires and developed reporting instructions. We plan to compare the results of this test collection to data from the CIR program and the 1997 Census of Manufactures. Those comparisons and the results of response follow-up to the test survey should help us determine if this type of survey is feasible and likely to produce the results our data users need.

Affected Public: Business or other for-profit.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: October 15, 1997.

W. Dan Haigler,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–27820 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 970811195–7195–01]

Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of consolidation and republication of a demonstration project plan as a permanent system pursuant to Public Law 104–113.

SUMMARY: This notice (1) consolidates the original plan and the two subsequent amendments into a single document for better understanding and ease of use; (2) documents the procedures by which the equivalent of locality-based comparability payments are applied at the National Institute of Standards and Technology (NIST); (3) specifies how to determine the General Schedule (GS) grade and rates of pay for employees who leave the NIST alternative personnel management system; (4) allows NIST to remove from the pay-for-performance system any positions not filled by career or career-conditional appointment; and (5) corrects, simplifies, and clarifies the project plan.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Allen Cassady at NIST on (301) 975–3031; Gail Redd at OPM on (202) 606–1521.

SUPPLEMENTARY INFORMATION:

1. Background

In accordance with Public Law 99–574, the NIST authorization act for 1987, OPM approved a demonstration project plan, ''Alternative Personnel Management System at the National Institute of Standards and Technology,'' and published the plan in the **Federal Register** on October 2, 1987 (52 FR 37082). The project plan has been modified two times to clarify certain NIST authorities (54 FR 21331 of May 17, 1989, and 54 FR 33790 of August 16, 1989), and to revise the performance appraisal and pay administration systems to better link pay with performance (55 FR 19688 of May 10, 1990, and 55 FR 39220 of September 25, 1990).

In a letter to NIST dated December 30, 1993, OPM offered two options to NIST for implementing locality pay beginning in January 1994. Option 1 would have required implementation of locality pay in a manner as close as possible to the implementation for GS employees. Locality pay would have been separate from basic pay and would have counted as basic pay for the same limited purposes for which it is basic pay for GS employees (5 CFR 531.606(b)). Option 2 would allow NIST to incorporate the equivalent of locality pay into its own basic pay package.

NIST chose Option 2. Adjustments in pay band ranges and in eligible employees' basic pay rates are made at the time of GS general and/or locality pay increases. Pay rates under the NIST Alternative Personnel Management System (NIST APMS) will be basic pay

for all purposes except those specifically stated in this notice.

This notice formally changes the project plan to clarify how locality pay is applied at NIST. It also documents or clarifies any administrative change made by OPM under its authority on other pay-related matters.

2. Public Law 99–574, National Bureau of Standards Authorization Act For Fiscal Year 1987

Because many elements of the NIST APMS were originally required by Section 10 of Pub. L. 99–574, the complete text of Section 10 is presented here.

Demonstration Project Relating to Personnel Management

Sec. 10(a)(1) The Office of Personnel Management and the National Bureau of Standards shall jointly design a demonstration project which shall be conducted by the Director of the National Bureau of Standards.

(2) The demonstration project shall, except as otherwise provided in this section, be conducted in accordance with section 4703 of title 5, United States Code, and shall be counted as a single project for purposes of subsection (d)(2) of such section.

(3) Subject to subsections (f) and (g) of section 4703 of title 5, United States Code, the demonstration project shall cover any position within the National Bureau of Standards which would otherwise be subject to—

(A) subchapter III of chapter 53 of title 5, United States Code, relating to the General Schedule;

(B) subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service; or

(C) chapter 54 of title 5, United States Code, relating to the Performance Management and Recognition System.

(b) Under the demonstration project, the Director of the National Bureau of Standards shall provide that—

(1) the rate of basic pay for a position may not be less than the minimum rate of basic pay, nor more than the maximum rate of basic pay, payable for the pay band (as referred to in paragraph (3)) within which such position has been placed;

(2) the minimum and maximum rates of basic pay for each pay band shall be adjusted at the times, and by the amounts, provided for under subsection (c);

(3) positions shall be classified under a system using pay bands which shall be established by combining or otherwise modifying the classes, grades, or other units which would otherwise be used in classifying the positions involved;

(4) employees shall be evaluated under a performance appraisal system which—

(A) uses peer comparison and ranking wherever appropriate; and

(B) affords appeal rights comparable to those afforded under chapter 43 of title 5, United States Code;

(5) the rate of basic pay of each participating employee will be reviewed annually, and shall be adjusted on the basis of the appraised performance of the employee; and

(B) subject to subsection (c)(4)(A)(i), the adjustment under subparagraph (A) in any year in the case of any employee whose performance is rated at the fully successful level or higher shall be at least the percentage adjustment taking effect under subsection (c)(3) in such year;

(6) appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided;

(7) performance-recognition bonuses, and recruitment and retention allowances, shall be awarded in appropriate circumstances, (but shall not be considered a part of basic pay);

(8) there shall be an employee development program which includes provisions under which employees may, in appropriate circumstances, be granted sabbaticals, the terms and conditions of which shall be consistent with those applicable for members of the Senior Executive Service under section 3396(c) of title 5, United States Code (excluding paragraph (2)(B) thereof);

(9) payment of travel expenses shall be provided for personnel to their first post of duty in the same manner as is authorized for members of the Senior Executive Service under section 5723 of title 5, United States Code, at the discretion of the Director; and

(10) the methods of establishing qualification requirements for, recruitment for, and appointment to positions shall, at the discretion of the Director, include methods involving direct examination and hiring.

(c)(1) For the purpose of this subsection, the term ''compensation'' means the total value of the various forms of compensation provided, including—

(A) basic pay;

(B) bonuses;

(C) allowances;

(D) retirement benefits;

(E) health insurance benefits;

(F) life insurance benefits; and

(G) leave benefits.

(2) The Director of the National Bureau of Standards shall, by contract or otherwise, provide for the preparation of reports which, based on appropriate surveys—

(A) shall include findings as to—

(i) the extent to which, as of the commencement of the demonstration project, the overall average level of compensation provided with respect to positions under the demonstration project is deficient in comparison to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(ii) with respect to each year thereafter, any net increase occurring during such year in the extent of the deficiency in the overall average level of compensation provided with respect to positions under the demonstration project, as compared to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(B) shall recommend a single percentage by which basic pay for all positions under the demonstration project must be increased so that, when considered in conjunction with the other forms of compensation generally provided, any net increase determined under subparagraph (A)(ii) will be eliminated.

(3) Whenever the Director of the National Bureau of Standards receives a recommendation under paragraph (2)(B), the Director—

(A) shall increase the minimum and maximum rates of basic pay for each such pay band by the lesser of—

(i) the percentage recommended; or

(ii) the overall average percentage of the adjustment in the rates of pay under the General Schedule under section 5305 of title 5, United States Code, for the period involved; and

(B) if and to the extent that funds are available for that purpose, may further increase those minimum and maximum rates—

(i) to make up for any part of the difference between the respective percentages under subparagraph (A), if the percentage under subparagraph (A)(ii) is the lesser; and

(ii) after making up for the entirety of any difference determined under clause (i) (including from any previous year), to eliminate any part of any remaining deficiency as originally determined under paragraph (2)(A)(i).

(4)(A) Notwithstanding any other provision of this section—

(i) the maximum rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(ii) the amount of basic pay, bonuses, and allowances paid during any fiscal

year to any employee participating in the demonstration project may not, in the aggregate, exceed the annual rate of basic pay payable for level I of the Executive Schedule.

(B)(i) Any amount which is not paid to an employee during a fiscal year because of the limitation under subparagraph (A)(ii) shall be paid in a lump sum at the beginning of the following fiscal year.

(ii) Any amount paid under this subparagraph during a fiscal year shall be taken into account for purposes of applying the limitation under subparagraph (A)(ii) with respect to such fiscal year.

(5) Notwithstanding any other provision of this section, the demonstration project shall be conducted in such a way so that, with respect to the 12-month period beginning on October 1, 1986, the total cost to the Government relating to providing compensation to participating employees shall not exceed the total cost which would have resulted if this section has not been enacted.

(6)(A) If the minimum rate of basic pay for a pay band, after an increase under paragraph (3)(A), exceeds the rate of basic pay payable to an employee whose position would otherwise be within such pay band, the employees's position may, notwithstanding subsection (b)(1), be placed in the next lower pay band.

(B) Placement of a position in a lower pay band under subparagraph (A) shall not be considered a reduction in grade or pay for purposes of subchapter II of chapter 75 of title 5, United States Code, or a comparable provision under the project.

(d)(1) The rate of basic pay for an employee serving in a position at the time it is converted to a position covered by the demonstration project may not be reduced by reason of the establishment of such project.

(2)(A) Each employee referred to in paragraph (1) shall be paid—

(i) in the case of an employee serving in a position under the General Schedule on the date the position becomes covered by the demonstration project, a lump-sum pro rata share of the equivalent of any within-grade increase which would have been due the employee under section 5335 of title 5, United States Code, computed as provided in subparagraph (B), and

(ii) in the case of an employee serving in a position subject to chapter 54 of title 5, United States Code, on such date, a lump sum pro rata share of the equivalent of the employee's merit increase which would have been due under such chapter, computed as provided in subparagraph (B), taking into account the performance requirements applicable to such increase.

(B) For purposes of subparagraph (A), the pro rata share of an equivalent increase referred to in such subparagraph shall be computed through the day before the date referred to in such subparagraph.

(e)(1)(A) In carrying out section 4703(h) of title 5, United States Code, with respect to the demonstration project, the Office of Personnel Management shall provide that such project will be evaluated on an annual basis by a contractor. Such contractor shall be especially qualified to perform the evaluation based on its expertise in matters relating to personnel management and compensation.

(B) The contractor shall report its findings to the Office in writing. After considering the report, the Office shall transmit a copy of the report, together with any comments of the Office and any comments submitted by the National Bureau of Standards, to—

(i) the Committee on Post Office and Civil Service, and the Committee on Science and Technology, of the House of Representatives; and

(ii) the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation, of the Senate.

(2) The Comptroller General shall, not later than 4 years after the date on which the demonstration project commences, submit to each of the committees referred to in paragraph (1)(B) a final report concerning such project. Such report shall include any recommendations for legislation or other action which the Comptroller General considers appropriate.

(f) The authority to enter into any contract under this section may be exercised only to such extent or in such amounts as are provided in advance in appropriated Acts.

(g) The demonstration project shall commence not later than January 1, 1988.

After the initial five years of the project, OPM twice extended the project administratively. The first extension extended the project from December 30, 1992 through September 30, 1995. The second extension would have extended the project until September 30, 1998. However, the NIST personnel management demonstration project was extended indefinitely by Section 10 of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113, March 7, 1996):

Section 10. PERSONNEL

The personnel management demonstration project established under section 10 of the National Bureau of Standards Authorization Act for Fiscal Year 1987 (15 U.S.C. 275 note) is extended indefinitely.

National Institute of Standards and Technology.

Robert E. Hebner,

Acting Director.

System Plan

The NIST alternative personnel management system plan reads as follows.

An Alternative Personnel Management System To Improve the Ability of the National Institute of Standards and Technology to Attract Highly Qualified Candidates, Motivate Employees, and Retain Successful Performers

Introduction

Executive Summary

The NIST APMS was designed by the National Institute of Standards and Technology, in cooperation with the U.S. Department of Commerce (DoC) and the Office of Personnel Management (OPM). The NIST APMS was built on the concepts of: (1) Market sensitivity; (2) performance; (3) administrative simplicity; (4) management flexibility and accountability; and (5) Broad applicability.

The NIST APMS system was designed to (1) improve hiring and allow NIST to compete more effectively for high-quality researchers, through direct hiring, selective use of higher entry salaries, and selective use of recruiting allowances; (2) motivate and retain staff, through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention allowances; (3) strengthen the manager's role in personnel management, through delegation of personnel authorities; and (4) increase the efficiency of personnel systems, through installation of a simpler and more flexible classification system based on pay banding, through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

Participating Organizations

All sites of the National Institute of Standards and Technology participate in the NIST APMS. The two main sites are located at Gaithersburg, Maryland, which is also the headquarters of NIST, and at Boulder, Colorado. The two main sites are similar in employment profiles,

with the following exceptions: (1) about 85 percent of employees covered by the NIST APMS are located at the Gaithersburg site; and (2) all Operating Unit (OU) Directors are located in Gaithersburg. A small number of covered employees may from time to time work at sites other than Gaithersburg or Boulder.

Types and Numbers of Participating Employees

The NIST APMS covers approximately 3150 NIST employees.

Labor Participation

A few General Schedule employees at the Gaithersburg site are represented by the International Association of Firefighters (IAFF) and the International Association of Machinists and Aerospace Workers, AFL–CIO; and at the Boulder site by the American Federation of Government Employees (AFGE). NIST consults and negotiates with these unions, as appropriate, in accordance with 5 U.S.C. 4703(f).

Senior Executive Service (SES) and ST–3104 Positions

The personnel systems for SES positions (see 5 U.S.C. 3131–3136 and 5 U.S.C. 5381–5385) did not change for the NIST APMS. SES classification, staffing, compensation, performance appraisal, awards, and reduction in force are based on standard SES methods. The personnel systems for ST–3104 positions (see 5 U.S.C. 3104 and 5376) changed only to the extent that ST–3104 positions are in the same performance appraisal, awards, and reduction in force systems as General Schedule positions. Classification, staffing, and compensation, however, did not change. Neither SES nor ST–3104 employees were subject to the pro rata share payouts upon conversion to the NIST APMS system. Pay adjustments for their positions under the NIST APMS are carried out in accordance with existing Federal rules pertaining to SES and ST–3104 pay adjustments.

General Schedule (GS) Positions

The GS category no longer exists as an identified category under the NIST APMS. It is incorporated in the new career-path/pay-band system. The step increases of the General Schedule are replaced by the annual performance pay increases. Except as otherwise provided in the NIST APMS plan, laws and regulations pertaining to GS employees (e.g., overtime pay provisions) continue in force for all NIST APMS employees in the same way as they do for GS employees.

Position Classification

Introduction

The objectives of the NIST classification system are to simplify the classification process, make the process more serviceable and understandable, and delegate decision-making authority and accountability to line managers.

Coverage

All former General Schedule positions at NIST are included in the NIST APMS.

Career Paths

A career path aggregates comparable occupations that have parallel career patterns and are suitable for similar treatment in staffing, classification, pay, and other personnel functions.

There are four career paths at NIST:

(a) *Scientific and Engineering* (ZP): research, policy, staff, and managerial positions in science, engineering, computing, and mathematics. Examples of occupational series in this career path are 401—Biologist, 801—General Engineer, 830—Mechanical Engineer, 855—Electronics Engineer, 1301—General Physical Scientist, 1310—Physicist, 1320—Chemist, 1520—Mathematician, and 1530—Statistician.

(b) *Scientific and Engineering Technician* (ZT): science and engineering support positions. Examples of occupational services in this career path are 332—Computer Operator, 802—Engineering Technician, 856—Electronics Technician, 1311—Physical Science Technician, and 1521—Mathemathics Technician.

(c) *Administrative* (ZA): specialist positions in such fields as finance, procurement, human resources management, public information, technical information, accounting, and management analysis. Examples of occupational series in this career path are 080—Security Officer, 201—Personnel Management Specialist, 340—Program Manager, 341—Administrative Officer, 510—Accountant, 560—Budget Analyst, 1082—Writer-Editor, and 1410—Librarian.

(d) *Support* (ZS): clerical, assistant, secretarial, police, firefighter, and other support positions not fitting the definition of any of the other career paths. Examples of occupational series in this career path are 081—Firefighter, 203—Personnel Clerk/Assistant, 305—Mail and File clerk, 318—Secretary, 525—Accounting Technician, 1105—Purchasing Agent, 1106—Procurement Clerk/Assistant, 1141—Library Technician, and 2102—Transportation Clerk/Assistant.

Pay Bands

Each career path is divided into five pay bands, which replace GS grades. The maximum rate of a pay band is step 10 of the highest GS grade in the band, including locality rates. When a special rate for one or more of the occupations in the band is higher than the applicable locality rate, NIST has the option of using the maximum applicable special rate to set the maximum rate of the band.

For each regular pay band, there is a corresponding supervisory pay band for employees who receive supervisory pay differentials. The supervisory pay band has the same minimum rate as the non-supervisory band, but has a maximum rate 6 percent higher than the maximum rate of the non-supervisory band. Positions in the supervisory pay bands include positions with formal supervisory authority over at least three positions and other positions approved by the Personnel Management Board (PMB) on a case-by-case basis.

The chart below shows the four NIST APMS career paths, the pay bands in each career path, and the relationship between pay bands and General Schedule grades.

NIST CAREER PATHS AND PAY BANDS

GS Grades	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
CAREER PATHS								BANDS							
Scientific and Engineering				I				II			III		IV		V
Scientific and Engineering			I				II			III		IV		V	
Administrative (ZA)				I				II			III		IV		V
Support (ZS)		I		II		III		IV		V					

Occupational Series

The General Schedule occupational series are retained. New occupational series may be added or deleted in response to programmatic needs. New or revised series may also be established.

NIST Classification Standards

Each NIST classification standard describes each pay band in two factors: (1) general duties and responsibilities, and (2) knowledges, skills, and abilities. These two factors complement each other at each pay band in a career path and may not be separated in classifying a position. OPM classification standards are not used.

Position Descriptions

Line managers follow an automated menu-driven process to classify positions and produce position descriptions.

Delegation of Classification Authority

The NIST Personnel Management Board (PMB) oversees the delegation of classification authority to line managers. NIST will establish a plan to review the accuracy of classification decisions made by line managers and make periodic reports to the NIST Director. The Government-wide system of approval of SES and ST–3104 positions will be maintained.

Staffing

Introduction

NIST uses a variety of staffing options to fill positions. Under all options, the recruiting and examining efforts are based at NIST. OPM registers are not used. These options include Direct Examination and Hiring, Agency-Based Staffing, Merit Assignment, and various noncompetitive placements. The NIST Office of Human Resources Management (OHRM) oversees all examining and hiring activity. Line managers participate actively in the process.

Direct Examination and Hiring

NIST uses two direct examination and hiring authorities: *Direct Hire Critical Shortage Occupations* and *Direct Hire Critical-Shortage Highly-Qualified Candidates*. These vacancies are normally filled through direct recruiting by selecting officials, supplemented by a required search of the NIST Applicant Supply File.

Direct Hire: Critical Shortage Occupations

NIST uses direct-hire procedures for categories of occupations which require skills that are in short supply. All occupations for which there is a special rate under the General Schedule pay system constitute a shortage category; all occupations at Band III and above in the ZP Career Path constitute a shortage category; and Nuclear Reactor Operator positions at Pay Band III and above in the ZT Career Path constitute a shortage category. Any position in these three shortage categories may be filled through direct-hire procedures.

Direct Hire: Critical Shortage Highly Qualified Candidates

NIST uses direct-hire procedures for additional positions for which there is a shortage of highly qualified candidates. Candidates for positions at Band I or II of the ZP Career Path who have a bachelor's degree with at least a 2.9 GPA (on a 4.0 scale) or a master's degree constitute a shortage category; candidates for positions at Band I of the ZT Career Path who have at least a 2.9 GPA in a course of study of at least 2 years in an accredited college, junior college, or technical institute constitute a shortage category; and candidates for positions at Band II of the ZT Career Path who have at least a 2.9 GPA in 4 years of college study constitute a shortage category.

Agency-Based Staffing

NIST uses agency-based staffing procedures to fill vacancies not covered by direct-hire or the NIST Merit Assignment Plan (MAP). Vacancies filled by agency-based procedures are advertised at a minimum through the automated nationwide OPM posting system.

Merit Assignment Plan (MAP)

NIST uses its MAP to fill positions restricted to current or former Federal employees with competitive status. This plan is amended to include any NIST APMS flexibilities.

NIST Applicant Supply File

NIST advertises the availability of job opportunities in direct-hire occupations by continuous posting of the NIST Applicant Supply Bulletin on the OPM electronic job opportunity listing. NIST accepts applications for this file on an open-continuous bases for all direct-hire authorities. NIST selecting officials may recruit directly for applicants, but any applicants they find must compete with applicants who apply through the Applicant Supply Bulletin and other applicants whose applications are stored in the Applicant Supply File.

Referral Procedures for Direct Examination and Hiring and Agency-Based Staffing Authorities

NIST uses either *direct referral* or *rating and ranking* to refer applicants for vacancies under direct-hire and agency-based staffing authorities.

1. Direct Referral

A qualified candidate may be referred directly without rating and ranking:

a. when there are no more than three qualified candidates and no preference eligibles; or

b. if the candidate is a preference eligible with a compensable service-connected disability of 10 percent or more (these preference eligibles are given absolute preference except when the position is at Band III or above in the Scientific and Engineering Career Path). Selecting officials may choose any of these preference eligibles when more than one are referred.

2. Rating and Ranking

Rating and ranking (including veteran preference and ''rule-of-three'' procedures) are used when the list of qualified candidates contains:

a. more than three candidates; or

b. two or more candidates including at least one preference eligible (except when direct referral of a 10-point veteran is made under 1b above).

Priority Placement

NIST follows all Department of Commerce and OPM priority placement programs.

Paid Advertising

NIST may use paid advertising as one of the first steps in recruitment without having to first try unpaid methods.

Private Sector Temporaries

NIST uses private sector temporary help services as appropriate.

Probationary Period

Probation under the NIST APMS follows current law and regulations, except when an employee in the ZP Career Path is required to serve a probationary period. The ZP probationary period is three years, except that a supervisor may end the probationary period of a subordinate ZP employee anytime after one year.

Qualification Standards

The qualifications required for placement within a pay band and within a career path are based on the OPM Qualification Standards for General Schedule Positions, except that testing requirements are not used and the Superior Academic Criterion is

defined as a 2.9 GPA (on a 4.0 scale). The minimum qualifications for the occupation and for the GS grade corresponding to the lowest grade in the pay band apply. NIST may develop its own qualification standards based on current practices in the scientific, engineering, and computer science fields and to reflect modern curricula in recognized degree programs.

Recruitment and Retention Allowances

NIST may grant recruiting and retention allowances in appropriate circumstances, not to exceed $10,000 or 25 percent of basic pay, whichever is greater. Decisions on allowances are based on market factors such as salary comparability and salary offer issues; relocation and dislocation issues; programmatic urgency; emerging technologies; turnover rates; special qualifications; and shortage categories or scarcity positions unique to NIST. All scientific, engineering, and other hard-to-fill positions are eligible. Recruitment and Retention Allowances are not considered part of basic pay.

Travel Expenses

Travel and transportation expenses, advancement of funds, per diem expenses incident to travel, and/or relocation expenses may be provided to new hires in the same manner as is authorized in sections 5723, 5724, 5724a, 5724b, and 5724c of title 5, U.S. Code. Recipients must sign service agreements indicating commitment to at least 12 months continued service.

Promotion

A promotion is a change of an employee to (1) a higher pay band in the same career path, or (2) a pay band in another career path in combination with an increase in pay. To be eligible for promotion, an employee must have a current performance rating of Eligible. The time-in-pay-band requirement for promotion eligibility is 52 weeks, with two exceptions: (1) an employee may be promoted from Band I and Band II in the Support Career Path without time restriction; and (2) an employee may be promoted from Band II to Band III in the Support Career Path without time restriction if the employee was not promoted from a Band I to a Band II position during the previous 52 weeks. (For pay provisions related to promotion, see ''Pay Administration.'')

Reduction In Force

Introduction

NIST follows reduction-in-force procedures contained in law and regulation, with the following differences.

Link Between Performance and Retention

An employee with an overall performance score in the top 10 percent of scores within a peer group (see ''Performance Evaluation and Rewards'' below) is credited with 10 additional years of service for retention purposes. The total credit is based on the employee's three most recent annual performance ratings of record received during the 4-year period prior to an established cutoff date, for a potential total credit of 30 years. No reduction-in-force credit converts to this system from any other performance appraisal system.

Competitive Areas

Each of the four career paths in each NIST local commuting areas is a separate competitive area—separate from the other career paths and separate from the competitive areas of other NIST employees.

Link Between Pay Bands and Grades

OPM reduction in force regulations on assignments rights (5 CFR 351.701) are applied to the NIST APMS by substituting ''one band'' for ''three grades'' and ''two bands'' for ''five grades.'' OPM severance pay regulations (5 CFR 550.703) are applied to the NIST APMS by substituting ''one band'' for ''two grades'' and for ''two grade or pay levels.''

Pay Administration

Introduction

The NIST APMS pay administration system provides NIST with the ability to attract and retain quality employees through pay setting flexibilities and pay for performance.

Pay for Performance

Pay for performance has three components: (a) the NIST annual adjustment to basic pay; (b) annual performance pay increases; and (c) bonuses. The first component, the annual adjustment to basic pay, is set according to the subsections below referring to general and locality increases. The second component, performance pay increases, is set according to the procedures under ''Performance Evaluation and Rewards.'' The third component, bonuses, is composed of former cash awards.

Placement in a Lower Pay Band

An employee whose performance rating is unsatisfactory does not receive the NIST annual adjustment to basic pay. Because the minimum pay rate for each pay band is increased each year by the amount of the NIST annual adjustment to basic pay, it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee in that pay band who does not receive the NIST annual adjustment to basic pay due to unsatisfactory performance. When this happens, the employee is placed in the next lower pay band. This placement shall not be considered an adverse action under 5 U.S.C. 7512, nor shall grade (i.e., pay band) retention under 5 U.S.C. 5362 be applicable.

Supervisory Pay Differentials

The original legislation authorizing the NIST demonstration project provided that ''appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided.'' The differential does not apply to SES and ST–3104 positions.

Supervisors who formally supervise three or more subordinates and others approved on a case-by-case basis by the PMB receive supervisory differentials. The amounts of the differentials are up to 6 percent of base salary (see ''Pay Bands'' above for a description of the supervisory pay bands and their maximum rates).

Upon conversion of NIST supervisors to the NIST APMS, all eligible positions are placed in the supervisory pay bands. The incumbents of these positions are converted at their basic pay (including special rates or locality pay) at the time of conversion, except for ZP supervisors, who begin receiving the added differential upon conversion.

There are two types of supervisory differentials. The first type applies to new supervisors in the Scientific and Engineering (ZP) Career Path only. The amount of this type of differential is fixed at 3 percent for supervisors below division chief and 6 percent for division chiefs and equivalent. The second type applies to all bands in all career paths where there are supervisors. Supervisors in these bands may be eligible for higher band ceilings (up to 3 or 6 percent higher than the normal pay band ceiling) which they may reach through pay for performance.

The granting of a differential is not considered a promotion or a competitive action. The differential is canceled when an employee's supervisory responsibilities are discontinued. The cancellation of a supervisory differential does not constitute an adverse action and there is no right of appeal under 5 U.S.C. Chapter 75.

Pay and Compensation Ceilings

The maximum rate for a pay band (excluding special pay bands

established to allow for the supervisory pay differential) is equal to the maximum rate—GS rate, locality rate, or special rate, as applicable—payable to GS employees for the grades corresponding to the pay band. An employee's basic pay may not exceed the maximum rate of the employee's pay band (including a supervisory pay band), except for employees receiving retained rates of pay.

An employee's rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for Level IV of the Executive Schedule. An employee's aggregate monetary compensation for a calendar year may not exceed the basic rate of pay for Level I of the Executive Schedule, as required by 5 U.S.C. 5307 and OPM regulations in subpart B of 5 CFR 530.

Locality Pay Options

On December 30, 1993, OPM approved the extension of locality pay to the NIST demonstration project. Two options were made available.

Option 1 would have required implementation of locality pay in a manner as consistent as possible with implementation for GS employees. Locality pay would have been separate from basic pay and would have counted as basic pay for the same limited purposes for which it is basic pay for GS employees (5 CFR 531.606(b)). All employees would have been eligible for locality pay adjustments regardless of performance rating. Employees in pay bands affected by special rates would have received full locality adjustments if their pay were no higher than the GS step 10 rate of the highest GS grade within the band, but if their pay were higher than that step 10 rate, they would have received an adjustment that would have increased their pay to no higher than the GS locality rate for step 10 (i.e., GS step 10 rate plus applicable locality payment).

Option 2 allows implementation of locality pay as basic pay, as an increase to the bonus pool, or a combination of the two. If applied as basic pay, the locality adjustment would be basic pay for all purposes except as otherwise provided in this plan. The locality adjustment would be applied to the minimum and maximum rates of each pay band. For pay bands affected by special rates, the maximum rate would be the higher of the special rate and the locality rate. A locality adjustment may be applied to an eligible employee's basic pay only to the extent that it does not cause the employee's basic pay to exceed the maximum rate of the pay band.

NIST selected option 2 and has implemented locality pay as basic pay. However, NIST may change its selection after sufficient internal notice toemployees.

Effect of General and Locality Pay Increases on Pay Bands

The minimum and maximum rates of each pay band will be increased at the time of a general pay increase under 5 U.S.C. 5303 and/or a locality pay increase under 5 U.S.C. 5304 or 5304a so that they equal the new locality-adjusted minimum and maximum rates of the grades corresponding to the pay band. The maximum rates of bands set according to special rates, however, may exceed this amount to the extent necessary to equal the 10th step of the appropriate special rate scale if that rate is higher.

Effect of General and Locality Pay Increases on Individual Pay

Only employees with a current performance rating of ''eligible'' may receive an increase in their basic pay at the time of pay band adjustments. This increase in basic pay will reflect any applicable general and/or locality pay increase for General Schedule employees. The increase in basic pay for eligible employees whose basic pay is at the ceiling of their pay band will equal the increase in the ceiling.

The basic pay increase for eligible employees whose basic pay is below the ceiling of their band will be calculated by applying two factors to the employee's rate of pay. One factor is the general increase factor representing the increase in General Schedule rates under 5 U.S.C. 5303 (e.g., 1.02 if the general increase is 2 percent). The second factor is the locality pay increase factor, which is derived by dividing the newly applicable locality pay percentage factor by the formerly applicable locality pay percentage factor. (For example, if the locality payment percentage for an area increased from 4.23 percent to 5.48 percent, the locality pay increase factor would be 1.0548 divided by 1.0423, or approximately 1.012.) Thus, the new rate of basic pay would be calculated using the following formula:

$$\text{new pay rate} = \text{general increase factor} \times \frac{1 + \text{newly applicable locality pay percentage}}{1 + \text{formerly applicable locality pay percentage}} \times \text{former pay rate}$$

However, a basic pay increase will be applied only to the extent that it does not cause an employee's basic pay to exceed the ceiling of the applicable pay band.

Basic Pay

Employees covered by the NIST APMS do not have separate basic pay rates and locality pay rates, as do General Schedule employees. They have a basic pay rate only, which reflects any general increases and/or locality adjustments calculated by the above formula. NIST APMS basic pay rates are basic pay for all purposes, except as specifically provided in the NIST APMS plan.

Pay Setting Upon Promotion

The new basic pay rate upon promotion may be set at any level in the new pay band (if the move is to a different career path, any pay band in the new career path would be considered a ''new pay band''), except that the minimum pay increase upon promotion is 6 percent.

Pay Setting for New Hires

The setting of initial salaries within pay bands for new appointees will be flexible, particularly for hard-to-fill positions in the scientific and engineering career path.

Private Sector Compensation Reports

The Institute will arrange for the preparation of reports that include findings on compensation for private sector positions. NIST will consider these findings when making NIST pay decisions.

Conversion of NIST Employees From the General Schedule to the NIST APMS System

For NIST employees being converted from the GS pay system to the NIST APMS, GS grades will translate directly to the NIST APMS's career-path and pay-band structure. NIST employees will be converted at their current highest rate under the GS pay system (i.e., highest of locality rate or special rate or similar rate) at the time of conversion, except for supervisors in the Scientific and Engineering Career Path who qualify for a supervisory/

managerial pay differential upon conversion. No one's salary will be reduced as a result of the conversion. When conversion of a NIST employee into the NIST APMS is accompanied by a geographic move, the employee's GS pay entitlements (including any locality rate or special rate) in the new area will be determined before converting the employee's pay to the NIST APMS pay system.

At the time of conversion, each converted NIST employee will be given a lump-sum cash payment for the time credited to the employee toward what would have been the employee's next within-grade increase. The payment for a General Schedule employee will be computed by (1) calculating the ratio of (a) the number of days the employee will have spent in the employee's current rate through the day prior to the day of conversion, to (b) the total number of days in the employee's current waiting period for a regular within-grade increase (364, 728, or 1092 days), and (2) multiplying that ratio by the dollar value of the employee's next within-grade increase, as in effect at the time of conversion.

Movements of GS Employees From Other Organizations to the NIST APMS System

GS employees can move into the NIST APMS from other organizations through transfer, reassignment, promotion, or new appointment. When the movement is by lateral transfer or lateral reassignment, the employee's GS grade will translate directly to the NIST APMS's career-path/pay-band structure and the employee's rate of basic pay under the NIST APMS will equal his or her current highest rate under the GS pay system (i.e., highest of locality rate or special rate or similar rate), except for the addition of a supervisory differential if the position is a supervisory position in the Scientific and Engineering Career Path. When a lateral transfer or lateral reassignment is accompanied by a geographic move, the employee's GS pay entitlements (including any locality rate or special rate) in the new area will be determined before converting the employee's pay to the NIST APMS pay system. When the movement is by new appointment, promotion, reassignment with pay adjustment (through merit assignment plan competition), or transfer to ''higher grade'' (i.e., to a band higher than the band that corresponds to the employee's current GS grade) the new pay rate is set according to NIST APMS pay setting flexibilities for new hires and promotions.

Pay Setting Upon Movement of a NIST Employee to a Different Pay Area

NIST employees who move (voluntarily or involuntarily) from one geographic area to another within NIST will have their pay adjusted to account for any change in the pay band maximum rates between the two areas. This adjustment ensures that the employee's relative position in the pay band (measured as a percentage of the pay band maximum rate) will be maintained upon movement. The pay rate in the new area will be derived using the following formula:

$$\text{new pay rate} = \text{former pay rate} \times \frac{\text{pay band maximum rate after movement}}{\text{pay band maximum rate before movement}}$$

The new pay rate is calculated before any other simultaneous pay action (e.g., general pay adjustment or promotion effective on the same date).

Any reduction in pay solely attributable to a movement from one pay area to a lower-paying area shall not be considered a reduction in basic pay under the adverse action provisions of 5 U.S.C. 7512(4) or under the pay retention provisions of 5 U.S.C. 5363. Nor shall such action be considered a reduction in basic pay under the pay retention provisions of 5 U.S.C. 5363. (The employee retains the right to grieve or file a complaint regarding a geographic reassignment if there is an allegation of a violation of nondiscrimination statutes or a prohibited personnel practice.)

Grade and Pay Retention

Grade and pay retention follow current law and regulations, except as allowed by specific waiver (e.g., substitute ''career path and band'' for ''grade''). Specific waivers are listed in the section below, titled, ''Authorities and Waiver of Laws and Regulations Required''.

Severance Pay

OPM severance pay regulations (5 CFR 550.703) are applied to the NIST APMS by substituting ''one band'' for ''two grades'' and for ''two grade or pay levels.''

Performance Evaluation and Rewards

Introduction

The performance evaluation system provides the basis for decisions on performance ratings, performance pay increases, bonuses, and other performance related actions. The performance year beings October 1 and ends September 30. However, an employee's performance overall or on a single element may be evaluated at any time that adequate information for an evaluation exists.

Coverage

All employees covered by the NIST APMS are covered by the APMS performance evaluation and rewards system, except the NIST may remove from the system any position not filled by career or career conditional appointment. ST–3104 employees have their performance evaluated under the structure of the performance evaluation system and may receive bonuses, but do not receive performance pay increases. Members of the Senior Executive Service remain under the DoC–NIST SES performance appraisal, pay, and bonus system.

Performance Plans

Performance plans are developed each year by supervisors with input from employees. Critical performance elements are established for each position (all elements are critical). The supervisor weights each element so that the total weight of all elements is 100 points. Benchmark performance standards define the range of performance. A supervisor may add supplemental standards to a performance plan to further elaborate the benchmark performance standards.

Mid-Year Review

A required mid-year review addresses mid-year accomplishments, performance successes and deficiencies, and any need for performance plan modifications. Additional reviews may be held as needed.

Performance Appraisal

Performance appraisals bring supervisors and employees together to discuss performance and accomplishments during the performance year. The appraisals lead to decisions by supervisors and pay pool managers on performance scores, performance ratings, performance pay increases, and bonuses. Performance appraisal is scheduled for the final

weeks of the performance year, though at any time of the year a supervisor may place an employee on a performance improvement plan, assign an unsatisfactory rating if performance is still unsatisfactory, and take appropriate action.

Performance Ratings

The NIST ARMS performance ratings are *Eligible* (for performance pay increase, bonus, and annual adjustment to basic pay) and *Unsatisfactory*. *Eligible* covers the same performance range as the former ratings of Marginal, Minimally Successful, Fully Successful. Commendable, and Outstanding. *Unsatisfactory* covers the same performance as the former ratings of Unsatisfactory and Unacceptable. An employee whose performance is unsatisfactory is placed on a performance improvement plan and give an opportunity to improve before a final rating is assigned.

Performance Scores

Each element is evaluated individually against the benchmark performance standards and any supplemental standards. If a single element in an employee's plan is rated *Unsatisfactory*, the overall rating is *Unsatisfactory* and there is no performance score. If all elements meet at least the minimally acceptable benchmark, the overall rating is *Eligible*. Rating Officials score the performance of employees rated *Eligible* on a 100-point scale, which corresponds to the 100-point element weight scale. An individual element score may be as high as the weight of that element. The total performance score is the sum of the element scores. A perfect score on each element would produce a total score of 100 points.

Performance Ranking

Employees are ranked, by performance score, within a *peer group*. A peer group may involve no more than one career path, but may be otherwise organized by any combination of organization, occupation, pay band, or appointment type. Rating Officials rank their own employees, then Pay Pool Managers interleave the rankings of subordinate Rating Officials to produce peer group rankings at the pay pool level. A Pay Pool Manager is a line manager who manages his or her organization's pay increase and bonus fund and has final decision authority over the performance scores, performance pay increase, and bonuses of subordinate employees.

Performance Pay Decisions

The Performance Pay Table divides each pay band into three segments of *intervals*. Each interval is linked to a range of potential percentage pay increases beginning at zero and progressing to a maximum percentage pay increase. The maximum performance pay increase an employee may receive, therefore, depends on the interval into which the employee's salary falls. The Pay Pool Manager maker a performance pay decision for each employee in a peer group, based on the Pay Pool Manager's ranking and the pay increase ranges in the Performance Pay Table. Within a peer group, an employee may not receive a higher proportion-of-range than a higher-ranking employee or a lower proportion-or-range than a lower-ranking employee.

Performance Bonuses

Bonuses are the only cash awards directly linked to the NIST APMS performance appraisal system, and are awarded at the ended of the performance year in conjunction with decisions on performance pay increases. A pay Poll Manager may award a bonus to any employee with an *Eligible* rating.

Actions Based on Unsatisfactory Performance

When an employee's final rating or performance on a single element is *Unsatisfactory* (after an opportunity to improve performance), NIST may take action to reassign or remove the employee, or place the employee in a lower band, in accordance with performance action provisions in law and regulation.

Employee Development

The objective of NIST's Employee Development Program is to develop the competence of employees for maximum achievement of Institute goals and objectives. The NIST APMS legislation mandates the continuation of an employee development program including, in appropriate circumstances, a sabbatical program. The NIST APMS sabbatical program is consistent with the terms and conditions of the SES sabbatical program. It covers all career appointees under the NIST APMS have a least seven years of Federal service and a current performance rating of Eligible.

Evaluation

Periodic evaluations focus on human resource management issues. Evaluation criteria are derived from NIST APMS objectives, such as the objective to compete more effectively for high-quality staff. Evaluations are based on personnel records, collected data, and the results of employee surveys.

Costs

Although the NIST APMS legislation does not require budget neutrality, NIST has set for itself an objective to control total compensation costs associated with the NIST APMS. NIST maintains total compensation during the NIST APMS at the level it would have reached under the current Government-wide system. The procedure permits changes in NIST expenditures which result from legislatively mandated program changes and changes in Federal pay and benefits. NIST may offset selected salary increases with savings by reducing turnover, eliminating unnecessary overhead, and cutting other personnel costs. NIST measures its adherence to cost control by preparing budget estimates based on prescribed Federal Budget processes and monitoring actual spending under the NIST APMS against this budget estimate.

Conversion or Movement From a NIST APMS Position to a General Schedule Position

If a NIST APMS employee is moving to a General Schedule (GS) position, the following procedures will be used to convert the employee's APMS pay band to an equivalent GS grade and the employee's APMS rate of pay to equivalent GS rates of pay. The converted GS grade and rates of pay must be determined before movement out of the APMS and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments and lateral transfers, the converted GS grade and rates of pay will become the employee's actual GS grade and rates of pay, unless immediately affected by a simultaneous geographic movement or another pay action. For non-lateral transfers, promotions, and other actions, the converted GS grade and rates of pay will be deemed to be the employee's grade and rates of pay at the time of movement out of the APMS and will be used in applying applicable pay setting rules (e.g., promotion rules).

1. *Grade-Setting Provisions:* An employee in a pay band corresponding to a single GS grade is converted to that grade. An employee in a pay band corresponding to two or more grades is converted to one of those grades according to the following rules:

a. The employee's NIST APMS basic rate of pay is compared with step 4 rates in the highest applicable GS rate range (including a rate range in the GS base schedule, a rate range in the applicable locality rate schedule, or a rate range in

a special rate schedule for the employee's occupation). If the series is a two-grade interval series, only odd-numbered grades are considered below GS–11.

b. If the employee's pay rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade.

c. If the employee's pay rate is lower than the applicable step 4 rate of the highest grade, the pay rate is compared with the step 4 rate of the second highest grade in the employee's pay band. If the employee's pay rate equals or exceeds step 4 of the second highest grade, the employee is converted to that grade.

d. This process is repeated for each successively lower grade in the band until a grade is found in which the employee's rate of basic pay equals or exceeds the applicable step 4 of the grade. The employee is then converted at that grade. If the employee's rate of pay is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.

e. Exceptions: (1) If the employee's pay rate exceeds the maximum rate of the grade assigned under the above-described ''step 4'' rule but fits in the rate range for the next higher applicable grade in the band (i.e., between step 1 and step 4), then the employee shall be converted to that next higher applicable grade; (2) An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer into the NIST APMS, unless since that time the employee has undergone a reduction in band; (3) In Band I of the ZP and ZA Career Paths, students without a bachelor's degree or comparable experience are converted no higher than GS–4.

2. *Pay-Setting Provisions:* An employee's pay within the converted GS grade is set by converting the NIST APMS rate to GS rates of pay in accordance with the following rules:

a. The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement out of the NIST APMS.

b. An employee's NIST APMS rate is converted to a rate in the highest applicable rate range for the converted GS grade (including a rate range in the GS base schedule, a rate range in the applicable locality rate schedule, or a rate range in a special rate schedule for the employee's occupation).

c. If the highest applicable rate range is a locality pay rate range, the NIST APMS rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS rate of basic pay is the GS base rate corresponding to the converted GS locality rate (i.e., same step position). (If this employee is also covered by a special rate schedule as a GS employee, the converted special rate will be determined based on the GS step position. This underlying special rate will be basic pay for certain purposes for which the employee's higher locality rate is not basic pay.)

d. If the highest applicable rate range is a special rate range, the NIST APMS rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS rate of basic pay will be the GS rate corresponding to the converted special rate (i.e., same step position).

e. Exception: If an employee's NIST APMS of rate exceeds the maximum rate of the highest applicable rate range upon conversion to the General Schedule the affected employee's NIST APMS rate will be converted to a retained rate under 5 U.S.C. 5363. If an employee is entitled to a special rate under the General Schedule, the NIST APMS is converted directly to a retained rate. If an employee is only entitled to locality pay under the General Schedule, this retained rate is derived by dividing the NIST APMS rate by the applicable locality pay factor (i.e., 1 plus the locality payment percentage). Thus, the locality-adjusted retained rate will equal the NIST APMS rate the employee had been receiving before conversion. Since the employee's total rate of pay is not reduced upon conversion, this change to converted rates under the General Schedule will not be considered a reduction in basic pay under 5 U.S.C. 5363 or 7512.

NIST APMS Revisions

Modifications must be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. Minor procedural modifications of this published NIST APMS plan within already existing waivers may be made by the NIST Director with appropriate notice (e.g., employee, OPM and/or Federal Register notice). No new waivers from law or regulation may be added.

NIST APMS Management and Oversight

In accordance with the original NIST project legislation, the project is ''conducted by the Director of the National Bureau of Standards'' (now NIST). The Director has delegated management and oversight of the NIST APMS to the Personnel Management Board (PMB), whose members and staff are appointed by the Director. The PMB is the NIST body to manage, evaluate, and make policy and procedural changes to NIST APMS systems when needed. When necessary, the PMB interprets and clarifies NIST APMS policy. The PMB establishes the management and administrative structures for running and evaluating the NIST APMS and oversees the delegations of authorities to managers, supervisors, and management bodies, including the withdrawal of authority when warranted. The PMB has the authority to make exceptions to normal NIST APMS procedures on a case-by-case basis when it believes an exception is warranted. The PMB also has the authority to establish itself as the approving body for any type of NIST APMS personnel action for which NIST has authority.

Authorities and Waiver of Laws and Regulations Required

Public Law 99–574 gave the National Institute of Standards and Technology (NIST) the authority to experiment with several specific personnel system innovations which are otherwise prohibited by law and regulations. In addition to the authorities granted by the original NIST project legislation, the following waivers of law and regulation are included:

Title 5, U.S. Code

Section 5304, Locality-based comparability payments.

Section 5333, Minimum rate for new appointments.

Section 5753–5754 except that relocation bonuses under section 5753 continue to apply.

Subchapter VI of Chapter 53 Grade and Pay Retention, (To the extent necessary to allow the following modifications: (1) Pay retention does not apply to reductions in pay caused solely by geographic movement; and (2) pay retention does not apply to conversions to the General Schedule as long as the employee's total rate of pay is not reduced.)

Section 7512(4), Adverse actions, (To the extent necessary to allow the following modifications: (1) Exclude reductions in pay that are solely due to recomputation upon geographic movement; and (2) exclude conversions to the General Schedule that do not result in a reduction in the employee's total rate of pay.)

Title 5, Code of Federal Regulations

Sections 315.801 Probationary period; when required, (waived only for positions in the Scientific and Engineering Career path)

Section 315.802 Length of probationary period, (waived only for positions in the Scientific and Engineering Career path)

Section 351.401 Determining Retention Standing.

Section 351.402 Competitive area in RIF.

Section 351.403 Competitive level in RIF.

Section 351.504 (a) and (d) Credit for Performance.

Section 351.701 Assignment involving displacement.

Section 531.203 Minimum rate for new appointments.

Part 575, Subpart A Recruitment Bonuses.

Part 575, Subpart C Retention Allowances.

[FR Doc. 97–27796 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Government Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce; Commerce.

ACTION: Notice of a government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government, as represented by the Department of Commerce, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

NIST Docket Number: 96–035.

Title: Mechanical Support For A Two Pill Adiabatic Demagnetization Refrigerator.

Abstract: The invention uses two paramagnetic cooling materials, called pills, supported on only one side of a magnet. The design simplifies the support and provides more active pill area in the bore of the magnet. Also described is a support design in which all of the support strings are placed on a compact support assembly that provides for stable tensioning.

Dated: October 15, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–27797 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce; Commerce.

ACTION: Notice of a jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce and Cornell University. The Department of Commerce's ownership interest in this invention is available for non-exclusive licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

The invention available for non-exclusive licensing is:

NIST Docket Number: 96–019.

Title: Fabrication Of Structures By Metastable-Atom Impact Desorption Of A Passivating Layer.

Description: This invention consists of a new process for fabricating microstructures on a surface. It utilizes the energy contained in neutral metastable rare gas atoms to remove passivating atoms from selected areas of a surface, allowing further chemical processing to add or remove material to the exposed areas. Some of the advantages of this process are realized by the introduction of atom optical techniques, which allow structures to be fabricated with significantly higher resolution than can be achieved with optical lithography, and with a greater amount of parallelism than can be achieved with electron or ion beam techniques.

Dated: October 15, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–27798 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce; Commerce.

ACTION: Notice of a jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce and X-Ray Optical. The Department of Commerce's ownership interest in this invention is available for non-exclusive licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT:

Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; FAX 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

The invention available for non-exclusive licensing is:

NIST Docket No: 96–034.

Title: Microcalorimeter X-Ray Detectors With X-Ray Lens.

Description: The invention uses an x-ray polycapillary lens to collect x-rays from a point source over a large solid angle and focus them onto an x-ray microcalorimeter detector. The x-ray lens enhances the capabilities of present detectors and allows for the detector to be placed farther from the source.

Dated: October 15, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–27799 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

October 17, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted for swing, special shift, carryforward and carryforward used.

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 68143, published on December 27, 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 Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 17, 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 December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 21, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month level [1]
218	8,722,076 square meters.
219	63,803,083 square meters.
315	11,504,704 square meters.
317	40,078,642 square meters.
338/339	3,638,394 dozen.
340/640	1,866,252 dozen.
341	4,436,434 dozen of which not more than 2,529,123 dozen shall be in Category 341–Y [2].
342/642	1,182,485 dozen.
347/348	709,521 dozen.
363	38,338,869 numbers.
369–D [3]	1,299,344 kilograms.
641	1,285,070 dozen.
647/648	661,639 dozen.
Group II 200, 201, 220–229, 237, 239, 300, 301, 330–333, 349, 350, 352, 359–362, 600–607, 611–629, 630–633, 638, 639, 643–646, 649, 650, 652, 659, 665–O [4], 666, 669, 670, and 831–859, as a group..	104,426,558 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 665–O: all HTS numbers except 5702.10.9030, 5702.42.2020, 5702.92.0010 and 5703.20.1000 (rugs).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–27980 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–DR–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

October 17, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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 swing and recrediting of unused carryforward.

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 62 FR 65197, published on December 11, 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

October 17, 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 December 5, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 21, 1997, you are directed to adjust the limits for the following categories, as provided for in the bilateral agreement between the Governments of the United States and the Kingdom of Nepal:

Category	Adjusted twelve-month limit [1]
336/636	234,214 dozen.
340	280,779 dozen.
341	913,818 dozen.
369–S [2]	954,000 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.97–27981 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Sri Lanka

October 17, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, 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); Uruguay Round Agreements Act.

The current limit for Category 347/348/847 is being increased for additional special shift and additional special carryforward, reducing the limit for Category 647/648 to account for the increase in special shift.

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 68246, published on December 27, 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 Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 17, 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 December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 21, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
347/348/847	1,883,722 dozen.
647/648	1,095,301 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 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.

[FR Doc.97–27979 Filed 10–20–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), U.S. Army.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 22, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of the Army and Air Force National Guard Bureau, 111 South George Mason Drive, Arlington, Virginia 22202–1382 ATTN: (Major R. Jolly Brown). Consideration will be given to

all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Research to Develop a Profile of Army National Guard Members.

Needs and Uses: This research will be a mail survey among Army National Guard members. The research will assist the Army National Guard (ARNG) in making the most effective use of its public relations, advertising and marketing budget for recruiting efforts. The research will help the ARNG and its advertising agency prioritize activities, focus their messages and understand the various segments of Guard members.

Affected Public: Individual or Households.

Annual Burden Hours: 1500.

Number of Respondents: 6000.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The public relations, advertising and marketing activities can have a significant impact on recruiting and retention of Guard members. Recruiting and retention have been areas of concern in recent years for the Army National Guard. This research will assist the Army National Guard in making the most effective use of its budget for public relations, advertising and marketing activities.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–27880 Filed 10–20–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS), Devils Lake, North Dakota, Emergency Outlet

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The 1997 Emergency Supplemental Appropriations Act, Public Law (Pub. L.) 105–18, directed the Secretary of the Army to conduct preconstruction engineering and design (PED) for an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River. The PED authorization also required that an EIS be prepared. The construction of an emergency outlet was not authorized by Pub. L. 105–18.

Devils Lake is a terminal lake located in northeastern North Dakota. Devils Lake has a long history of a wide range of fluctuating lake levels. Since 1993, the lake has risen about 20 feet. Rising lake levels have resulted in damage to houses, businesses, infrastructure, transportation systems, and land uses. Significant expenditures of Federal, State, and local funds have been required to relocate structures and to raise and strengthen roads and levees. While these efforts will provide immediate protection, there is great concern that the lake could continue to rise. The Devils Lake Basin is a subbasin of the Hudson Bay drainage system, although Devils Lake has not contributed to the Hudson Bay drainage for many centuries.

FOR FURTHER INFORMATION CONTACT: Questions concerning the DEIS can be directed to: Colonel J.M. Wonsik, District Engineer, St. Paul District, Corps of Engineers, ATTN: Mr. Robert Whiting, 190 Fifth Street East, St. Paul, Minnesota 55101–1638.

SUPPLEMENTARY INFORMATION: The DEIS will assess impacts, identify areas of potential impact, identify mitigation features, discuss monitoring activities, and identify future activities associated with an emergency outlet from Devils Lake.

Significant issues and resources to be identified in the DEIS will be determined through coordination with responsible Federal, State, Canadian, and local agencies; the general public; interested private organizations and parties; and affected Native Americans. Anyone who has an interest in participating in the development of the DEIS is invited to contact the St. Paul District, Corps of Engineers.

Significant issues identified to date for discussion in the DEIS are as follows:

1. Natural resources including: fishery, wildlife, vegetation, wetlands, and riparian areas;

2. Cultural resources;

3. Water quality and quantity, groundwater, erosion, and sedimentation;

4. Federally and State listed threatened or endangered plant or animal species;

5. Social and economic resources;

6. Downstream intrastate, interstate, and international resources;

7. Native American and Tribal Trust resources and responsibilities.

Additional issues of significance may be identified through public and agency meetings. A notice of those meetings will be provided to interested parties and to local news media.

Construction of an emergency outlet would be considered major in scope. An outlet to the Sheyenne River has the potential to result in significant impacts. Our environmental review will be conducted according to the requirements of the National Environmental Policy Act of 1969, National Historic Preservation Act of 1966, Council on Environmental Quality Regulations, Endangered Species Act of 1973, Section 404 of the Clean Water Act, and applicable laws and regulations.

We anticipate that the DEIS will be available to the public in the fall of 1998.

Dated: September 30, 1997.

J.M. Wonsik,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 97–27879 Filed 10–20–97; 8:45 am]

BILLING CODE 3710–CY–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Nez Perce Tribal Hatchery Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to implement the Proposed Action Alternative of the Nez Perce Tribal Hatchery Program in the Clearwater River Subbasin in Idaho. This decision is based on the analysis of the alternatives in the Final Environmental Impact Statement (EIS) for the Nez Perce Tribal Hatchery (DOE/EIS–0213, July 1997). In the proposed action, BPA would build and the Nez Perce Tribe would operate two central incubation and rearing hatcheries and six satellite facilities. Spring and fall chinook salmon would be reared and acclimated to different areas in the Subbasin and released at the hatcheries and satellite sites or in other watercourses throughout the Subbasin. Fish would return to reproduce naturally in the areas where they are released.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: Leslie Kelleher—ECN–4, Bonneville

Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–7692, fax number (503) 230–5699.

Issued in Portland, Oregon, on October 8, 1997.

Jack Robertson,

Acting Administrator and Chief Executive Officer.

[FR Doc. 97–27840 Filed 10–20–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Agency Information Collection Activities; Reinstatement of Collection; Comment Request

AGENCY: Department of Energy (DOE).

ACTION: Agency information collection activities; reinstatement of collection; comment request.

SUMMARY: DOE is soliciting comments concerning the reinstatement of OMB's approval to collect information for DOE's Qualified List of Energy Service Companies using a supplemental questionnaire to Standard Form 129.

DATES: Written comments must be submitted by December 22, 1997.

ADDRESSES: Send comments to Tanya Sadler, Office of Federal Energy Management Programs, EE–92, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7755, e-mail: tanya.sadler@hq.doe.gov, and fax: (202) 586–3000.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Tanya Sadler at the address listed in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Energy Policy Act of 1992 and 10 CFR 436, the Department of Energy has established the DOE Qualified List of Energy Service Companies (ESCO), comprised of private industry firms that are eligible to perform work under energy savings performance contracts (ESPC) for Federal facilities. For placement on the list, firms are required to complete an application. The application includes a Standard Form 129, Solicitation Mailing List Application, and a supplemental questionnaire. The supplemental questionnaire asks for: corporate experience including two project descriptions which demonstrate experience in ESPC or the design and installation of energy conservation measures, technological capabilities, proposed staff, financial status, and the submission of two client questionnaires. The data collection is used to evaluate the firms based on criteria established by 10 CFR 436 to be placed on the list. DOE will later seek a reinstatement of the approval by the Office of Management and Budget for the collection under Section 3507(h) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, Title 44, U.S.C. Chapter 35).

II. Current Actions

This is a reinstatement, without change, of a previously approved collection for which approval has expired. The same information will be collected; however, the supplemental questionnaire will be reorganized and the instructions and questions will be clarified to elicit complete responses. OMB will be requested to approve the collection of information for another three years.

III. Request for Comments

Prospective respondents and other interested parties should comment on the action discussed in item II. The following guidelines are provided to assist in the preparation of responses.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency? Does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can DOE make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Public reporting burden for this collection is estimated to average 2 hours per response. Burden includes the total time and effort expended to generate, maintain, retain, or disclose or provide the information. Please comment on (1) the accuracy of our estimate and (2) how the agency could minimize the burden of the collection of information, including the use of information technology.

C. DOE estimates that respondents will incur no additional costs for reporting other than the hours required to complete the collection. What is the estimated: (1) Total dollar amount annualized for capital and start-up costs, and (2) recurring annual costs of operation and maintenance, and purchase of services associated with the data collection?

D. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. Are there alternative sources of data and do you use them? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the collection. They also will become a matter of public record.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, on October 15, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–27841 Filed 10–20–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Fusion Energy Sciences Advisory Committee Notice of Reestablishment

AGENCY: Department of Energy.

ACTION: Notice of reestablishment.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) Pub. L. No. 92–463, and section 101–6.1015, title 41 Code of Federal Regulations, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Fusion Energy Sciences Advisory Committee has been reestablished for a two-year period beginning October 1997.

The Committee will provide advice to the Department on long-range plans, priorities, and strategies for demonstrating the scientific and

technological feasibility of fusion energy.

The renewal of the Fusion Energy Sciences Advisory Committee has been determined to be essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Committee will continue to operate in accordance with the provisions of the FACA, the Department of Energy Organization Act (Pub. L. 95–91), the GSA regulation on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

FOR FURTHER INFORMATION CONTACT: Ms. Rachel M. Samuel, U.S. Department of Energy, HR–7, FORS, Washington, D.C. 20585, Telephone: (202) 586–3279.

Issued in Washington, D.C. on October 14, 1997.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 97–27839 Filed 10–20–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4183–000]

3E Energy Services, LLC; Notice of Issuance of Order

October 16, 1997.

3E Energy Service, LLC (3E) submitted for filing a rate schedule under which 3E will engage in wholesale electric power and energy transactions as a marketer. 3E also requested waiver of various Commission regulations. In particular, 3E requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by 3E.

On October 9, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by 3E 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 Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, 3E is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of 3E's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 10, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27835 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4173–000]

Electrical Associates Power Marketing, Inc.; Notice of Issuance of Order

October 16, 1997.

Electrical Associates Power Marketing, Inc. (EAPM) submitted for filing a rate schedule under which EAPM will engage in wholesale electric power and energy transactions as a marketer. EAPM also requested waiver of various Commission regulations. In particular, EAPM requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by EAPM.

On October 7, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by EAPM 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 Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, EAPM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect to any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of EAPM's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 6, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27834 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–809–000, et al.]

Maritimes & Northeast Pipeline L.L.C.; Notice of Public Field Trip for the Proposed Maritimes Phase II Project

October 15, 1997.

On October 29, 30, and 31, 1997, the staff of the Office of Pipeline Regulation will conduct a public field trip of facilities proposed by Maritimes & Northeast Pipeline, L.L.C. in the above referenced docket for the Maritimes Phase II Project. Limited sites along the proposed pipelines including the Skowhegan and Millinocket Laterals, and alternative routes, including the Northern Alternative, will be visited. Anyone interested in participating in the site visit may contact Mr. Paul McKee in the Commission's Office of External Affairs at (202) 208–1088 for more details and must provide their own transportation.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 97–27830 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4346–000]

Moulton Niguel Water District; Notice of Issuance of Order

October 16, 1997.

Moulton Niguel Water District (Moulton) submitted for filing a rate schedule under which Moulton will engage in wholesale electric power and energy transactions as a marketer. Moulton also requested waiver of various Commission regulations. In particular, Moulton requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Moulton.

On October 8, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Moulton 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 Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Moulton is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Moulton's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 7, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27836 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket ER98–28–000]

PECO Energy Company; Notice of Filing

October 15, 1997.

Take notice that on October 3, 1997, PECO Energy Company (PECO) filed the following documents as part of its request for approval of a form of installed capacity obligation allocation agreement that it intends to utilize in connection with its state approved Retail Access Pilot Program.

Letter of Transmittal

1. Form of Installed Capacity Obligation Allocation Agreement

Copies of the filing were served on the Pennsylvania Public Utility Commission, other Pennsylvania PJM utilities and on electric generation suppliers licensed to sell energy to participants in the Pennsylvania retail access pilot programs.

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 Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 24, 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. 97–27831 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–64–000 and EL98–4–000]

Pennsylvania Public Utility Commission, Metropolitan Edison Company and Pennsylvania Electric Company, PECO Energy Company, PP&L, and UGI Utilities, Inc.; Notice of Filing

October 15, 1997.

Take notice that on October 3, 1997, the Pennsylvania Public Utility Commission filed a Petition Requesting Expedited Consideration and Acceptance of Forms of Retail Transmission Service Agency Agreement Necessary to Implement the Pennsylvania Retail Access Pilot Programs. Also, Metropolitan Edison Company and Pennsylvania Electric Company (doing business as GPU Energy), PECO Energy Company, and jointly PP&L, Inc., and UGI Utilities, Inc., filed their Forms of Retail Transmission Service Agency Agreements (Agency Agreements), including unbundled retail transmission rate schedules, that will be used to implement their retail access pilot programs. The Pennsylvania Commission and the Pennsylvania PJM Utilities request the Commission to grant expedited consideration so that the Agency Agreements may become effective on November 1, 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 October 24, 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. 97–27832 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–6–001]

Sea Robin Pipeline Company; Notice of Proposed Changes To FERC Gas Tariff

October 15, 1997.

Take notice that on October 8, 1997, Sea Robin Pipeline Company (Sea Robin) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised sheet, with an effective date of October 1, 1997:

First Substitute Sixth Revised Sheet No. 7
First Substitute First Revised Sheet No. 7a
First Substitute Sixth Revised Sheet No. 8
First Substitute Sixth Revised Sheet No. 9

Sea Robin states that the aforesaid tariff sheets comply with the Commission's Order dated September 29, 1997 in Docket No. TM98–1–1–000, *et al.,* ordering Sea Robin to revise its proposed ACA surcharge of $.0023 to $.0022.

Sea Robin states that copies of Sea Robin's filing were served upon all of Sea Robin's customers, affected commissions and interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules of Practice and Procedure. All such 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 the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27779 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4145–000]

Sigma Energy, Inc.; Notice of Issuance of Order

October 16, 1997.

Sigma Energy, Inc. (Sigma) submitted for filing a rate schedule under which Sigma will engage in wholesale electric power and energy transactions as a marketer. Sigma also requested waiver of various Commission regulations. In particular, Sigma requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Sigma.

On October 8, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Sigma 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 Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Sigma is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Sigma's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline, for filing motions to intervene or protests, as set forth above, is November 7, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27833 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–9–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

October 15, 1997.

Take notice that on October 10, 1997, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised, Volume No. 1, Sub Ninth Revised Sheet No. 26, with an effective date of October 1, 1997.

Tennessee states that this tariff sheet is filed in compliance with the Commission's September 29, 1997 Order of the Director Accepting, Rejecting and Allowing Withdrawal of Tariff Sheets in the above-referenced dockets. (September 29 Order). Tennessee Gas Pipeline Company, 80 FERC ¶ 62,290 (1997). In the September 29, Order, the Commission directed Tennessee to file substitute tariff sheets to reflect the Commission's rejection of Ninth Revised Sheet No. 26 and First Revised Sheet No. 26A.1 in Tennessee Gas Pipeline Company, 80 FERC ¶ 61,256 (1997). In accordance with the September 29 Order, Tennessee requests an effective date of October 1, 1997.

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 Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27780 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4726–000, et al.]

Cinergy Services, Inc., et al. Electric Rate and Corporate Regulation Filings

October 14, 1997.

Take notice that the following filings have been made with the Commission:

1. Cinergy Services, Inc.

[Docket No. ER97–4726–000]

Take notice that on September 23,1997, 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 e prime, inc. (E prime).

Cinergy and e prime are requesting an effective date of August 31, 1997.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Pool

[Docket No. ER97–4727–000]

Take notice that on September 22, 1997, the New England Power Pool (NEPOOL) filed two (2) Service Agreements for Through or Out Service or Other Point-to-Point Transmission Service pursuant to § 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of these Service Agreements will permit NEPOOL to provide transmission service to Consolidated Edison Company of New York, Inc., and to Public Service Electric and Gas Company in accordance with the provisions of the NEPOOL Open Access Transmission Tariff filed with the Commission on December 31, 1996, as amended and supplemented, under the above-referenced dockets. NEPOOL requests an effective date of September 1, 1997 for commencement of transmission services. Copies of this filing were served upon all persons on the Commission's official service lists in the captioned proceedings, the NEPOOL members, the New England Public Utility Commissioners and all parties to the transactions.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Consumers Energy Company

[Docket No. ER97–4728–000]

Take notice that on September 22, 1997, Consumers Energy Company (Consumers), tendered for filing service agreements for unbundled wholesale power service pursuant to the Consumers' Power Sales Tariff filed on December 31, 1996 and accepted for filing on September 12, 1997 in Docket No. ER97–964–000 with the following customers:

Carolina Power & Light Company
Cinergy Services, Inc.
The Cleveland Electric Illuminating Company
Enron Power Marketing, Inc.
Holland Board of Public Works
Illinois Power Company
Indiana Michigan Power Company
Koch Energy Trading, Inc.
Louisville Gas & Electric Company
Michigan Cooperative Coordinated Pool (Unexecuted)
Michigan South Central Power Agency
Minnesota Power & Light Company
Northern Indiana Public Service Company
Ohio Edison Company
PanEnergy Trading and Market Services, LLC
PECo Energy Company
The Toledo Edison Company
Sonat Power Marketing, L.P.
Southern Minnesota Municipal Power Agency
Virginia Power Company
Vital Gas & Electric LLC
Wabash Valley Power Association, Inc.
Wisconsin Electric Power Company
Wolverine Power Supply Cooperative, Inc.

Copies of the filed agreements were served upon the Michigan Public Service Commission and the respective customers.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Washington Water Power

[Docket No. ER97–4729–000]

Take notice that on September 23, 1997, the Washington Water Power Company (WWP), tendered for filing a Notice of Cancellation from Clark County PUD dated January 31, 1997, terminating service with Clark County PUD under WWP's Power Sales Agreement for an effective termination date of July 31, 1997. Notice is hereby given that effective July 31, 1997, Rate Schedule FERC No. 222 with Clark County PUD and filed with the Federal Energy Regulatory Commission by Washington Water Power is to be canceled at Clark County PUD's request.

Notice of the proposed cancellation has been served upon the following: Mr. James L. Sanders, Clark County PUD, Director of Technical Services, PO Box 8900, Vancouver, Washington 98668.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Alpha Energy Corporation

[Docket No. ER97–4730–000]

Take notice that on September 23, 1997, Alpha Energy Corporation (Alpha) petitioned the Commission for acceptance of Alpha 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.

Alpha intends to engage in wholesale electric power and energy purchases and sales as a marketer. Alpha is not in the business of generating or transmitting electric power.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER97–4731–000]

Take notice that on September 23, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with Delhi Energy Services, Inc., and a Short-Term Firm Point-To-Point Transmission Service Agreement with Public Services Company of Colorado under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Commonwealth Edison Company

[Docket No. ER97–4732–000]

Take notice that on September 24, 1997, Commonwealth Edison Company (ComEd) submitted for filing two Service Agreements, establishing Equitable Power Services Company (EPS) and QST Energy Trading (QST), as customers under the terms of ComEd's Power Sales and Reassignment of Transmission Rights Tariff PSRT–1 (PSRT–1 Tariff). The Commission has previously designated the PSRT–1 Tariff as FERC Electric Tariff, First Revised Volume No. 2.

ComEd requests an effective date of August 27, 1997, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were

served upon EPS, QST, and the Illinois Commerce Commission.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Maine Electric Power Company

[Docket No. ER97–4733–000]

Take notice that on September 24, 1997, Maine Electric Power Company (MEPCO), tendered for filing a Non-Firm Point-to-Point Transmission service agreement entered into with Williams Energy Services Company. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Central Illinois Light Company

[Docket No. ER97–4734–000]

Take notice that on September 24, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreement for one new customer, US Gen Power Services, L.P.

CILCO requested an effective date of September 22, 1997.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER97–4735–000]

Take notice that on September 23, 1997, Arizona Public Service Company, tendered for filing revised Fuel Adjustment Clause Exhibits reflecting changes in the Western System Power Pool Agreement.

A copy of this filing has been served on all parties on the Service List.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Additional Signatory to PJM Interconnection, L.L.C.) Operating Agreement

[Docket No. ER97–4736–000]

Take notice that on September 24, 1997, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the L.L.C., a membership application of Energis Resources Incorporated. PJM requests an effective date of September 25, 1997.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Duquesne Light Company

[Docket No. ER97–4737–000]

Take notice that on September 25, 1997, Duquesne Light Company (DLC) filed a Service Agreement dated September 11, 1997, with Strategic Energy Ltd., under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Strategic Energy Ltd., as a customer under the Tariff. DLC requests an effective date of September 11, 1997, for the Service Agreement.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Duquesne Light Company

[Docket No. ER97–4738–000]

Take notice that on September 25, 1997, Duquesne Light Company (DLC) filed a Service Agreement dated August 26, 1997, with CMS Marketing, Services & Trading Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds CMS Marketing, Services & Trading Company as a customer under the Tariff. DLC requests an effective date of August 26, 1997, for the Service Agreement.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER97–4739–000]

Take notice that on September 24, 1997, Florida Power Corporation (Florida Power), tendered for filing a service agreement between Southern Company Services Inc. and Florida Power for service under Florida Power's Market-Based Wholesale Power Sales Tariff (MR–1), FERC Electric Tariff, Original Volume No 8. This Tariff was accepted for filing by the Commission on June 26, 1997, in Docket No. ER97–2846–000. The service agreement is proposed to be effective September 10, 1997.

Comment date: October 27, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27837 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–2–000, et al.]

PDC Berkshire Power LLC, et al. Electric Rate and Corporate Regulation Filings

October 10, 1997.

Take notice that the following filings have been made with the Commission:

1. PDC Berkshire Power LLC

[Docket No. EG98–2–000]

On October 8, 1997, PDC Berkshire Power, LLC, 200 High Street, Boston, Massachusetts 02110, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The applicant is a Massachusetts limited liability company that proposes to construct and own a two hundred seventy-two (272) megawatt natural gas-fired electric generation facility, including ancillary and appurtenant structures, on a site in the town of Agawam, Massachusetts.

Comment date: October 31, 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. Arizona Public Service Company

[Docket No. EL97–61–000]

Take notice that on September 22, 1997, Arizona Public Service Company (the Company) tendered for filing an informational report on refunds of overbilled amounts to wholesale customers through the Company's FERC Fuel Adjustment Clause.

Copies of this filing have been served upon the affected parties as follows:

Customers	*APS–FPC/FERC Rate Schedule*
Electrical District No. 3 (ED–3) ...	12
Tohono O'odham Utility Authority (TOUA)	52
Welton-Mohawk Irrigation and Drainage District (Welton-Mohawk)	58
Arizona Power Authority (APA)	59
Colorado River Indian Irrigation Project (CRIP)	65
Electrical District No. 1 (ED–1) ...	68
Town of Wickenburg (Wickenburg)	74
Southern California Edison Company (SCE)	120
Electrical District No. 6 (ED–6) ...	126
Electrical District No. 7 (ED–7) ...	128
Electrical District No. 8 (ED–8) ...	140
Aguila Irrigation District (AID) ...	141
McMullen Valley Water Conservation and Drainage District (MVD)	142
Tonopah Irrigation District (TID)	143
Harquahala Valley Power District (HVPD)	153
Buckeye Water Conservation and Drainage District (Buckeye)	155
Roosevelt Irrigation District (RID)	158
Maricopa County Municipal Water Conservation District (MCMWCD)	168
City of Williams (Williams)	192
San Carlos Indian Irrigation Project (SCIIP)	201
Maricopa County Municipal Water Conservation District at Lake Pleasant (MCMWCD-Lk.Pl.)	209

the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket No. ER97–1481–000]

Take notice that on September 22, 1997, Idaho Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Services, Inc.

[Docket No. ER97–2903–000]

Take notice that on September 8, 1997 and September 24, 1997, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing amendments in the above-referenced docket.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Nevada Power Company

[Docket Nos. ER97–3688–000, ER97–3689–000 and ER97–3690–000]

Take notice that on September 9, 1997, Nevada Power Company tendered for filing an amendment in the above-referenced dockets.

Comment date: October 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER97–4083–000]

Take notice that on September 23, 1997, Cinergy Services, Inc., tendered for filing an amendment in the above-referenced docket.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Cleveland Electric Illuminating Company and the Toledo Edison Company

[Docket No. ER97–4158–000]

Take notice that on September 25, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed amended Service Agreements, in the above referenced docket, to provide Non-Firm Point-to-Point Transmission Service for American Electric Power, AES Power, Incorporated, Cinergy Services, Incorporated, Engage Energy Incorporated, Noram Energy Services, and Pacificorp Power Marketing, the Transmission Customers. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreements are August 12, 1997.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Puget Sound Energy, Inc.

[Docket No. ER97–4241–000]

Take notice that on September 18, 1997, Puget Sound Energy, Inc., tendered for filing a letter of withdrawal in the above-referenced docket.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. The Washington Water Power Company

[Docket No. ER97–4474–000]

Take notice that on September 22, 1997, The Washington Water Power Company tendered a supplemental filing for the 1997 Agreement For The Hourly Coordination of Projects on the Mid-Columbia River entered into as of July 1, 1997. The supplemental filing included Certificates of Concurrence in Lieu of Filing on behalf of PacifiCorp, Portland General Electric Company, and Colockum Transmission Co., Inc.

A copy of this filing has been mailed to each of the parties to the 1997 Agreement for Hourly Coordination of Projects on the Mid-Columbia River.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Energy Corporation

[Docket No. ER97–4496–000]

Take notice that on September 26, 1997, Duke Energy Corporation filed an amendment in the above-referenced docket.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Cleveland Electric Illuminating Company and the Toledo Edison Company

[Docket Nos. ER97–4590–000 and ER97–4591–000]

Take notice that on September 25, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed amendments in the above-referenced dockets.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Cleveland Electric Illuminating Company and the Toledo Edison Company

[Docket No. ER97–4613–000]

Take notice that on September 25, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed amended Service Agreements, on the above-referenced docket, Firm Point-to-Point Transmission Service for Vitol Gas & Electric and Enron Power Marketing, Incorporated, the Transmission Customers. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under

the Service Agreement are July 25, 1997 and July 28, 1997 respectively.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER97–4706–000]

Take notice that on September 22, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Minnesota Power & Light Company, for sale of power under Entergy Services' Rate Schedule SP.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Washington Water Power

[Docket No. ER97–4707–000]

Take notice that on September 22, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, an executed Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9., with Tenaska Power Services Co. WWP requests waiver of the prior notice requirement and requests an effective date of June 1, 1997.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Western Resources, Inc.

[Docket No. ER97–4708–000]

Take notice that on September 23, 1997, Western Resources, Inc., tendered for filing three firm transmission agreements between Western Resources and Western Resources Generation Services. Western Resources states that the purpose of the agreements is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreements are proposed to become effective September 12, 1997, September 14, 1997, and September 18, 1997, respectively.

Copies of the filing were served upon Western Resources Generation Services and the Kansas Corporation Commission.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Arizona Public Service Company

[Docket No. ER97–4709–000]

Take notice that on September 23, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements to provide umbrella short-term Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Williams Energy Services, Inc., and Idaho Power Company.

A copy of this filing has been served on Williams Energy Services, Inc., Idaho Power Company, the Idaho Public Utilities Commission and the Arizona Corporation Commission.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Electric and Gas Company

[Docket No. ER97–4710–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to ProLiance Energy L.L.C. (ProLiance), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon ProLiance and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Public Service Electric and Gas Company

[Docket No. ER97–4711–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Amoco Energy Trading Corporation (Amoco) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon Amoco and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Electric and Gas Company

[Docket No. ER97–4712–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Baltimore Gas and Electric Company (BG&E) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon BG&E and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Electric and Gas Company

[Docket No. ER97–4713–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company d/b/a GPU Energy (''GPU'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon GPU and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Public Service Electric and Gas Company

[Docket No. ER97–4714–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Carolina Power & Light Company (''CP&L'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon CP&L and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Public Service Electric and Gas Company

[Docket No. ER97–4715–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Duquense Light Company (''Duquense'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon Duquesne and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Public Service Electric and Gas Company

[Docket No. ER97–4716–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Northeast Utilities Company, acting as agent for The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire (''NU'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon NU and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Public Service Electric and Gas Company

[Docket No. ER97–4717–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Federal Energy Sales, Inc. (''Federal Energy'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon Federal Energy and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Public Service Electric and Gas Company

[Docket No. ER97–4718–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Citizens Power Sales (''Citizens'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon Citizens and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Public Service Electric and Gas Company

[Docket No. ER97–4719–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to AYP Energy (''AYP'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon AYP and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Public Service Electric and Gas Company

[Docket No. ER97–4720–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to CNG Power Services Corporation (''CNG'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon CNG and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Public Service Electric and Gas Company

[Docket No. ER97–4721–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Tractabel Energy Marketing, Inc. (''Tractabel'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon Tractabel and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Public Service Electric and Gas Company

[Docket No. ER97–4722–000]

Take notice that on September 23, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Vitol Gas & Electric, L.L.C. (''Vitol'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 25, 1997.

Copies of the filing have been served upon Vitol and the New Jersey Board of Public Utilities.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. American Electric Power Service Corporation

[Docket No. ER97–4723–000]

Take notice that on September 22, 1997, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the AEP companies' Power Sales Tariff. The Power Sales Tariff was accepted for filing effective October 1, 1995, and has been designated AEP Companies' FERC Electric Tariff First Revised Volume No. 2. AEPSC requests waiver of notice to permit the service agreements to be made effective for service billed on and after August 24, 1997.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Southern California Edison Company, The Montana Power Company, Nevada Power Company, PacifiCorp, Pacific Gas and, Electric Company, and Sierra Pacific Power Company

[Docket No. ER97–4724–000]

Take notice that on September 22, 1997, Southern California Edison Company (''Edison''), tendered for filing the revised Western Systems Coordinating Council (''WSCC'') Unscheduled Flow Mitigation Plan (''Revised Plan'') which alters the methodology for calculating unscheduled flow mitigation dues to be paid by WSCC Members. The Montana Power Company, Nevada Power Company, PacifiCorp, Pacific Gas and Electric Company, and Sierra Pacific Power Company have tendered Certificates of Concurrence supporting the filing. Copies of the filing were served upon all the WSCC Members and all the state utility commissions in which the WSCC Members provide retail electric service.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Cinergy Services, Inc.

[Docket No. ER97–4725–000]

Take notice that on September 23, 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 e prime, inc. (E prime).

Cinergy and e prime are requesting an effective date of August 31, 1997.

Comment date: October 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Southern Indiana Gas & Electric Company

[Docket No. OA96–117–002

Take notice that on September 23, 1997, Southern Indiana Gas & Electric Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: October 24, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27838 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–276–000]

Texas Eastern Transmission Corporation; Notice of Availability of the Environmental Assessment for the Proposed Line 1–A Reactivation Project

October 15, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Texas Eastern Transmission Corporation (Texas Eastern) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed reactivation of Line 1–A in Chester and Delaware Counties, Pennsylvania, including:

- Reactivating about 22.7 miles of the 20-inch-diameter Line 1–A, which includes investigating and repairing/replacing 101 anomaly sites, if needed, and hydrostatically testing the entire length of the pipeline;
- Installing new regulating facilities at Eagle Compressor Station;
- Installing a delivery tap off Line 1–A for Texas Eastern's existing Planebrook Measuring and Regulating Station (M&R);
- Installing mainline valves at mileposts 6.8, 12.6, and 16.0;
- Installing delivery taps on Line 1–H and Line 1–A for PICO Energy Company's (PECO) new Hersheys Mill M&R Station;
- Installing delivery taps on Line 1–A and 1–H, and a new Brookhaven M&R Station at the existing Chester Junction site; and
- Replacing the existing temporary pig receiver with a permanent receiver at the Chester Junction site.

The purpose of the proposed facilities would be to allow Texas Eastern to deliver on a firm basis up to 120,000 dekatherms per day (Dth/d) of natural gas to PECO and 8,000 Dth/d to Mobil Oil Corporation.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, D.C. 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., FN.E., Room 1A, Washington, DC 20426.

• Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2

• Reference Docket No. CP97–276–000; and

• Mail your comments so that they will be received in Washington, DC on or before November 14, 1997.

Comments will be considered by the Commission but will not serve to make the comenter a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27776 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–690–000]

Florida Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed FGT 24″ Calcasieu Pipeline Replacement Project and Request for Comments on Environmental Issues

October 15, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the FGT 24″ Calcasieu Pipeline Replacement Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Florida Gas Transmission Company (FGT) proposes to reroute one section and replace, within the same right-of-way, two sections of its 24-inch-diameter mainline pipeline in Calcasieu Parish, Louisiana. The sections to be replaced are between mileposts 425.99 and 426.92 (section 1), 430.53 and 432.09 (section 2), and 432.17 and 432.40 (section 3).

Below is an explanation of the work involved.

Section 1: Abandon, 5,070 feet of existing 24-inch-diameter mainline and install about 8,883 feet of new 24-inch-diameter pipeline.

Section 2: Abandon about 8,236 feet of existing 24-inch-diameter mainline and install about 7,586 feet of new 24-inch-diameter pipeline located 10 feet south of the existing pipeline. The remaining 650 feet of new 24-inch-diameter pipeline would be north of the existing pipeline.

Section 3: Abandon about 1,239 feet of existing 24-inch-diameter mainline, and install about 1,239 feet of new 24-inch-diameter pipeline located 10 feet south of the existing mainline.

All of the facilities are in Calcasieu Parish, Louisiana. The pipeline sections must be replaced to comply with Department of Transportation Regulations.

The proposed facilities would cost about $3,762,161.

The general location of the project facilities is shown in appendix 1.[2] If you are interested in obtaining procedural information, please write to the Secretary of the Commission.

Land Requirements for Construction

The replacement and relocation of the 3 sections of the 24-inch-diameter mainline pipeline would affect about 23 acres with 7 acres being needed for Section 1, 10 acres for Section 2, and 2 acres for Section 3. Section 1 would require an additional 4 acres for a new permanent right-of-way.

Temporary work spaces would require about 3 acres. FGT proposes to deliver pipeline to the site by truck and string the pipeline directly along the construction right-of-way. All other pipe fittings would be stored in a leased warehouse facility.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur from the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Public safety
- Land use
- Cultural resources
- Endangered and threatened species

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EPA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provide by FGT. This preliminary list of issues may be changed based on your comments and our analysis.

- A horizontal drill would be used to cross the Calcasieu River.
- A total of 11.9 acres of wetlands would be temporarily affected and 2.2 acres of wetlands would be permanently affected.

[1] Florida Gas Transmission Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

• Two residences are within 50 feet of the proposed construction work area along Section 2.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

• Send two copies of your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, D.C. 20426;

• Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2;

• Reference Docket No. CP97–690–000; and

• Mail your comments so that they will be received in Washington, D.C. on or before November 14, 1997.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor.'' Among other things, intervenor have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commissions Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention.

You do not need intervenor status to have your scoping comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27777 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2188]

Montana Power Company; Notice of Intent To Hold Public Meetings in Great Falls and Ennis, Montana, To Discuss the Draft Environmental Impact Statement (DEIS) for the Proposed Relicensing of the Missouri-Madison Hydroelectric Project

October 15, 1997.

On September 22, 1997, the Commission staff mailed the Missouri-Madison Hydroelectric Project DEIS to the Environmental Protection Agency, resource and land management agencies, and interested organizations, and individuals. This document evaluates the environmental consequences of the proposed relicensing of the Missouri-Madison Hydroelectric Project. The nine dams (Hebgen, Madison, Hauser, Holter, Black Eagle, Rainbow, Cochrane, Ryan, and Morony dams) that are a part of this project are located between West Yellowstone and above Great Falls, Montana, on over 300 river miles of the Madison and Missouri Rivers.

The public meetings will be recorded by a court reporter and are scheduled as follows: (1) Tuesday, November 18, 1997 at 7:00 p.m. in the Missouri Room of the Great Falls Civic Center, Great Falls, Montana and (2) Thursday, November 20, 1997 at 7:00 p.m. in the Ennis High School Library, Ennis, Montana. These meetings will focus on the DEIS and issues of concern to resource and land management agencies, interested organizations, and individuals. Another meeting is scheduled on Wednesday, November 19, 1997, from 9:00 a.m. to 3:00 p.m. in the Director's Conference Room of the State of Montana's Lee Metcalf Building, 1520 East Sixth Avenue, Helena, Montana. This meeting will focus on clarification of issues of primary concern to state and federal fish and wildlife agencies.

At the public meetings, Commission staff will summarize major DEIS findings and recommendations. Resource agency personnel and other interested persons will be provided an opportunity to submit oral and written comments about the DEIS for the Commission's public record. Written comments on the DEIS may also be sent to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments must be received by December 2, 1997. All correspondence should include the appropriate project name (Missouri-Madison Project) and number (Project No. 2188) on the first page of the correspondence.

The DEIS considers recommendations received from the license applicant, citizens, resource agencies, and organizations. Resource enhancements affect flow regulation, recreation, land use, fish, wildlife, water quality, reservoir shoreline erosion, vegetation resources and other resource issues proposed.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27778 Filed 10–20–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5912–2]

Agency Information Collection Activities Submission for OMB Review; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Subpart T, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning, OMB number 2060–0273, expires *12/31/97.* The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 20, 1997.

FOR FURTHER INFORMATION CONTACT: call Sandy Farmer at EPA, (202) 260-2740, or download off the Internet from http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1652.03.

SUPPLEMENTARY INFORMATION:

Title: Subpart T, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning (OMB Control No. 2060–0273; EPA ICR No.1652.03) expiring 12/31/97. This is a request for extension of a currently approved collection.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for

compliance with 40 CFR part 63.460, et seq., Subpart T, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning. This information notifies EPA when a source becomes subject to the regulations, informs the Agency if a source is in compliance when it begins operation, and informs the Agency if the source remained in compliance during any period of operation. In the Administrator's judgment, emissions of hazardous air pollutants (HAPs) from halogenated solvent cleaners may cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NESHAP standards were promulgated for this source category, as required under section 112 of the Clean Air Act.

HAP emissions from halogenated solvent cleaners are the result of inadequate equipment design and work practices. These standards rely on the proper design and operation of halogenated solvent cleaners such as working-mode covers, freeboard ratio of 1.0, and reduced room draft to reduce solvent emissions from halogenated solvent cleaners. Certain records and reports are necessary to enable EPA to identify sources subject to the standards and to ensure that the standards are being achieved. Owners/operators of halogenated solvent cleaners must provide EPA with an initial notification of existing or new solvent cleaning machines, initial statement of compliance, an annual control device monitoring report (owners/operators of batch vapor and in-line cleaning machines), an annual solvent emission report (owners/operators of batch vapor and in-line cleaning machines), an annual solvent emission report (owners/operators of batch vapor and in-line cleaning machines complying with the alternative standard), and exceedance of monitoring parameters or emissions. The records that the facilities maintain indicate to EPA whether they are operating and maintaining the halogenated solvent cleaners properly to control emissions. In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 06/18/97 (62 FR 33072); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7 hours/response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operators of halogenated solvent cleaners.

Estimated Number of Respondents: 1,845.

Frequency of Response: 4.

Estimated Total Annual Hour Burden: 32,483 hours.

Estimated Total Annualized Cost Burden: $2,859,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1652.03 and OMB Control No. 2060–0273 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 (or E-Mail Farmer.Sandy@epamail.epa.gov).

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 14, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–27851 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5912–1]

Agency Information Collection Activities: Submission for OMB Review; Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers, 40 CFR part 264, subpart CC and 40 CFR part 265, subpart CC, OMB Control Number 2060–0318, expiring on November 30, 1997. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 20, 1997.

FOR FURTHER INFORMATION CONTACT: Call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet from http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1593.03.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Air Emission Standards for Tanks, Surface Impoundments and Containers, 40 CFR part 264, subpart CC and 40 CFR part 265, subpart CC, (OMB Control Number 2060–0318; EPA ICR No. 1593.03) expiring on November 30, 1997. This is a request for extension of a currently approved collection.

Abstract: The collection of this information is used by the EPA to ensure that appropriate environmental rules are being complied with and that emission control devices are properly operated and maintained. Reports required under this collection authority are used by the Agency to monitor compliance as well as targeting treatment, storage and disposal facilities for inspection. Section 3004(n) of the Hazardous and Solid Waste Amendments (HSWA) directed the EPA to promulgate regulations for monitoring and control of air emissions from treatment, storage and disposal facilities, as necessary, to protect human health and the environment. An agency

may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 18, 1997 (62 FR 33074); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 77 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and operators of facilities that treat, store or dispose hazardous wastes in tanks, surface impoundments and containers.

Estimated Number of Respondents: 9,393.

Frequency of Response: 1 plus on occasion.

Estimated Total Annual Hour Burden: 726,022 hours.

Estimated Total Annualized Cost Burden: $2,925,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1593.03 and OMB Control No. 2060–0318 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460. (or E-Mail Farmer.Sandy@epamail.epa.gov)

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 10, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–27852 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5911–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; EPA's Transportation Partners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: EPA's Transportation Partners Program, EPA ICR No. 1818.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 20, 1997.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1818.01.

SUPPLEMENTARY INFORMATION:

Title: EPA's Transportation Partners Program, EPA ICR No. 1818.01. This is a new collection.

Abstract: The Transportation Partners program is a new, cooperative, voluntary program that seeks to reduce the growth of vehicle miles traveled (VMT) through the adoption of measures that provide or promote the use of non-single occupancy vehicle transportation choices for citizens. As part of the Climate Change Action Plan, Transportation Partners will play an important role in the nation's commitment to reduce U.S. greenhouse gas emissions.

The Transportation Partners program is designed to work around two types of members: Principal Partners and Project Partners. Principal Partners have substantive areas of expertise and will provide direct assistance to VMT-reducing projects across the country. Project Partners, on the other hand, administer the individual programs and actions designed to reduce VMT. Local governments, regional governments, local non-governmental organizations, and private businesses may become Project Partners.

As voluntary participants in the Transportation Partners program, Project Partners may be asked to complete an annual Partner Profile that requests general project information. Project-related information requested may include background data about the sponsoring entity, a description (and, to the extent possible, quantification) of project effects on travel, other project effects, and comments regarding program participation and technical assistance. As EPA may request additional information from the Project Partners about their projects, organizations may be requested to periodically submit supplementary information to the Agency.

In addition, EPA sponsors the Way to Go! Awards, which honor local innovators who are enhancing their communities and the environment through transportation improvements. Project Partners will receive an application for the Way to Go! awards. Some Project Partners may choose to complete and submit the application to EPA. The application asks for the following information: the name and focus of the project; a description of project management; a description of the end user(s) of the project; and a project summary and narrative.

Principal Partners have a number of responsibilities, which include: First, they will provide EPA with contact lists of prospective Project Partners. Second, they will disseminate information to partners. Third, Principal Partners will review, sign, and forward Project Partner agreements to EPA. Fourth, Principal Partners will assist EPA in reviewing and compiling Partner Profiles and supplemental information from Project Partners.

Participation in the Transportation Partners program is voluntary. If requested, EPA will treat information as confidential business information and will not make the partner-specific information collected under the program available to the general public, unless the partner's approval is obtained.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter

15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 8/8/97 (FR Doc. 97–20977); Zero (0) comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 11.7 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action may include local and suburban transit providers, business associations, civic organizations, air and water resource and solid waste management agencies, local and regional government agencies and other transportation-related organizations. Additionally, EPA expects to enroll private businesses from a wide range of industries in the Transportation Partners program.

Estimated Number of Respondents: 195.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 8,371 hours.

Estimated Total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1818.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 (or E-Mail Farmer.Sandy@epamail.epa.gov)

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: October 14, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–27853 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00511; FRL–5752–7]

State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations Management Working Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Pesticide Operations Management Working Committee will hold a 2-day meeting, October 27, and October 28, 1997. This notice announces the location and times for the meeting and sets forth the tentative agenda topics. The meetings are open to the public.

DATES: The SFIREG Working Committee on Pesticide and Operations Management will meet on Monday, October 27, 1997, from 8:30 a.m. to 5 p.m. and Tuesday, October 28, 1997, from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at: the National Airport Doubletree Hotel, 300 Army Navy Drive, Arlington-Crystal City, VA, 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Elaine Y. Lyon, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: (703) 305–5306; (703) 308–1850 (fax); e-mail: lyon.elaine@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Pesticide Operations Management includes the following:

1. Policy regarding pesticides used in greenhouses.
2. Worker protection standard/ restricted-entry interval exception for BRAVO (chlorothalonil).
3. Worker protection standard language on AZTEC insecticide.
4. Enforcement of pesticide laws on federal and tribal lands.
5. Pesticide exposure from use of plant parts - Are cultural-ethnic subgroups considered in risk assessments.
6. Clarification of EPA policy on the usurpation of state 24(c) authority.
7. Update on quality assurance project plans vs. Quality management plans vs. National Environmental Laboratory Accreditation Program.
8. Data quality issues:
   a. Reference files system vs. Pesticide product information system.
   b. How do states report errors detected in EPA's data.
   c. Time frame for posting corrections
9. Labeling issues with the use of commodity fumigant methyl bromide for structural fumigation.
10. Indoor structural pest control concerns.
11. Further review of 24(c) indemnification/waiver of liability language - Mandatory vs. Advisory.
12. Office of Enforcement and Compliance Topics:
   a. Enforceability of post-application operations on pesticide labels.
   b. Custom dilution/blending.
   c. Antimicrobial efficacy testing.
   d. Worker protection compliance monitoring/enforcement.
   e. Cancellation of section 3 for changed active ingredient source.
13. Reports from committee members and introduction of issue papers.
14. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: October 16, 1997.

Jay Ellenberger,

Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 97–27975 Filed 10–20–97; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Privacy Act of 1974; Amendment of a System of Records

AGENCY: Farm Credit Administration.

ACTION: Notice of amendment of a system of records maintained on individuals; request for comments.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), the Farm Credit Administration is issuing notice of our intent to amend the system of records entitled Employee Attendance, Leave, and Payroll Records—FCA (Employee Record System) to reflect the addition of several new routine uses and the inclusion of machine readable records, paper

records, and some computer-output microfiche in the category of records.

DATE: The changes will become effective as proposed, on November 26, 1997, unless comments which would warrant our preventing the changes from taking effect are received on or before such date.

ADDRESSES: Interested individuals may comment on this publication by writing to Debra Buccolo, Privacy Act Officer, in care of Cindy Nicholson, Farm Credit Administration, McLean, Virginia 22102–5090. Comments should be submitted in triplicate. All communications received will be available for examination by interested parties in the offices of the Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Debra Buccolo, Privacy Act Officer, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4022, TDD (703) 883–4444, or

Jane Virga, Office of General Counsel, Farm Credit Administration, McLean, Virginia, 22102–5090, (703) 883–4071, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Discussion of Additions to Routine Use

Pursuant to Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Farm Credit Administration will disclose data from its system of records entitled Employee Attendance, Leave, and Payroll Records—FCA to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for use in its Federal Parent Locator System (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074.

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 Farm Credit Administration will disclose the following data on individuals hired after October 1, 1997, to the FPLS: the name, address, and social security number of the employee; and the name, address, and Federal Employer Identification Number of the employer.

In addition, names and social security numbers submitted by the Farm Credit Administration 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 the Farm Credit Administration 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 or the advance payment of the earned income tax credit or to verify a claim of employment on a tax return.

II. Compatibility of Additional Routine Use

We are proposing these routine uses in accordance with the Privacy Act (5 U.S.C. 552a(b)(3)). The Privacy Act permits the disclosure of information about individuals without their consent for a routine use where the information will be used for a purpose that is compatible with the purpose for which the information was originally collected. The Office of Management and Budget has indicated that a ''compatible'' use is a use that is necessary and proper. *See* OMB Guidelines, 51 FR 18982, 18985 (1986). Because the proposed uses of the data are required by Pub. L. 104–193, they are necessary and proper uses and, therefore, ''compatible uses.''

III. Effect of the Proposed Changes on Individuals

We will disclose information under the proposed routine uses only as required under Pub. L. 104–193 and as permitted by the Privacy Act.

IV. Other Changes

The notice also reflects changes in designated points of contact for inquiring about the Employee Record System, accessing the records, and requesting amendments to the records. Several minor technical and editorial changes that reflect reorganizations within the Farm Credit Administration and its relocation from Washington, DC, to McLean, Virginia, have also been included. In addition to the general editorial changes, revisions were made to reflect the inclusion of machine readable records, paper records, and some computer-output microfiche in the category of records.

As required by 5 U.S.C. 552a(r) of the Privacy Act, the FCA has sent notice of this amended system of records to the Office of Management and Budget, the Committee on Government Operations of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

Accordingly, this system notice is amended as set forth below.

FCA–7

SYSTEM NAME:

Employee Attendance, Leave, and Payroll Records—FCA.

SYSTEM LOCATION:

Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FCA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of paper, electronic, and microfiche files containing payroll-related information for FCA employees reported on a biweekly, year-to-date, and, in some cases, an annual basis. The records contain the ''Agency Time Tracking System,'' payroll and leave data for each employee, including rate and amount of pay, hours worked, tax and retirement deductions, leave bank records, life insurance and health insurance deductions, savings allotments, savings bond and charity deductions, other financial deductions, mailing addresses, and home addresses. From July 1982 to March 1990, FCA payroll services were provided by the Department of Treasury utilizing its Treasury Personnel Payroll Information System (TPPIS). Beginning in April 1990, FCA payroll services have been provided by the National Finance Center's U.S. Department of Agriculture Personnel Payroll System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 2249, 2252.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant records in the Employee Record System may be disclosed as a routine use:

(1) In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, to the appropriate agency or authority, whether Federal, State, local, or foreign, charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

(2) To a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

(3) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, reporting an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(4) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(5) To the Department of Justice for use in litigation or in a proceeding before a court or adjudicative body before which the FCA is authorized to appear, when

(a) The FCA, or any component thereof; or

(b) Any employee of the FCA in his or her official capacity; or

(c) Any employee of the FCA in his or her individual capacity where the Department of Justice or the FCA has agreed to represent the employee; or

(d) The United States, where the FCA determines that litigation is likely to affect the FCA or any of its components, is a party to the litigation or proceeding or has an interest in such litigation or proceeding, and the use of such records by the Department of Justice or the use of such records in the proceeding is deemed by the FCA to be relevant and necessary, provided, however, that in each case, the FCA determines that disclosure of the records to the Department of Justice or the disclosure of such records in the proceeding is compatible with the purpose for which the records were collected.

(6) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings.

(7) To appropriate offices and agencies to prepare payroll, to meet Government payroll recordkeeping and reporting requirements, and to retrieve and supply payroll and leave information as required for FCA needs. In addition, information in this record system is used to furnish certain information (name; permanent or temporary status; most recent position, grade, or salary) to other Government agencies or commercial or credit organizations or to verify employment to prospective employers.

(8) To Federal, State, and local taxing authorities concerning compensation to employees or contractors for personal services; to the Office of Personnel Management, Department of the Treasury, Department of Labor, and other Federal agencies concerning pay, benefits, and retirement of employees; to Federal employees' health benefits carriers concerning health insurance of employees; to financial organizations concerning employee savings account allotments and net pay to checking accounts; to State human resource offices administering unemployment compensation programs; to educational and training organizations concerning employee qualifications and identity for specific courses; and to heirs, executors, and legal representatives of beneficiaries.

(9) To the Office of Child Support Enforcement, dministration for Children and Families, Department of Health and Human Services, Federal Parent Locator System (FPLS), 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.

(10) 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 FPLS by the Office of Child Support Enforcement.

(11) 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.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosure may be made from this system, pursuant to 5 U.S.C. 552a(b)(12), to a consumer reporting agency in accordance with section 3711(f) of title 31.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in cabinets or records are maintained electronically.

RETRIEVABILITY:

Paper records are retrieved by name. Electronic records are accessed by social security number.

SAFEGUARDS:

Files are kept in areas that are locked after business hours. Access to records is limited to authorized individuals.

RETENTION AND DISPOSAL:

In accordance with National Archives and Records Administration General Records Schedule requirements for payroll-related records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Human Resources Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

NOTIFICATION PROCEDURE:

All inquiries about this system of records shall be addressed to: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

RECORD ACCESS PROCEDURES:

Requests for access to a record shall be directed to: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, as provided in 12 CFR part 603.

CONTESTING RECORD PROCEDURES:

Requests for amendments to a record shall be directed to: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, as provided in 12 CFR part 603.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained. FCA employees who approve the records.

Dated: October 15, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–27789 Filed 10–20–97; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–2203]

Notice of Telecommunications Relay Services (TRS) Applications for State Certification Accepted (CC Docket No. 90–571)

Released: October 15, 1997.

Notice is hereby given that the states listed below have applied to the Commission for State Telecommunications Relay Service (TRS) Certification. Current state certifications expire July 25, 1998. Applications for certification, covering the five year period of July 26, 1998 to July 25, 2003, must demonstrate that the state TRS program complies with the Commission's rules for the provision of TRS, pursuant to Title IV of the Americans with Disabilities Act (ADA), 47 U.S.C. § 225. These rules are codified at 47 CFR §§ 64.601–605.

Copies of applications for certification are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM. Interested persons may file comments on or before December 12, 1997. Comments should reference the relevant state file number of the state application that is being commented upon. One original and five copies of all comments must be sent to William F. Caton, Acting Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Two copies also should be sent to the Network Services Division, Common Carrier Bureau, 2000 M Street, N.W., Room 235, Washington, D.C. 20554.

A number of state TRS programs currently holding FCC certification have failed to apply for recertification. Applications received after October 1, 1997, for which no extension has been requested before October 1, 1997, must be accompanied by a petition explaining the circumstances of the late-filing and requesting acceptance of the late-filed application.

File No: TRS–97–42
Applicant: Nebraska Public Service Commission .
State of Nebraska

File No: TRS–97–49
Applicant: North Dakota Information Services Division
State of North Dakota

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov, or Andy Firth, (202) 418–2224 (TTY), afirth@fcc.gov, at the Network Services Division, Common Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–27826 Filed 10–20–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Affordable Housing Advisory Board Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., established by the Resolution Trust Corporation Completion Act, Pub. L. No. 103–204, § 14(b), 107 Stat. 2369, 2393–2395 (1993), announcement is hereby published of the Affordable Housing Advisory Board (AHAB) meeting. The meeting is open to the public.

DATES: The Federal Deposit Insurance Corporation, Affordable Housing Advisory Board will hold its second meeting of 1997 on Wednesday, November 5, in Washington, D.C. from 9:00 a.m. to 11:00 a.m.

ADDRESSES: The meeting will be held at the following location: Federal Deposit Insurance Corporation, Board Room, 550 17th Street, NW, Room 6010, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Danita M.C. Walker, Committee Management Officer, Federal Deposit Insurance Corporation, 550 17th Street, NW, Room (F–3038), Washington, D.C. 20249, (202) 898–6711.

SUPPLEMENTARY INFORMATION: The Affordable Housing Advisory Board (AHAB) consists of the Secretary of Housing and Urban Development (HUD) or delegate; the Chairperson of the Board of Directors of the FDIC, or delegate; the Chairperson of the Thrift Depositor Protection Oversight Board, or delegate; four persons appointed by the General Deputy Assistant Secretary of HUD who represent the interests of individuals and organizations involved in using the affordable housing programs, and two members of the Regional Advisory Board. The AHAB's original charter was issued March 9, 1994, and a re-charter was issued on February 26, 1996.

Agenda

An agenda will be available at the meeting. At this session, the AHAB will review the status and receive reports on four topics: (1) Status of legislative change for Affordable Housing Advisory Board meetings; (2) Status report on FDIC Affordable Housing Program; and (3) Panel discussion on roles regulators can play in facilitating affordable housing. The AHAB will develop recommendations at the conclusion of the Board meeting. The AHAB's chairperson or its Delegated Federal Officer may authorize a member or members of the public to address the AHAB during the public forum portion of the session.

Statement

Interested persons may submit, in writing, data, information or views on the issues pending before the Affordable Housing Advisory Board prior to or at the meeting. Seating for the public is available on a first-come first-served basis.

Dated: October 16, 1997.

Danita M.C. Walker,

Committee Management Officer, Federal Deposit Insurance Corporation.

[FR Doc. 97–27884 Filed 10–20–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL LABOR RELATIONS AUTHORITY

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The Federal Labor Relations Authority (FLRA) is requesting an emergency approval by October 31, 1997, in accordance with 5 CFR 1320.13. In order that OMB will have an opportunity to consider comments from interested individuals on the information collection request described below, such comments should be submitted to OMB on or before October 28, 1997.

ADDRESSES: Nancy Speight, Director of Program Development, Office of the General Counsel, Federal Labor Relations Authority, Suite 210, 607 14th

St., N.W., Washington, D.C. 20424. Joseph Lackey, Paperwork Clearance Officer for the FLRA, Office of Management and Budget, 725 17th St., N.W., Room 10235, Washington, D.C. 20503.

FOR FURTHER INFORMATION: For more information, to submit comments or to request a copy of the OMB submission, please contact Nancy Speight at the address listed above or by telephone at 202–482-6680 ext. 205. Interested parties may also submit comments to Joseph Lackey at the address given above.

SUPPLEMENTARY INFORMATION:

Title: Customer Satisfaction Survey.

Needs and Uses: The Customer Satisfaction Survey will be disseminated to persons making use of the services and procedures of the FLRA, to obtain input as to the degree of success the agency has achieved in meeting the objective of its Strategic Plan concerning providing high quality services in timely resolving disputes in the federal sector labor-management relations community.

Respondents: Approximately 200 persons, within the meaning of 5 CFR 1320.3(k), who are representatives of labor organizations and are not federal employees. In addition, approximately 4500 federal employees who are either representatives of labor organizations or of management of various employer agencies of the executive branch will also receive the Survey.

Estimated Annual Burden: 30 minutes per response; 200 respondents for the purposes of burden calculation under the Paperwork Reduction Act; 100 total annual burden hours.

Dated: October 15, 1997.

Solly Thomas,

Executive Director, FLRA.

[FR Doc. 97–27733 Filed 10–20–97; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

Agency Holding the Meeting: Federal Maritime Commission.

Time and Date: 12:30 P.M.—October 17, 1997.

Place: 800 North Capitol Street, N.W.—Room 1000, Washington, D.C.

Status: Closed.

Matter(s) to be Considered:

1. Docket No. 96–20—Port Restrictions and Requirements in the United States/Japan Trade

Contact Person for More Information: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,

Secretary.

[FR Doc. 97–28021 Filed 10–17–97; 3:43 pm]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 4, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Rogers Family Limited Partnership No. 2, and Doyle W. Rogers, General Partner, Batesville, Arkansas; to acquire voting shares of Rogers Bancshares, Inc., Little Rock, Arkansas, and thereby indirectly acquire Metropolitan National Bank, Little Rock, Arkansas.

Board of Governors of the Federal Reserve System, October 15, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–27752 Filed 10–20–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 14, 1997.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. WNB Bancshares, Inc., Odessa, Texas; to acquire at least 51 percent of the voting shares of City National Bank, Austin, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, October 15, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–27753 Filed 10–20–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 4, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. The Toronto-Dominion Bank, Toronto, Canada, and Waterhouse Investors Services, Inc., New York, New York; to acquire Kennedy Cabot & Co., Beverly Hills, California, and thereby engage in investment advisory activities and securities brokerage and riskless principal activities, pursuant to §§ 225.28 (b)(6) and (7) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Louisville Development Bancorp, Inc., Louisville, Kentucky; to acquire Louisville Enterprise Center, Inc., Louisville, Kentucky, and thereby engage in community development activities, pursuant to § 225.28(b)(12) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 15, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–27751 Filed 10–20–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 19, 1997.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 19, 1997.[1]

The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity is expanding at a moderate pace. In labor markets, hiring remained robust at midyear, and the civilian unemployment rate, at 4.8 percent in July, matched its low for the current economic expansion. Industrial production increased relatively slowly in July, owing in part to a temporary drop in motor vehicle assemblies. Retail sales rose briskly in June and July after having changed little over the preceding three months. Housing starts rebounded in June and July after having weakened in May. Business fixed investment increased substantially further in the second quarter and available indicators point to further sizable gains in the current quarter. The nominal deficit on U.S. trade in goods and services narrowed slightly on balance over April and May from its downward-revised average rate in the first quarter. Price inflation has remained subdued and increases in labor compensation have been moderate.

Market interest rates generally have declined somewhat further since the start of the Committee meeting on July 1-2, 1997. Share prices in equity markets have increased on balance. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies rose significantly on balance over the intermeeting period.

After fluctuating sharply from April to May, growth of M2 was at a moderate pace over June and July and that of M3 picked up to a relatively rapid rate. For the year through July, M2 expanded at a rate near the upper bound of its range for the year and M3 at a rate appreciably above the upper bound of its range. Total domestic nonfinancial debt has continued to expand in recent months at a rate near the middle of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the ranges it had established in February for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1996 to the fourth quarter of 1997. The range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 1988, the Committee agreed on a tentative basis to set the same ranges as in 1997 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1997 to the fourth quarter of 1998. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5-1/2 percent. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, a somewhat higher federal funds rate would or a slightly lower federal funds rate might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with moderate growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, October 8, 1997.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 97–27775 Filed 10-20-97; 8:45 am]

BILLING CODE 6210-01-P

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board Meeting

AGENCY: General Accounting Office.

ACTION: Notice of October meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Friday, October 24, 1997, from 9:00 a.m. to 4:00 p.m. in Room 7C13 of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to discuss the following issues: (1) Natural Resources; (2) Pension Costs; (3) a request for guidance on the Property, Plant, and Equipment (PP&E) Standard; (4) Government-Wide Supplementary Stewardship Reporting Exposure Draft comments; (5) PP&E Technical Corrections and Amendments; and (6) Social Insurance. Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86

[1] Copies of the Minutes of the Federal Open Market Committee meeting of August 19, 1997, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: October 15, 1997.

Wendy M. Comes,

Executive Director.

[FR Doc. 97–27747 Filed 10–20–97; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting

Purusant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 9:00 a.m.–5:30 p.m., November 5, 1997; 9:00 a.m.–4:15 p.m., November 6, 1997.

Place: Conference Room 303A–339A, Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington D.C. 20201.

Status: Open.

Purpose: The meeting will focus on a variety of data policy and privacy issues. The Committee will review its progress and consider next steps in addressing new responsibilities in health data standards and health information privacy as outlined in the administrative simplification provisions of P.L. 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as well as on related matters. Department officials will brief the Committee on recent activities of the HHS Data Council, the status of HHS activities in implementing the administrative simplification provisions of P.L. 104–191, and related date policy activities.

The Committee also will hear a briefing on data needs and issues by the Director of the National Center for Health Statistics. Presentations also are schedued relating to the President's Commission on Quality and Consumer Protection, the National Vital Statistics Program and Standard Certificates, and confidentiality and anti-discrimination issues in genetic testing. Breakout sessions are planned for the Subcommittee on Health Data Needs, Standards and Security, the Subcommittee on Privacy and Confidentiality, and the Subcommittee on Population-Specific Issues. In addition, the Committee will discuss its recent recommendations relating to the unique health identifier for individuals, and will discuss priorities and work plans. All topics are tentative and subject to change. Please check the NCVHS website for a detailed agenda.

Contact Person for More Information: Substantive information as well as summaries of the meeting and a roster of committee members may be obtained by visiting the NCVHS website (http://aspe.os.dhhs.gov/ncvhs) or by calling James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: October 14, 1997.

James Scanlon,

Director, Division of Data Policy.

[FR Doc. 97–27825 Filed 10–20–97; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following committee meeting.

Name: Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry (BSC, ATSDR).

Times and Dates: 9 a.m.–5 p.m., November 19, 1997, and 8:30 a.m.–4 p.m., November 20, 1997.

Place: ATSDR, 35 Executive Park Drive, Training Room, Atlanta, Georgia 30329.

Status: Open to the public, limited by the space available. The meeting room accommodates approximately 60 people.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Secretary; the Assistant Secretary for Health; and the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of the science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize.

Matters To Be Discussed: Agenda items will include introduction of members and special consultants to the Community/Tribal Subcommittee, updates on ATSDR medical monitoring at Hanford and Bunker Hill, ATSDR's methyl parathion experience, the programs and activities of the ATSDR Office of Urban Affairs, the Great Lakes Human Health Effects Research, the ATSDR Child Health Initiative, and the National Institute of Environmental Health Sciences Worker Safety and Training Program; a discussion on ATSDR/Native American cooperation; an overview for determining contaminant levels in water distribution systems; and a presentation of ATSDR's interim policy on dioxins in soil.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

CONTACT PERSONS FOR MORE INFORMATION: Charles Xintaras, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639–0708.

Dated: October 9, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–27793 Filed 10–20–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Fernald Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Fernald Health Effects Subcommittee.

Times and Dates: 1 p.m.–9 p.m., November 5, 1997, and 8:30 a.m.–5 p.m., November 6, 1997.

Place: The Plantation, 9660 Dry Fork Road, Harrison, Ohio 45020, telephone 513/367–5610.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters To Be Discussed: Agenda items include: presentations from the National Center for Environmental Health (NCEH) regarding current activities, the National Institute for Occupational Safety and Health and ATSDR will provide updates on the progress of current studies, and an overview of the Fernald Health Effects Subcommittee's mission and activities will be part of the evening session.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Steven A. Adams, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE. (M/S F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Dated: October 15, 1997.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–27792 Filed 10–20–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Time and Date: 1–4:30 p.m., November 18, 1997.

Place: Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, NW, Washington, DC 20008.

Status: Open to the public, limited only by the space available.

Purpose: The Committee advises and makes recommendations to the Secretary, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance and mix of intramural and extramural research, including laboratory research, and provides guidance on intramural and extramural scientific program matters, both present and future, particularly from a long-range viewpoint. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee recommends areas of research to be supported by contracts and provides concept review of program proposals and announcements.

Matters To Be Discussed: The Science and Program Review Work Group (SPRWG) will meet to discuss a research grants update, upcoming program announcements, and related issues. Following the Work Group meeting, the full Committee will meet to discuss (1) Safe America Partnership Council; (2) National Partnership Council including Federal and corporate components; (3) a report from SPRWG; and (4) status of the Institute of Medicine study on injury prevention and control.

Agenda items are subject to change as priorities dictate.

Contact Person for more Information: Mr. Thomas E. Blakeney, Executive Secretary, ACIPC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1481.

Dated: October 15, 1997.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–27786 Filed 10–20–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dermatologic and Ophthalmic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dermatologic and Ophthalmic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on November 13 and 14, 1997, 8:30 a.m. to 5:30 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Tracy Riley or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12534. Please call the Information Line for up-to-date information on this meeting.

Agenda: On November 13, 1997, the committee will discuss new drug application (NDA) 20–788, Propecia™ (finasteride 1 milligram tablets, Merck Research Laboratories), for treatment of androgenetic alopecia to increase hair growth and to prevent further hair loss. On November 14, 1997, the committee will participate in a scientific discussion of clinical trial design questions for products intended for the treatment of burn wounds. This is one segment of an overall effort by the agency to develop a guidance document on wound healing products.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 4, 1997. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9 a.m., and between approximately 1 p.m. and 1:30 p.m. on both days. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 4, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 9, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–27816 Filed 10–20–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Radiological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Radiological Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on November 17, 1997, 8:30 a.m. to 4:30 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: John C. Monahan, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1212, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12526. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss general issues and vote on an original premarket approval application (PMA) for an ultrasound bone sonometer and an original PMA for a breast impedance scanner.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 10, 1997. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:45 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 10, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 10, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–27817 Filed 10–20–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95D–0349]

Guidance for Industry on SUPAC–IR: Immediate Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a Level 1 guidance for industry entitled ''SUPAC–IR: Immediate Release Solid Oral Dosage Forms—Manufacturing Equipment Addendum.'' This guidance is intended to provide insight and recommendations to pharmaceutical sponsors of new drug applications (NDA's), abbreviated new drug applications (ANDA's), and abbreviated antibiotic applications (AADA's) who wish to change equipment during the postapproval period. This guidance document represents the agency's current thinking on scale-up and postapproval equipment changes (SUPAC) for immediate release dosage forms regulated by the Center for Drug Evaluation and Research (CDER).

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Smith, Office of Generic Drugs, Center for Drug Evaluation and Research (HFD–623), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5848.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''SUPAC–IR: Immediate Release Solid Oral Dosage Forms—Manufacturing Equipment Addendum.'' This guidance is intended to provide recommendations to pharmaceutical manufacturers using CDER'S Guidance for Industry on ''Immediate Release Solid Oral Dosage Forms, Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls, In Vitro Dissolution Testing, and In Vivo Bioequivalence Documentation'' (SUPAC–IR), which was issued in November 1995. The manufacturing equipment addendum may be used in conjunction with the SUPAC–IR guidance in determining what documentation should be submitted to FDA regarding equipment changes made in accordance with the recommendations in sections V and VI.A of the SUPAC–IR guidance.

This guidance for industry represents the agency's current thinking on scale-up and post approval equipment changes for immediate release solid oral dosage forms regulated by CDER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Persons with access to the Internet may obtain copies of ''SUPAC–IR: Immediate Release Solid Oral Dosage Forms—Manufacturing Equipment Addendum'' by using the World Wide Web (WWW) and going to ''http://www.fda.gov/cder/guidance/index.htm''.

Dated: October 14, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–27738 Filed 10-20-97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting George Keller, Ph.D., Technology Licensing Specialist, at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057, ext. 246; fax: 301/402–0220; e-mail: KellerG@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Diagnostic Reagents and Vaccines for Multiple Genotypes of Hepatitis C Virus

J Bukh, RH Miller, RH Purcell (NIAID)
Serial Nos. 08/466,601 and 08/468,570 filed 06 Jun 95 (DIV of U.S. Patent 5,514,539 issued 07 May 96)

The invention describes the complete nucleotide and deduced amino acid sequences of the envelope 1 (E1) gene of 51 hepatitis C virus (HCV) isolates from around the world and the grouping of these isolates into twelve distinct HCV genotypes. More specifically, this invention relates to the oligonucleotides, peptides and recombinant proteins derived from the envelope 1 gene sequences of these isolates and to diagnostic methods and vaccines that employ these reagents.

Antigenic Protein of Borrelia Burgdorferi

WJ Simpson, TG Schwan (NIAID)
Serial No. 08/396,957 filed 01 Mar 95 (DIV of U.S. Patent 5,470,712 issued 28 Nov 95)

This patent application describes a 39 kDA protein (P39) that is species-specific and expressed by all North American and European *B. burgdorferi* isolates. The discovery includes the cloning and expression of the gene for P39 in *E. coli* and the use of P39 as a diagnostic antigen for the serodiagnosis of Lyme borreliosis. The P39 described in this invention report has been found not only to be species-specific, but reactive only with human Lyme borreliosis sera. This suggests that any patient's serum that is shown to react to P39, irrespective of the patient's clinical picture, can be diagnosed as having or having had Lyme borreliosis.

Versatile Reagent for Detecting Murine Leukemia Viruses

LH Evans, WJ Britt (NIAID)
Serial No. 08/046,352 filed 08 Apr 93

Monoclonal antibodies directed at the proteins of murine leukemia viruses (MuLVS) have some value as immunological reagents, but differ greatly in their applicability. The kit described in this invention uses a monoclonal antibody designated 83A25, which identifies almost all ecotropic, xenotropic, polytropic, and amphotropic MuLVs. It can be used in a wide variety of procedures, including focal immunofluorescence assays on live or fixed monolayers, immunoblotting, immunoprecipitation, immunohistochemical, and flow cytometric procedures. This kit overcomes some of the problems associated with prior methods, which may not effectively precipitate proteins or react in immunoblots, are not capable of detecting MuLVs belonging to all classes with a single reagent, and may not efficiently neutralize all MuLVs.

Dated: October 7, 1997.

Barbara M. McGarey, J.D.

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–27864 Filed 10–20–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of 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 Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Therapeutic Strategies for Papillomavirus (Telephone Conference Call).

Date: October 29, 1997.

Time: 2:00 p.m. to Adjournment.

Place: Teleconference, 6003 Executive Boulevard, Solar Building, Room 1A1, Bethesda, MD 20892, (301) 402–0747.

Contact Person: Dr. Sayeed Quraishi, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C22, Bethesda, MD 20892, (301) 496–7465.

Purpose/Agenda: To evaluate contract proposals.

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/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.

This notice is being published less than 15 days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: October 15, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27860 Filed 10–20–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Dental Research; 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 Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R03 grant (98–14).

Dates: November 5, 1997.

Time: 2:00 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R44 grant (98–12).

Dates: November 12, 1997.

Time: 10:00 a.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R03 grant (98–08).

Dates: November 17, 1997.

Time: 2:30 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R03 grant (98–13).

Dates: November 20, 1997.

Time: 12:00 noon.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

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. 93.121, Oral Diseases and Disorders Research)

Dated: October 15, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27861 Filed 10–20–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Deafness and Other Communication Disorders Programs Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Deafness and Other Communication Disorders Programs Advisory Committee.

Date: November 3, 1997.

Place: National Institutes of Health, 9000 Wisconsin Avenue, Building 31C, Conference Room 7, Bethesda, MD 20892.

Time: 8 am to 4:30 pm.

Purpose/Agenda: To hold discussions on Extramural Research programs.

Contact Person: Ralph F. Naunton, M.D., Director, Division of Human Communication, NIH/NIDCD, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301–496–1804.

The entire meeting will be open to the public, with attendance limited to space available. A summary of the meeting and a roster of the members may be obtained from Dr. Naunton's office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodation, please contact Dr. Naunton prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: October 15, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27862 Filed 10–20–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Research on Women's Health; Notice of Meeting—''Beyond Hunt Valley: Research on Women's Health for the 21st Century''

Notice is hereby given that the Office of Research on Women's Health (ORWH), Office of the Director, National Institutes of Health (NIH), will convene a meeting on November 17, 18, and 19, 1997, at the Bethesda Marriott (formerly Pooks Hill Marriott), Bethesda, Maryland.

The NIH/AES is accredited by the Accreditation Council for Continuing Medical Education to sponsor continuing medical educations for physicians.

The NIH/AES designates this educational activity for a maximum of 10 hours in category 1 credit towards the AMA Physician's Recognition Award. Each physician should claim only those hours of credit that he/she actually spent in the educational activity.

The ORWH/NIH research agenda recognizes the full spectrum of research from basic to clinical research and trials, epidemiological and population studies, clinical applications and health outcomes. Since September 1996, the ORWH has convened a series of three regional meetings for the purpose of updating the NIH scientific agenda on women's health research to meet the challenges of a changing scientific and social world. This mechanism provides an opportunity for the continued collaboration between individuals and groups of women and their families, advocates, scientists, health care practitioners and public health policy makers with the NIH to update and revise the national research agenda for women's health into the twenty-first century. The purpose of this national meeting will be to culminate the dialogue conducted over the last year to update and revise the current biomedical research agenda for women's health, as originally presented in the Report of the National Institutes of Health; Opportunities for Research on Women's Health, a publication based on a conference held in Hunt Valley, Maryland, September 1991.

The first day of the national meeting, November 17, will be devoted to receiving public testimony from 1:00 p.m. to 6:00 p.m. The ORWH invites individuals or individuals representing organizations with an interest in research areas related to women's health

to provide written and oral testimony on (1) The state of knowledge and continuing or emerging gaps in knowledge about women's health across the life span, (2) Sex/gender differences: Issues for women's health research, (3) Factors that influence differences between populations of women: Issues for women's health research, (4) New priorities for research on women's health, and (5) Career issues for women scientists: Overcoming barriers and achieving success in biomedical careers.

Due to time constraints, only one representative from each organization may present oral testimony, with presentations limited to 10 minutes. A letter of intent to present such testimony should be sent by interested individuals and representatives of organizations to Ms. Saundra Bromberg, Capital Consulting Corporation, 11900 Parklawn Drive, Suite 350, Rockville, MD 20852. The date of receipt of the letter will establish the order of presentations at the November meeting.

Presenters should send three (3) written copies (up to 18 double-spaced pages) on a diskette in Word Perfect for IBM of their testimony, a one-page summary, and a brief description of their organization, to the above address no later than November 3, 1997. Individuals and individuals representing organizations wishing to provide written statements only may send three (3) copies of their statements to the above address by November 3, 1997. Written testimony will be made available to the conferees prior to the November 18 meeting day. Comments and questions related to the November meeting should be addressed to Ms. Bromberg.

On November 18 and 19, plenary sessions as well as concurrent scientific working groups will address areas of science particularly relevant to women's health across the life span and career issues for women scientists. The meeting on November 18 will be held from 8:00 a.m. to 6:00 p.m., and on November 19 from 8:00 a.m. until approximately 4:00 p.m. All sessions of the meeting are open to the public.

In convening these meetings, the ORWH has reaffirmed the NIH's commitment to seeking broad representation of individuals from across the spectrum of medical specialties and scientific disciplines. Basic and clinical scientists, health providers, and advocates from across the country have met in Philadelphia, Pennsylvania; New Orleans, Louisiana; and Santa Fe, New Mexico, to provide guidance and make recommendations to the ORWH concerning advances in women's health research, continuing and/or emerging gaps in knowledge, areas in need of further research, strategies to take advantage of opportunities in science, and emerging issues in women's health.

The NIH research agenda has focused on sex and gender issues in the health and diseases of women, in considering such matters as normal development, disease prevention, health maintenance, response to interventions, disease prognosis, and treatment outcomes. We have also focused on factors that influence differences in health status and health outcomes among different populations of women.

At this national meeting, experts in basic and clinical science, practitioners interested in women's health, representatives of scientific, professional and women's health organizations, and women's health advocates will continue to assess the current status of research on women's health in these and in other areas, identify gaps in existing knowledge, and recommend scientific approaches and strategies for the future direction for research on women's health.

The conference will focus on scientific issues such as cardiovascular disease, cancer, neurological conditions, reproductive issues, mental disorders, digestive diseases and nutrition, urologic and kidney conditions, bone/musculoskeletal disorders, immunity/autoimmune diseases, behavioral and social sciences, oral health, substance abuse and addictive disorders, pharmacology, and career issues for women scientists. Following the national scientific workshop, the Office of Research on Women's Health will develop a report identifying priorities for research on women's health for the 21st century.

Dated: October 10, 1997.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 97–27863 Filed 10–20–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–44]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below will be 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: December 22, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451–7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Single Family Home Mortgage Insurance Division, telephone number (202) 708–2700 (this is not a toll free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

The notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Title I Electronic Data Collection.

OMB Control Number: 2502–.

Descrition of the need for the information and proposed use: The Department needs additional data from lenders to permit more effective risk management of its Title I loan portfolio. The data will be collected in an electronic format and therefore enhance the Department's ability to monitor individual loan and lender performance.

Agency forms, if applicable: None.

Members of affected public: Lending institutions with FHA approval to originate or service Title I loans.

Status of the proposed information collection: Not applicable.

Estimate of public burden: The additional reporting burden is considered minimal, as the data collected will be electronically reported and consists primarily on information Title I lenders currently collect during the loan origination process. In aggregate the reporting burden is estimated a 1,211 hours annually.

Authority

Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 15, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–27768 Filed 10–20–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

List of Programs Eligible for Inclusion in Fiscal Year 1999 Annual Funding Agreements To Be Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice lists programs or portions of programs that are eligible for inclusion in Fiscal Year 1999 annual funding agreements with self-governance tribes and lists programmatic targets for each of the non-BIA bureaus, pursuant to section 405(c)(4) of the Tribal Self-Governance Act.

DATES: This notice expires on September 30, 1999.

ADDRESSES: Inquiries or comments regarding this notice may be directed to the Office of Self-Governance, 1849 C Street NW, 2548 MIB, Washington, DC 20240. Telephone (202) 219–0240 or to the bureau points of contact listed below.

SUPPLEMENTARY INFORMATION:

I. Background

Title II of the Indian Self-Determination and Education Assistance Act Amendments of 1994 (P.L. 103–413, the ''Self-Governance Act'' or the ''Act'') instituted a permanent tribal self-governance program at the Department of the Interior (DOI). Under the self-governance program certain programs, functions, services, and activities or portions thereof in Interior bureaus other than BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance tribal government.

Under section 405(c) of the Self-Governance Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, activities, and functions or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program; and (2) programmatic targets for these bureaus.

Under the Self-Governance Act, two categories of non-BIA programs are eligible for self-governance funding agreements.

Under section 403(b)(2) of the Act, any non-BIA program, service, function or activity that is administered by Interior that is ''otherwise available to Indian tribes or Indians,'' can be administered by a tribal government through a self-governance agreement. The Department interprets this provision to require only the inclusion of programs eligible for self-determination contracting under Title I of the Indian Self-Determination and Education Assistance Act (P.L. 93–638).

Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities, or portions thereof, that are of ''special geographic, historical, or cultural significance'' to a self-governance tribe.

Under section 403(k) of the Self-Governance Act, annual agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe. However, a tribe (or tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, we will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances.

II. Annual Funding Agreements Between Self-Governance Tribes and Non-BIA Bureaus of the Department of the Interior

During Fiscal Year 1996, one annual funding agreement was negotiated by the Bureau of Reclamation and the Gila River Indian Community for work related to a portion of the Central Arizona Project. This successor annual funding agreement to continue development of an irrigation system on their reservation as authorized by section 301(a) of the Colorado River Basin Project Act was begun in Fiscal Year 1997. Another successor agreement is continuing in Fiscal Year 1998.

In Fiscal Year 1997, two agreements were negotiated by the National Park Service. The annual funding agreement with Kawerak, Inc., supported by funds from the shared Beringian heritage program, builds on the previous agreement and covers work to be completed in Fiscal Year 1998. This work will result in a more complete record of the Bering Strait Region's Inupiat, St. Lawrence Island Yupik and Southern Norton Sound Yupik culture, history, knowledge and traditions. The self governance cooperative agreement with Lower Elwha Klallam Tribe enables the Elwha to carry out selected National Park Service functions, services and activities under the NPS Elwha River Restoration Program.

III. Eligible Programs of the Department of the Interior non-BIA Bureaus

Following this paragraph is a listing by bureau of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance annual funding agreements because they are either ''otherwise available to Indians'' and not precluded by any other law, or may have ''special geographic, historical, or cultural significance'' to a participating tribe. This summary is a general listing that represents the bureaus' best estimates of activities that may be available for negotiation at the request of the self-governance tribe. Since 1996, the Bureau of Mines no longer exists and, therefore, is not on this list.

The Department will also consider for inclusion in annual funding agreements other programs or activities not included in this listing, but which, upon request of a self-governance tribe, the Department determines to be eligible under either sections 403(b)(3) or 403(c) of the Act. If you have any questions about these programs or other programs that you may be interested in, please contact the appropriate bureau representative.

A. Eligible Programs of the Bureau of Land Management (BLM)

BLM management responsibilities cover a wide range of areas such as recreational activities, timber, range and minerals management, wildlife habitat management and watershed restoration. In addition, BLM is responsible for the survey of certain Federal and tribal lands. Two programs also provide tribal services: (1) Tribal and allottee minerals

management; and (2) Survey of tribal and allottee lands. BLM contracts out some of its activities in the management of public lands. These and other activities, dependent upon the availability of funds, the need for specific services, or the self-governance tribe demonstrating a special geographic, cultural, or historical connection, may be available for inclusion in agreements. Once a tribe has made initial contact with BLM, more specific information will be provided by the respective BLM State office.

Programs Otherwise Available

1. *Cadastral Survey.* Tribal and allottee cadastral survey services are already available for contracts under Title I of the Act and may be available for inclusion in an annual funding agreement.

2. *Minerals Management.* Inspection and enforcement of Indian oil and gas operations, inspection, enforcement and production verification of Indian sand and gravel operations: These activities, already available for contracts under Title I of the Act, may be available for inclusion in an annual funding agreement.

Potential tribal connection

1. *Cultural Heritage.* Cultural heritage activities, such as research and inventory, may be available in specific States.

2. *Forestry Management.* Activities, such as environmental studies, tree planting, thinning and similar work may be available in specific States.

3. *Range Management.* Activities such as re-vegetation, noxious weed control, fencing, and similar activities may be available in specific States.

4. *Riparian Management.* Activities such as facilities construction, erosion control, rehabilitation, and similar activities may be available in specific States.

5. *Recreation Management.* Activities such as facilities construction and maintenance, interpretive design and construction, and similar activities may be available in specific States.

6. *Wildlife and Fisheries Habitat Management.* Activities such as construction and maintenance, interpretive design and construction, and similar activities may be available in specific States.

For questions regarding Indian self-governance contact the BLM Self-Governance Coordinator, Dr. Marilyn Nickels, Washington Office, 1849 C Street NW, Washington, D.C. 20240, (202) 452–0330, fax: (202) 452–7701. General information on all contracts available in a given year through the BLM can be obtained from the BLM National Business Center, PO Box 25047, Bldg 50 Denver Federal Center, Denver, CO 80225–0047.

B. Eligible Programs of the Bureau of Reclamation

Reclamation operates a wide range of water resource management projects for hydroelectric power generation, municipal and industrial water supplies, flood control, outdoor recreation, enhancement of fish and wildlife habitats, and research. Most of Reclamation's activities involve construction, operation and maintenance, and management of water resources projects and associated facilities. Components of the following Fiscal Year 1999 water resource management and construction projects may be eligible for self-governance annual funding agreements.

1. Wetlands Enhancement Project (Sac and Fox Nation of Oklahoma)—OK
2. Klamath Project—CA, OR
3. Newlands Project—NV, CA
4. Trinity River Restoration Program—CA
5. Central Valley Project (Trinity Division)—CA
6. Central Arizona Project—AZ, CA, NM, UT
7. Colorado River Front Work/Levee System—AZ, CA, NV
8. Lower Colorado Indian Water Management Study—AZ, CA, NV
9. Washoe Project—NV, CA
10. Yuma Area Projects—AZ, CA, NV
11. Wild Horse Dam and Reservoir—NV
12. Indian Water Rights Settlement Projects—as Congressionally authorized.

For questions regarding self-governance contact Dr. Barbara McDowell, Native American Affairs Office, Bureau of Reclamation (W–6100), 1849 C Street NW., Washington, DC 20240–0001, (202) 208–4733, fax: (202) 208–6688.

C. Eligible Programs of the Fish and Wildlife Service (FWS)

The mission of FWS is to conserve, protect, and enhance fish, wildlife, and their habitats for the continuing benefit of the American people. Primary responsibilities are for migratory birds, endangered species, freshwater and anadromous fisheries, and certain marine mammals. FWS has a continuing cooperative relationship with a number of Indian tribes through the National Wildlife Refuge System and the National Fish Hatcheries program. FWS will discuss participation in any program with any Indian tribe, self-governance or non-self-governance. Any tribe may contact a wildlife refuge or fish hatchery about direct contracting or entering into cooperative agreements.

Some elements of the following programs may be eligible for contracting under a self-governance annual funding agreement:

1. *Fish & Wildlife Technical Assistance, Restoration & Conservation*

a. Fish & wildlife population surveys
b. Habitat surveys
c. Sport fish restoration
d. Feeding depredating migratory birds
e. Fish & wildlife program planning
f. Habitat restoration activities

2. *Endangered Species Program*

a. Cooperative management of conservation programs
b. Development of recovery plans
c. Conducting status surveys for high priority candidate species
d. Recovery plan implementation

3. *Education Programs*

a. Interpretation
b. Outdoor classrooms
c. Visitor center operations
d. Volunteer coordination efforts on & off-refuge

4. *Environmental Contaminants Program*

a. Analytical devices
b. Removal of underground storage tanks
c. Specific cleanup activities
d. Natural resource economic analysis
e. Specific field data gathering efforts

5. *Hatchery Operations*

a. Egg taking
b. Rearing/feeding
c. Disease treatment
d. Tagging
e. Clerical/facility maintenance

6. *Wetland & Habitat Conservation and Restoration*

a. Construction
b. Planning activities
c. Habitat monitoring and management

7. *Conservation Law Enforcement*

a. All law enforcement efforts under cross-deputization

8. *National Wildlife Refuge Operations & Maintenance*

a. Construction
b. Farming
c. Concessions
d. Maintenance
e. Comprehensive management planning
f. Biological program efforts
g. Habitat management

Locations of National Wildlife Refuges in Close Proximity to Self-Governance Tribes

1. Humboldt Bay National Wildlife Refuge—CA

2. Kootenai National Wildlife Refuge—ID
3. Agassiz National Wildlife Refuge—MN
4. Rice Lake National Wildlife Refuge—MN
5. Mille Lacs National Wildlife Refuge—MN
6. Pablo National Wildlife Refuge—MT
7. Ninepipe National Wildlife Refuge—MT
8. National Bison Range—MT
9. Sequoyah National Wildlife Refuge—OK
10. Tishomingo National Wildlife Refuge—OK
11. Bandon Marsh National Wildlife Refuge—OR
12. San Juan Islands National Wildlife Refuge—WA
13. Dungeness National Wildlife Refuge—WA
14. Nisqually National Wildlife Refuge—WA
15. Alaska National Wildlife Refuges Statewide—AK
16. Mescalero National Fish Hatchery—NM
17. Alchesay National Fish Hatchery—AZ
18. Quinault National Fish Hatchery—WA
19. Makah National Fish Hatchery—WA

For questions regarding self-governance contact Duncan Brown, Native American Liaison, Fish and Wildlife Service (MS3012), 1849 C Street NW, Washington, D.C. 20240–0001, (202) 208–4133, fax: (202) 208–7407.

D. Eligible Programs of the Minerals Management Service (MMS)

MMS provides responsible stewardship of America's offshore resources and collects revenues generated from mineral leases on Federal and Indian lands. MMS is responsible for the management of the Federal Outer Continental Shelf, which are submerged lands off the coasts that have significant energy and mineral resources. MMS also offers mineral-owning tribes other opportunities to become involved in MMS's Royalty Management Program functions.

Within the Offshore Minerals Management program, environmental impact assessments and statements, and environmental studies, may be available if a self-governance tribe demonstrates a special geographic, cultural, or historical connection.

Generally, royalty management programs are available to tribes because of their status as Indians. Royalty management programs that may be available to self-governance tribes are as follows.

1. *Audit of Tribal Royalty Payments.* Audit activities for tribal leases including issuing demands, subpoenas and orders to perform restructured accounting. Excepted activities are the issuance of final valuation decisions, and other enforcement activities. (For tribes already participating in MMS delegated audits, this program is offered as an optional alternative.)

2. *Verification of Tribal Royalty Payments.* Financial compliance verification and monitoring activities, production verification, and appeals research and analysis.

3. *Tribal Royalty Reporting, Accounting and Data Management.* Establishment and management of royalty reporting and accounting systems including document processing, production reporting, reference data (lease, payor, agreement) management, correction of erroneous report data, billing and general ledger.

4. *Tribal Royalty Valuation.* Preliminary analysis and recommendations for valuation and allowance determinations and approvals.

5. *Royalty Management of Allottee Leases.* Royalty management of allottee leases including the same activities listed for tribal leases.

6. *Online Monitoring of Royalties and Accounts.* Online computer access to reports, payments, and royalty information contained in MMS accounts. MMS will install equipment at tribal locations, train tribal staff, and assist tribe in researching and monitoring all payments, reports, accounts, and historical information regarding their leases.

7. *Royalty Internship Program.* This is a flexible orientation or training program for auditors and accountants from mineral producing tribes. The program is customized for each tribe's needs to acquaint tribal staff with royalty laws, procedures, and techniques or to prepare them to assume royalty management functions. This program is recommended for tribes that are considering a self-governance agreement but have not yet acquired mineral revenue expertise via a FOGRMA section 202 contract.

For questions regarding self-governance contact Joan Killgore, Royalty Liaison Office, Minerals Management Service, 1849 C Street NW, Room 4241, Washington, D.C. 20240–0001, (202) 208–3512, fax (202) 208–3982.

E. Eligible Programs of the National Park Service (NPS)

The National Park Service administers the National Park System made up of national parks, monuments, historic sites, battlefields, seashores, lake shores and recreation areas. NPS maintains the park units, protects the natural and cultural resources, and conducts a range of visitor services such as law enforcement, interpretation of geology, history, and natural and cultural resources. Some elements of these programs may be eligible for contracting under a self-governance annual funding agreement. The list below was developed considering the geographic proximity to, and/or traditional association of a self-governance tribe with, units of the National Park system, and the types of programs that have components that may be suitable for contracting through a self-governance annual funding agreement.

Otherwise Available On-Going Programs and Activities

Archeological surveys
Comprehensive management planning
Cultural resource management projects ethnographic studies
Erosion control
Fire protection
Hazardous fuel reduction
Housing construction and rehabilitation gathering baseline
Subsistence data—AK janitorial services
Maintenance
Natural resource management projects range assesssment—AK
Reindeer grazing—AK
Road repair
Solid waste collection and disposal
Trail rehabilitation

Components of these programs are potentially eligible for inclusion in a Self-Governance annual funding agreement. Programs may be available within units of the National Park System.

Potential Tribal Connection

Special Programs

Beringia Research
Elwha River Restoration

Aspects of these programs may be available if a self-governance tribe demonstrates a geographical, cultural, or historical connection.

Lake Clark National Park and Preserve—AK
Katmai National Park and Preserve—AK
Glacier BAy National Park and Preserve—AK
Sitka National Historical Park—AK
Kenai Fjords National Park—AK
Wrangell-St. Elias National Park & Preserve—AK
Bering Land Bridge National Park—AK
Northwest Alaska Areas—AK
Gates of the Arctic National Park & Preserve—AK

Yukon Charlie Rivers National Preserve—AK
Casa Grande Ruins National Monument—AZ
Josha Tree National Park—CA
Lassen Volcanic National Park—CA
Redwoods National Park—CA
Whiskeytown National Recreation Area—CA
Hagerman Fossil Beds National Monument—ID
Sleeping Bear Dunes National Lakeshore—MI
Voyageurs National Park—MI
Grand Portage National Monument—MN
Bear Paw Battlefield, Nez Perce National Historical Park—MT
Glacier National Park—MT
Great Basin National Park—NV
Bandelier National Monument—NM
Hopewell Culture National Historical Park—OK
Chickasaw National Recreation Area—OK
Effigy Mounds National Monument—IA
Olympic National Park—WA
San Juan Islands National Historic Park—WA
Mt. Rainier National Park—WA
Ebey's Landing National Historical Reserve—WA

Aspects of the ongoing programs and activities may be available at these park units with known geographic, cultural, or historical connections with a self-governance tribe.

While NPS has tried to indicate the types of programs that may be available, this is not intended to be an all-inclusive listing. NPS will also discuss participation in any program with any Indian tribe, self-governance or non-self-governance.

For questions regarding self-governance contact Dr. Patricia Parker, American Indian Liaison Office, National Park Service (2205), 1849 C Street NW, Room 3410, Washington, D.C. 20240; telephone (202) 208–5475, fax (202) 273–0870.

F. Eligible Programs of the Office of Surface Mining (OSM)

OSM regulates surface coal mining and reclamation operations, and reclaims abandoned coal mines, in cooperation with States and Indian tribes.

1. *Abandoned Mine Land Reclamation Program*. This program to restore eligible lands mined and abandoned or left inadequately restored is available to Indian tribes.

2. *Control of the Environmental Impacts of Surface Coal Mining.* This program includes analyses, NEPA documentation, technical reviews, and studies. Where surface coal mining exists on Indian land, certain regulatory activities that are not inherently Federal, including, for example, designation of areas unsuitable for mining, are available to Indian tribes.

For questions regarding self-governance contact Maria Mitchell, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW, (MS–210–SIB), Washington, D.C. 20240, telephone (202) 208–2847, fax (202) 208–3111.

G. Eligible Programs of the U.S. Geological Survey (USGS)

The mission of the U.S. Geological Survey is to provide information on biology, geology, hydrology, and cartography that contributes to the wise management of the nation's natural resources and to the health, safety, and well-being of the American people. Information includes maps, data bases, and descriptions and analyses of the water, plants, animals, energy, and mineral resources, land surface, underlying geologic structure and dynamic processes of the earth. Information on these scientific issues is developed through extensive research, field studies, and comprehensive data collection to: Evaluate natural hazards such as earthquakes, volcanoes, landslides, floods, droughts, subsidence and other ground failures; assess energy, mineral, and water resources in terms of their quality, quantity, and availability; evaluate the habitats of animals and plants; and produce geographic, cartographic, and remotely-sensed information in digital and non-digital formats. No USGS programs are specifically available to American Indians or Alaska Natives. Components of programs may have a special geographic, cultural, or historical connection with a tribe.

1. *Mineral, Environmental, and Energy Assessments.* Components of this program that involve geologic research, data acquisition, and predictive modeling may be available for inclusion in an annual funding agreement.

2. *USGS Earthquake Hazards Reduction Program*. Components of this program involves research, data acquisition, and modeling related to earthquakes and seismically active areas may be available for inclusion in an annual funding agreement.

3. *Water Resources Data Collection and Investigations.* Components of this program may be available for inclusion in an annual funding agreement if a self-goverance tribe demonstrates a special geographic, cultural, or historical connection.

4. *Biological Resources Inventory, Monitoring, Research and Information Transfer Activities.* Components of this program may be available for inclusion in an annual funding agreement if a self-goverance tribe demonstrates a special geographic, cultural or historical connection.

For questions regarding self-goverance contact Sue Marcus, American Indian/Alaska Native Liaison, U.S. Geological Survey, 105 National Center, Reston, VA 20192, telephone (703) 648–4437, fax (703) 648–5068.

IV. Programmatic Targets

Each of the non-BIA bureaus will attempt to successfully negotiate at least one annual funding agreement with a self-goverance tribe for implementation in Fiscal Year 1998.

Dated: October 15, 1997.

Juliette Falkner,

Special Assistant to the Secretary.

[FR Doc. 97–27750 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*)

Applicant: Rod Brandenburg, Longmont, CO, PRT–834807.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Julian B. Smith, Jr., Metter, GA, PRT–835364.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Michael Seaman/Yale University, New Haven, CT, PRT–835315.

The applicant requests a permit to import hair samples from gorillas (*Gorilla gorilla*) collected in the wild in

Uganda, incidental to other research activities, for scientific research.

Applicant: Wildlife Conservation Society, Bronx, NY, PRT–824722.

The applicant request an amendment to their current permit to include the import of 60 non-viable eggs of American crocodile (*Crocodylus acutus*) for the purpose of scientific research.

Applicant: National Institutes of Health, Frederick, MD, PRT–694126.

The applicant requests an amendment to their current permit which authorizes import and/or interstate commerce to obtain biological samples taken from endangered and threatened mammals. They request that the authorization specifically include the import and/or interstate commerce of DNA samples taken from endangered and threatened mammals for the purpose of scientific research.

Applicant: Mark Fisher, Visalia, CA, PRT–835472.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Louis Sweet, Tulare, CA, PRT–835477.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: National Cancer Institute, Frederick, MD, PRT–834014.

This amends the previoulsy published activity for the applicant to import hair, tissue, and blood samples from Vicuna (*Vicugna vicugna*) from Bolivia and Argentina, rather than only from Chile and Peru, for the purpose of enhancing of the survival of the species through scientific research.

Applicant: The Hawthorn Corporation, Grayslake, IL, PRT–835641.

The applicant requests a permit to re-export and re-import captive-born Bengal tiger (*Panthera tigris tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

Applicant: Ron and Joy Holiday and Charles Lizza, Alachua, FL, RT–835640.

The applicant requests a permit to export and reimport one captive born black leopard (*Panthera pardus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director by November 20, 1997.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Mark Rayburg, Lower Burrell, PA, PRT–832318.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Gulf of Boothia polar bear population, Northwest Territories, Canada for personal use.

Applicant: William Williamson, Austin, TX, PRT–832316.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

Applicant: Collins Kellogg, Jr., Black River, NY, PRT–835254.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Applicant: Steven H. Jones, Fort Myers, FL, PRT–835266.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Applicant: Helmuth Pfennig, Beulah, ND PRT–835227.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Applicant: Lawrence Epping, Salem, OR, PRT–835236.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of any of these complete applications, or requests for a public hearing on the applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received by November 20, 1997. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the above address by November 20, 1997.

Dated: October 16, 1997.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–27883 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On July 24, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 142, Page 39854, that an application had been filed with the Fish and Wildlife Service by Gary Frank Bogner, No. Muskegon, MI, for a permit (PRT–832218) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Lancaster Sound population, Northwest Territories, Canada for personal use.

Notice is hereby given that on October 6, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 7, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 152, Page 42590, that an application had been filed with the Fish and Wildlife Service by Thomas VanEvery, Troy, MI, for a permit (PRT–832624) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the McClintock Channel population,

Northwest Territories, Canada for personal use.

Notice is hereby given that on October 6, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 7, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 152, Page 42589, that an application had been filed with the Fish and Wildlife Service by Peter Mansfield, New York City, NY, for a permit (PRT–832731) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Southern Beaufort Sea population, Northwest Territories, Canada for personal use.

Notice is hereby given that on September 30, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 14, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 157, Page 43544, that an application had been filed with the Fish and Wildlife Service by Ron Brunsfeld, Northbrook, IL, for a permit (PRT–832897) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Lancaster Sound population, Northwest Territories, Canada for personal use.

Notice is hereby given that on September 24, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 14, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 157, Page 43544, that an application had been filed with the Fish and Wildlife Service by Gerald Bader, Federal Dam, MN, for a permit (PRT–832625) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Foxe Basin population, Northwest Territories, Canada for personal use.

Notice is hereby given that on October 6, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 14, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 157, Page 43544, that an application had been filed with the Fish and Wildlife Service by Karl Nothdurft, Grosse Pointe Farms, MI, for a permit (PRT–832907) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken prior to April 30, 1994, from the Foxe Basin population, Northwest Territories, Canada for personal use.

Notice is hereby given that on September 30, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 14, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 157, Page 43544, that an application had been filed with the Fish and Wildlife Service by the Alaska Science Center, Anchorage, AK for amendment of the permit (PRT–801652) for the purposes of scientific research of walrus (*Odobenus rosmarus*).

Notice is hereby given that on October 1, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: October 16, 1997.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–27881 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–014917C, IDI–014461C]

Termination of Desert Land Entry Classifications and Opening Order; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates two Desert Land Entry Classifications on 363.74 acres of land in Owyhee County, as these classifications are no longer needed. Most of the lands affected by these classifications will be exchanged pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Catherine D. Foster, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3863.

SUPPLEMENTARY INFORMATION: On April 18, 1968 and on October 4, 1971, the lands listed below were classified as suitable for entry under the authority of the Desert Land Act of March 3, 1877, as amended and supplemented (43 U.S.C. 321, et seq.).

These classifications are hereby terminated and the segregation for the following described land is hereby terminated:

T. 6 S., R. 4 E., B.M. section 24: NE¼SE¼.
T. 6 S., R. 5 E., B.M. section 19: lots 2, 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼.

The area described above aggregates 363.74 acres in Owyhee County.

At 9:00 a.m. on October 21, 1997, the Desert Land Entry Classifications identified above will be terminated. A majority of the lands identified above will remain closed to location and entry under the public land laws and the mining laws, as they are currently segregated for exchange. The only lands which will be opened to location and entry are described as follows:

T. 6 S., R. 5 E., B.M. section 19: SW¼NE¼, NW¼SE¼.

At 9:00 a.m. on October 21, 1997, these lands will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m., on October 21, 1997, will be considered simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

At 9:00 a.m. on October 21, 1997, these lands will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described above under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in

disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 9, 1997.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 97–27713 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 31137; FES 97–33]

Notice of Availability

AGENCY: Bureau of Land Management, Needles Resource Area.

ACTION: Notice of Availability for the Castle Mountain Mine Expansion Project, Final Environmental Impact Statement/Environmental Impact Report.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, as amended, and in coordination with the County of San Bernardino in its administration of the California Environmental Quality Act as amended, notice is hereby given that the Bureau of Land Management (BLM) has prepared, with the assistance of a third party consultant, a Final Environmental Impact Statement (EIS)/Environmental Impact Report (EIR)on the proposed Castle Mountain Mine Expansion Project and has made copies available for public and agency review. The Final EIS/EIR addresses the potential environmental impacts associated with expansion and continued operation of an open pit heap leach gold mine in northeastern San Bernardino County, California.

DATES: Comments on the Final EIS/EIR must be received no later than 4 p.m., November 17, 1997.

ADDRESSES: Written comments should be addressed to: George R. Meckfessel, U.S.D.I. Bureau of Land Management, Needles Resource Area, 101 West Spikes Road, Needles California 92363.

FOR FURTHER INFORMATION CONTACT: George R. Meckfessel, Planning and Environmental Coordinator, telephone (760) 326–7000.

SUPPLEMENTARY INFORMATION: Viceroy Gold Corporation has proposed to mine additional ore adjacent to deposits currently being mined at the Castle Mountain Mine, an open-pit heap-leach gold mine. Under the present operating permits, mining, processing and reclamation could continue through December 31, 2010. The mine operating period would be extended 10 years past the currently permitted time to 2010. Under the proposed expansion, these activities could continue through December 31, 2020. The Proposed Action would increase areas of open pit, create an overburden storage site, and expand the heap leach pad, on approximately 485 acres. Mining and processing methods, and rates would not change. Previous permitted and proposed surface disturbances at the conclusion of mining would total 1,375 acres of the 3,910-acre project area.

Molly S. Brady,

Area Manager.

[FR Doc. 97–27782 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Alaska Outer Continental Shelf Region

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for Outer Continental Shelf (OCS) Mineral Exploration Proposal on the Alaska OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Environmental Assessment prepared by the MMS for oil and gas exploration activities proposed on the Alaska OCS. This listing includes the only proposal for which a Finding of No Significant Impact (FONSI) was prepared by the Alaska OCS Office in the 3-month period preceding this Notice.

Proposal

The proposal is for exploratory-drilling operations that would be conducted in accordance with the OCS Lands Act. The purpose of the Environmental Assessment (EA) is to evaluate the probable environmental effects of the operations, described in the Exploration Plan (EP) for the ARCO Warthog No. 1 Exploration Well, dated July 1997. The Warthog drill site would be located within Camden Bay in the Beaufort Sea, near several former drill sites and the Arctic National Wildlife Refuge. The bottom-hole location would be under adjacent State of Alaska lands on the inner continental shelf. The methods by which the exploratory well would be drilled are detailed in the EP and in the associated Environmental Report and Oil Discharge Prevention and Contingency Plan. Additional details about the proposed operations are included in **Federal Register** Notice 62–FR–37881, summarizing an ARCO application for an Incidental Harassment Authorization from the National Marine Fisheries Service.

Location

Lease	*Block*
OCS–Y–1663	NR 06–04 7067
(additional lease)	
OCS–Y–1662	NR 06–04 7066

EA Number: EA No. AK 97–01.
FONSI Date: August 14, 1997.

FOR FURTHER INFORMATION CONTACT: Persons interested in reviewing environmental documents for the proposal listed above, or in obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS, are encouraged to contact the Alaska OCS Regional office of MMS.

The FONSI and associated EA are available for public inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Resource Center, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508–4363, phone: (907) 271–6070 or (907) 271–6621 or toll free at 1–800–764–2627. Request may also be sent to MMS at akwebmaster@mms.gov.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determing whether or not approvals of the proposals constitute major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: October 14, 1997.

John Goll,

Regional Director, Alaska OCS Region, Minerals Management Service.

[FR Doc. 97–27784 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Gates of Arctic National Park Subsistence Resource Commission; Notice of Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park and Preserve announce a forthcoming meeting of the Gates of the Arctic National Park and Preserve Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order.

(2) Roll call.

(3) Approval of minutes from April 29–May 1, 1997 meeting.

(4) Review agenda.

(5) Superintendent's introduction of guests and review of Commission function and staff purpose.

(6) Superintendent's management/research reports.

a. Administration and management.

b. Park operations.

c. Resource management.

d. Subsistence program.

(7) Public and agency comments.

(8) Old business.

a. Correspondence

b. Federal Subsistence Program update: 1997–1998 regulatory changes.

c. National Park Service Subsistence Program document.

d. Review of Subsistence Management Plan (draft).

(9) New business.

a. Election of officers.

b. Other park Subsistence Resource Commission actions.

c. Review of traditional use areas draft analysis.

d. Work session: Subsistence Hunting Program.

(10) Set time and place of next Subsistence Resource Commission meeting.

(11) Adjournment.

DATES: The meeting will begin at 7:00 p.m. on November 3, 1997 and conclude at approximately 10:00 p.m. The meeting will reconvene at 8:30 a.m. on November 4, 1997 and conclude at approximately 5:00 p.m. The meeting will reconvene at 8:30 a.m. on November 5, 1997 and conclude at approximately noon.

LOCATION: The meeting will be held at the Community Hall, Allakaket, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Superintendent, Gates of the Arctic National Park and Preserve, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Judith Gattlieb,

Acting Regional Director, Alaska Region.

[FR Doc. 97–27788 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the twenty-fourth meeting of the Gettysburg National Military Park Advisory Commission.

DATES: The Public meeting will be held on November 20, 1997, from 7:00 p.m.–9:00 p.m.

LOCATION: The meeting will be held at Gettysburg Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-Committee Reports, Update on General Management Plan, Federal Consistency Projects Within the Gettysburg Battlefield Historic District, Operational Update on Park Activities, and Citizens Open Forum.

FOR FURTHER INFORMATION CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: October 19, 1997.

John A. Latschar,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 97–27819 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Jimmy Carter National Historic Site Advisory Committee; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Advisory Commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 4 p.m., at the following location and date.

DATE: October 31, 1997.

LOCATION: Plains High School Visitor Center/Museum, North Bond Street, Plains, Georgia 31780.

FOR FURTHER INFORMATION, CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, Route 1 Box 800, Andersonville, Georgia 31711, (912) 924–0343 Extension 17.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site.

The members of the Advisory Commission are as follows: Dr. Steven Hochman, Dr. James Sterling Young, Dr. Donald B. Schewe, Dr. Henry King Stanford, and Dr. Barbara Fields, Director, National Park Service, Ex-Officio member.

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 10, 1997.

Daniel W. Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 97–27801 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Landmarks Committee of National Park System Advisory Board Meeting

AGENCY: National Park Service; Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the National Landmarks Committee of the Secretary of the Interior's National Park System Advisory Board will be held at 9:00 a.m. on the following date and at the following location.

DATE: November 5, 1997.

LOCATION: Department of the Interior, Conference Room 7000 B, Main Interior Building, 1849 C Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Henry, National Register, History, and Education (2280), National Park Service, 1849 C Street, NW, Washington, DC 20013–7127. Telephone (202) 343–8163.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the National Landmarks Committee of the Secretary of the Interior's National Park System Advisory Board is to evaluate studies of historic properties in order to advise the full National Park System Advisory Board meeting on November 20–21, 1997, of the qualifications of properties being proposed for National Historic Landmark (NHL) designation, and to recommend to the full board those properties that the committee finds meet the criteria for designation for the National Historic Landmarks Program. The members of the National Landmarks Committee are:

Dr. Holly Anglin Robinson, Co-Chair
Mr. Parker Westbrook, Co-Chair
Mr. Peter Dangermond
Dr. Shereen Lerner
Mr. Jerry L. Rogers
Dr. John Vlach
Dr. Richard Guy Wilson
Dr. James Horton, *ex officio*

The meeting will include presentations and discussions on the national historic significance and the historic integrity of a number of properties being nominated for National Historic Landmark designation. The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file for consideration by the committee written comments concerning nominations and matters to be discussed pursuant to 36 CFR part 65. Comments should be submitted to Carol D. Shull, Chief, National Historic Landmarks Survey, and Keeper of the National Register of Historic Places, National Register, History, and Education (2280), National Park Service, 1849 C Street, NW, Washington, DC 20013–7127.

The nominations to be considered are:

ALABAMA

Brown Chapel A.M.E. Church, Selma, Alabama

ALASKA

Kake Cannery, Kake

ARKANSAS

Old State House, Little Rock

CALIFORNIA

United States Immigration Station, Angel Island, Tiburon

ALASKA

Kake Cannery, Kake

ILLINOIS

Farm Creek Section, East Peoria Vicinity

MARYLAND

Riversdale, Riverdale

NEW YORK

Kate Mullany House, Troy
New York State Inebriate Asylum, Binghamton
Radeau Land Tortoise, Lake George
Top Cottage, Hyde Park
Union Square, New York

OHIO

Cincinnati Observatory, Cincinnati
Wilson Bruce Evans House, Oberlin

PENNSYLVANIA

Johnson House, Philadelphia
N.C. Wyeth House and Studio, Chadds Ford

PUERTO RICO

ANTONIO LOPEZ, Dorado Vicinity

VERMONT

Rokeby, Ferrisburgh

VIRGINIA

Monument Avenue Historic District, Richmond

Also, should the necessary waivers be received, the committee will be considering an additional property:

Lower Landing Archeological District (Boundary increas to Colonial Niagara Historic District), Lewiston, NY

Dated: October 16, 1997.

Carol D. Shull,

Chief, National Historic Landmarks Survey and Keeper of the National Register of Historic Places, National Park Service, Washington Office.

[FR Doc. 97–27865 Filed 10–20–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act and Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 8, 1997, a proposed Consent Decree in *United States* v. *Trustees of Boston University*, Civil Action No. 97–12261 PBS (D. Mass.), was lodged with the United States District Court for the District of Massachusetts resolving the matter. The proposed Consent Decree concerns violations by the Trustees of Boston University, of the Clean Water Act, 42 U.S.C. § 1251, *et seq.*, and the Resource, Conservation, and Recovery Act, 42 U.S.C. § 6901, *et seq.* The violations alleged in the complaint include the failure by the University to prevent spills of oil into the Charles River in 1992 and 1996 as required by Section 311(b)(3) of the Clean Water Act, 42 U.S.C. § 1321(b)(3); the failure by the University to prepare and implement a Spill Prevention Control and Countermeasures Plan as required by Section 311(j)(1)(c) of the Clean Water Act, 42 U.S.C. § 1321(j)(1)(c); and the failure of the University to comply with hazardous waste management practices at its Medical Campus as required by Subtitle C of the Resource, Conservation, and Recovery Act, 42 U.S.C. §§ 6921–6939.

Under the terms of the Consent Decree, the defendant will pay a total civil penalty of $253,000 for its past violations. In addition, the Consent Decree requires the University to perform two Supplemental Environmental Projects. The first Project will involve the environmental restoration of a community garden in the South End/Lower Roxbury neighborhood of Boston. The second Project will involve the reduction of pollutants contained in stormwater runoff into the Charles River from the University.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Trustees of Boston University,* DOJ Ref. No. 90–7–1–896.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $8.75 (25 cents per page reproduction cost for the Consent Decree excluding Appendices) made payable to Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section.

[FR Doc. 97–27772 Filed 10–20–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Supplemental Consent Decree Pursuant to the Clean Air Act

In accordance with the Clean Air Act, 42 U.S.C. § 7413 (g), and Departmental Policy, 28 CFR § 50.7, notice is hereby given that a proposed Supplemental Consent Decree in *Concerned Citizens for Nuclear Safety, Inc. & Patrick Jerome Chavez v. United States Dep't of Energy & Siegfried S. Hecker,* Civil No. 94–1039 M (D.N.M.), was lodged with the United States District Court for the District of New Mexico on September 26, 1997. Final approval and entry of the proposed Supplemental Consent Decree are subject to the requirements of Section 113(g) of the Clean Air Act, 42 U.S.C. § 7413(g), and the provisions of 28 CFR § 50.7.

In this case, Plaintiffs CCNS and Patrick Chavez filed suit against Defendants alleging that Los Alamos National Laboratory (''LANL'') is not in full compliance with the national emission standard for radionuclides at DOE facilities, set forth at 40 CFR 61.90–61.97 (''Subpart H''). On March 20, 1997, the court entered a Consent Decree resolving Plaintiffs' claims. One of the provisions of the Consent Decree requires DOE to fund up to four independent compliance audits of LANL. The Decree also provided for DOE to pay CCNS' expert and attorneys' fees incurred in monitoring compliance with the Consent Decree, including monitoring the independent audits, pursuant to the attorneys' fees provisions of the Clean Air Act.

On July 24, 1997, CCNS filed a Motion to Enforce Consent Decree, by which CCNS sought to resolve a dispute with DOE regarding the appropriate scope of activities to monitor the first independent audit. CCNS and DOE have reached a settlement of this motion, which takes the form of a proposed Supplemental Consent Decree.

The Department of Justice will receive written comments relating to the proposed Supplemental Consent Decree for a period of 30 days from the date of publication of this notice. Comments should be addressed to Alan D. Greenberg, U.S. Department of Justice, Environmental Defense Section, 999 18th Street, Suite 945, Denver, CO 80202, should refer to *Concerned Citizens for Nuclear Safety, Inc. & Patrick Jerome Chavez* v. *United States Department of Energy & Siegfried S. Hecker,* Civil No. 94–1039 M (D.N.M.), and should also make reference to DJ# 90–5–2–1–1749A.

The Supplemental Consent Decree may be examined at the Clerk's Office, Untied States District Court for the District of New Mexico, 500 Gold Avenue, 10th Floor, Albuquerque, NM 87102 or at the Los Alamos National Laboratory Reading Room, 1350 Central Avenue, Suite 101, Los Alamos, NM 87544, ph. (505) 665–2122 or (800) 343–2342.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environmental and Natural Resources Division.

[FR Doc. 97–27770 Filed 10–20–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with departmental policy, 28 CFR § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Inland Steel Company,* Civil Action No. 2:96CV–097 JM, was lodged on September 4, 1997 with the United States District Court for the Northern District of Indiana. The proposed consent decree settles pending Clean Water Act claims against Inland Steel Company in connection with its Harbor Works steelmaking facility in East Chicago, Indiana. The consent decree settles these claims in exchange for Inland's commitment to comply with the Clean Water Act in the future, a civil penalty of $150,000, and a supplemental environmental project consisting of spill control improvements at fueling stations at the Inland facility.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Inland Steel Company,* Civil Action No. 2:96CV–097 JM, and the Department of Justice Reference No. 90–5–1–1–4282. The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Indiana, 1001 Main Street, Suite A, Dyer, Indiana 46311; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 97–27774 Filed 10–20–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR § 50.7, notice is hereby given that on September 25, 1997, a proposed Consent Decree in *Tex Tin Corp.* v. *United States,* Civil Action No. G–96 247, consolidated with *Amoco Chemical Co.* v. *United States, et al.,* Civil Action No. G–96–272 (S.D. Tex., Galveston), was lodged with the U.S. District Court for the Southern District of Texas, Galveston Division. The United States filed counterclaims against Tex Tin Corp. and Amoco

Chemical Co. in these consolidated actions pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. § 9607(a) for recovery of costs incurred and to be incurred for response actions responding to the release or threat of release of hazardous substances at the Text Tin Superfund Site (''Site'') in Texas City, Texas. This Consent Decree resolves the United States claims against Amoco Chemical Company, Amoco Oil Company and Amoco Corporation (collectively ''Amoco'') for CERCLA response costs at the Site.

Amoco owns 27.33 acres (''Area H'') of the 210-acre Site, which Amoco purchased after disposal activities had ceased. With respect to the Site exclusive of Area H, Amoco is a *de minimis* generator potentially responsible party. The proposed settlement recognizes that Amoco has performed the Remedial Investigation/Feasibility study for the Site, and will clean up Area H under a Voluntary Cleanup Program (''VCP'') Response Action Work Plan with the state of Texas which will include construction of a soil cover over Area H, installation of a subsurface barrier wall, and continued monitoring of the network of groundwater wells.

With respect to Area H, the Consent Decree provides Amoco with a covenant not to sue under Sections 106 and 107 of CERCLA only if the Environmental Protection Agency issues a written determination that the cleanup, as implemented, is protective of human health and the environment within the meaning of Section 121 of CERCLA. The Consent Decree provides Amoco with a *de minimis* party covenant not to sue for the remainder of the Site. Amoco reserves contribution claims against the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *Amoco Chemical Co.* v. *United States, et al.*, D.J. ref. 90–11–3–1669.

The proposed Consent Decree may be examined at the Region 6 Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. A copy of the proposed Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $5.50 ($0.25 per page for reproduction costs) payable to: Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 97–27773 Filed 10–20–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Proposed Consent Decree; World Color Press, Inc.

Under 28 CFR 50.7 notice is hereby given that on October 3, 1997, a proposed consent decree in *United States* v. *World Color Press, Inc.*, Civil Action No. 96–CV–1804 was lodged with the United States District Court for the Northern District of Illinois.

In this action the United States sought injunctive relief and a civil penalty against World Color Press' Alden Printing Facility, located in Elk Grove, Illinois, to bring it into compliance with requirements in its permit to control and limit emissions of volatile organic materials (''VOMs'') for its printing presses. Following filing of the complaint, but before settling the litigation, World Color complied with the United States Environmental Protection Agency's request to replace condenser recovery systems with an afterburner at the Alden Facility to control VOM emissions from certain printing presses. The Consent Decree requires World Color to pay a civil penalty of $250,000, and to comply with the Clean Air Act in all respects.

The Department of Justice will receive comments on the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *World Color Press, Inc.*, D.J. Ref. 90–5–2–1–1984.

The C.B. may be examined at the Office of the United States Attorney, 219 S. Dearborn St., Room 12000, Chicago, Illinois 60604, at U.S. EPA Region 5, 77 West Jackson, Air & Radiation Division, Chicago, Illinois 60604, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 2005, (202) 624–0892. A copy of the C.D. may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $2.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce M. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–27771 Filed 10–20–97; 8:45 am]

BILLING CODE 4410–15–M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, November 18, 1997 from 8:45 a.m. to 9:45 a.m. The public sessions of the Commission and the Committee meeting will be held on Tuesday, November 18, from 10:00 a.m. to 6:00 p.m., on Wednesday, November 19, from 8:30 a.m. to 6:30 p.m., and on Thursday, November 20, from 9:00 a.m. to 1:00 p.m.

PLACE: The Fairbanks Princess Hotel, 4477 Pikes Landing Road, Fairbanks, Alaska, 99709.

STATUS: The executive session will be closed to the public. At it, matters relating to personnel, the internal practices of the Commission, and international negotiations in process will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and it is determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. The focus of the meeting, however, will be on Arctic issues and on those marine mammal species that occur in Alaska. While subject to change, major issues that the Commission plans to consider at the meeting include: marine mammal co-management agreements; domestic and international polar bear and walrus programs; research and management issues related to bowhead whales, Steller sea lions, harbor seals, North Pacific fur seals, and sea otters; the Arctic Environmental Protection Strategy; the Arctic Council; marine mammal programs of the Russian Federation; the Bering Sea ecosystem; Hawaiian monk seals; and West Indian manatees.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD, 20814, 301/504–0087.

SUPPLEMENTARY INFORMATION: This is a second notice of the Commission's 1997 meeting and does not constitute any significant change in the scheduling, location, or agenda of the meeting as originally published in the September 29, 1997 notice (62 FR 50964).

Dated: October 15, 1997.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 97–27890 Filed 10–16–97; 4:42 pm]

BILLING CODE 6820–31–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries Meeting

Notice is hereby given that the Advisory Committee on Presidential Libraries will meet on Wednesday, November 5, 1997, from 9 a.m. to 12 noon, in the Conference Room of the Bush Presidential Library, 1000 George Bush Drive West, College Station, Texas.

The agenda for the meeting will be the Presidential library programs and a discussion of future Presidential libraries.

The meeting will be open to the public. For further information, call David F. Peterson at (301) 713–6050.

Dated: October 17, 1997.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 97–27935 Filed 10–20–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

Name: Advisory Panel for Neuroscience (1158).

Date and Time: November 6–7, 1997; 9:00 a.m. to 5:00 p.m.

Place: Room 680, 4201 Wilson Boulevard, Arlington, VA.

Type of meeting: Part-Open.

Contact person: Dr. Susan F. Volman, Program Director, Developmental Neuroscience, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: November 7; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. Closed Session: November 6; 9:00 a.m. to 5:00 p.m.; November 7, 9:00 a.m. to 11:00 a.m., and 12:00 p.m. to 5:00 p.m. To review and evaluate Developmental Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27827 Filed 10–20–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

Time: 9:30 a.m., Tuesday, October 28, 1997.

Place: The Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC. 20594.

Status: Open.

Matters to be Discussed:

6921 *Railroad Accident Report:* Derailment of Union Pacific Railroad Unit Freight Train 6205 West, near Kelso, California, January 12, 1997.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Ray Smith, (202) 314–6064.

Dated: October 17, 1997.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 97–28022 Filed 10–17–97; 3:45 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

The Cleveland Electric Illuminating Company, Toledo Edison Company, Centerior Service Company, Duquesne Light Company, OES Nuclear, Inc., Ohio Edison Company, and Pennsylvania Power Company Perry Nuclear Power Plant, Unit No. 1; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring

[Docket No. 50–440]

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order under 10 CFR 50.80, of an application concerning a proposed merger between DQE, Inc. and Allegheny Power System, Inc. (Allegheny Power). DQE, Inc. is the parent holding company of Duquesne Light Company (Duquesne Light). Duquesne Light, The Cleveland Electric Illuminating Company (CEI), The Toledo Edison Company, Centerior Service Company (CSC), OES Nuclear, Inc., Ohio Edison Company, and Pennsylvania Power Company are holders of Facility Operating License No. NPF–58, dated November 13, 1986. Facility Operating License No. NPF–58 authorizes the holders to possess the Perry Nuclear Power Plant, Unit No. 1 (PNPP), and authorizes CEI and CSC to use and operate PNPP in accordance with the conditions and requirements set forth in the operating license. By letter dated August 1, 1997, the Commission was informed that DQE, Inc. and Allegheny Power have entered into a merger agreement which will result in DQE, Inc. becoming a wholly-owned subsidiary of Allegheny Power, and thus the indirect transfer of control of the interest held by Duquesne Light in the Perry operating license to Allegheny Power, which will be renamed Allegheny Energy, Inc. (Allegheny Energy).

According to the application, the merger will have no adverse effect on either the technical management or operation of PNPP since CEI and CSC, responsible for the operation and maintenance of PNPP, are not involved in the merger. The Toledo Edison Company, Ohio Edison Company, OES Nuclear, Inc., CEI, CSC, and Pennsylvania Power Company will remain licensees responsible for their possessory interests and related obligations. No direct transfer of the license will result from the merger.

Pursuant to 10 CFR 50.80, the Commission may consent to the transfer of control of a license after notice to interested persons. Such consent is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the application from Duquesne Light dated August 1, 1997. The August 1, 1997, application is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 10th day of October 1997.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Senior Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–27876 Filed 10–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. IA 97–070, ASLBP No. 98–734–01–EA]

Magdy Elamir, M.D.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 F.R. 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721, and 2.772(j) of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

MAGDY ELAMIR, M.D.

Order Superseding Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

IA 97–070

In accordance with 10 C.F.R. § 202, this Board is established as a result of the petitioner, Dr. Magdy Elamir, President of Newark Medical Associates, P.A., requesting a hearing on a September 15, 1997, NRC Order. The Order prohibits Dr. Elamir from engaging in NRC-licensed activities for five years, requires him to inform the NRC of any NRC licensed entity or entities where Dr. Elamir is involved and prohibits such involvements, and requires him to provide a copy of the Order to all such NRC-licensed entities.

The Board is comprised of the following administrative judges:

Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Peter S. Lam, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

All correspondence, documents and other materials in this proceeding shall be filed with the Judges in accordance with 10 C.F.R. § 2.701.

Issued at Rockville, Maryland, this 15th day of October 1997.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 97–27878 Filed 10–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–22]

Notice of Proposed Issuance of a License Amendment and an Order Authorizing Disposition of Component Parts Termination of Facility License and Opportunity for Hearing; Waltz Mill Test Reactor

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a license amendment and an order authorizing the Westinghouse Electric Corporation (the licensee) to dismantle the Waltz Mill Test Reactor facility and dispose of the component parts, and termination of Facility License No. TR–2, in accordance with the licensee's application dated July 31, 1997.

The license amendment would be issued following the Commission's review and approval of the licensee's detailed plan for removal of the reactor vessel internal contents, the reactor vessel, the biological shield, and disposal of radioactive components. The license amendment would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue an order terminating the TR–2 license, and relicensing the remaining facility under a Special Nuclear Materials license existing at other parts of the facility at Waltz Mill. Prior to issuance of the license amendment and order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By November 20, 1997, the licensee may file a request for a hearing with respect to issuance of the subject amendment and order, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's ''Rules for Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C. by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Lisa A. Campagna, Assistant General Counsel, Law Department, Westinghouse Electric Corporation, P.O. Box 355, Pittsburgh, Pennsylvania 15230, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petitioner and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated July 31, 1997, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, D.C.

Dated at Rockville, Maryland, this 14th day of October 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–27873 Filed 10–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

The Cleveland Electric Illuminating Company, et al. Perry Nuclear Power Plant, Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order under 10 CFR 50.80, of the indirect transfer of Facility Operating License No. NPF–58, to the extent it is held by the Duquesne Light Company (Duquesne Light) for the Perry Nuclear Power Plant, Unit No. 1 (PNPP), located in Lake County, Ohio.

Environmental Assessment

Identification of the Proposed

The proposed action would consent to the indirect transfer of the license with respect to a proposed merger between DQE, Inc. and Allegheny Power System, Inc. DQE, Inc. is the parent holding company of Duquesne Light, which holds a license to possess an interest in PNPP. Duquesne Light, The Cleveland Electric Illuminating Company (CEI), Toledo Edison Company, Centerior Service Company (CSC), OES Nuclear, Inc., Ohio Edison Company, and Pennsylvania Power Company are holders of Facility Operating License No. NPF–58, dated November 13, 1986. Facility Operating License No. NPF–58 authorizes the holders to possess the PNPP, and authorizes CEI and CSC to use and operate PNPP in accordance with the conditions and requirements set forth in the operating license. By letter dated August 1, 1997, the Commission was informed that DQE, Inc. and Allegheny Power have entered into a merger agreement which will result in the indirect transfer of control of the interest held by Duquesne Light in the PNPP operating license to Allegheny Power, which will be renamed Allegheny Energy, Inc. (Allegheny Energy).

According to the application, the merger will have no adverse effect on either the technical management or operation of PNPP since CEI and CSC, responsible for the operation and maintenance of PNPP, are not involved in the merger. The Toledo Edison Company, Ohio Edison Company, OES Nuclear, Inc., CEI, CSC, and Pennsylvania Power Company will remain licensees responsible for their possessory interests and related obligations. No direct transfer of the license will result from the merger.

The proposed action is in accordance with Duquesne Light's request for approval dated August 1, 1997.

The Need for the Proposed Action

The proposed action is required to obtain the necessary consent to the indirect transfer of the license discussed above. According to the application, the underlying transaction is needed to create a stronger, more competitive enterprise that is expected to save over $1 billion in net savings over the first 10 years, thereby enhancing Duquesne Light's financial resources to possess its interests in the PNPP.

Environmental Impacts of the Proposed Action

The proposed action involves administrative activities unrelated to plant operation.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational or offsite dose. Therefore, there are no radiological 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 environmental impacts associated with this action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Operation of Perry Nuclear Power Plant, Units 1 and 2,'' dated August 1982, in NUREG–0884.

Agencies and Persons Consulted

In accordance with its stated policy, on October 1, 1997, the staff consulted with the Ohio State official 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 Duquesne Light's submittal dated August 1, 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 Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 15th day of October 1997.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

Director, Project Directorate III–3 Division of Reactor Projects III/IV Office of Nuclear Reactor Regulation.

[FR Doc. 97–27875 Filed 10–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Radiography Workshop

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission staff plans to convene a public workshop to discuss issues concerning industrial radiography associated equipment. The workshop will be held in conjunction with the American Society for Nondestructive Testing, Inc.'s (ASNT's), 1997 Fall Conference and Quality Testing Show, Post Conference Seminar. The issues to be discussed include a vendor petition for rulemaking to remove the reference to associated equipment from radiography equipment regulations and an NRC proposal for resolving certain issues. The workshop will also provide an opportunity for representatives from the radiography industry to comment on how associated equipment should be regulated.

DATE AND TIME: The workshop will meet on October 24, 1997, from 1:00 p.m. to 2:30 p.m.

ADDRESSES: The workshop will be held at the David L. Lawrence Convention Center, Double Tree Hotel Pittsburgh, 1000 Penn Avenue, Pittsburgh, Pennsylvania 15222. Telephone 412–281–3700. ASNT telephone number: (800) 222–ASNT.

FOR FURTHER INFORMATION CONTACT: J. Bruce Carrico, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–7826, e-mail jbc@nrc.gov.

SUPPLEMENTARY INFORMATION: On January 10, 1991, NRC published in the **Federal Register** (55 FR 843) a final rule revising the regulations applicable to industrial radiography, 10 CFR Part 34. The revision introduced a new section, 10 CFR 34.20, that required licensees to only use radiographic exposure devices and associated equipment that comply with criteria specified in that section. Paragraph (d) of 10 CFR 34.20 provided that all newly manufactured radiographic exposure devices and associated equipment (manufactured after January 10, 1992) acquired by NRC licensees must meet 10 CFR 34.20 requirements (specified in American National Standards Institute (ANSI), N432–1980). In addition, licensees were to ensure that all equipment used in radiographic operations after January 10, 1996, complies with the applicable requirements.

Since the final implementation date, i.e., January 10, 1996, some confusion has arisen concerning the regulations' applicability to associated equipment. Associated equipment is currently defined as, ''* * * equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures that drives, guides, or comes in contact with the source, (e.g., guide tube, control tube, control (drive) cable, removable source stop, ''J'' tube and collimator when it is used as an exposure head.'' In addition, in April 1996, NRC received a Petition for Rulemaking requesting that ''NRC amend its regulations to remove reference to associated equipment from § 34.20 so that continued inspection and enforcement of the rule would be performed on the basis of source and device reviews only.'' The objective of this workshop is to discuss NRC's understanding of the problems and possible solutions, and provide a forum for an exchange of ideas between industry representatives and NRC on how associated equipment should be regulated. NRC anticipates that representatives from the regulated industry and the equipment manufacturers will be in attendance.

Conduct of the Workshop: The workshop will be chaired by Larry W. Camper, Chief, Medical, Academic, and Commercial Use Safety Branch, Office of Nuclear Material Safety and Safeguards. The workshop will be conducted in a manner that will expedite the orderly conduct of business. Seating will be on a first-come, first-served basis.

Dated at Rockville, Maryland this 14th day of October, 1997.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–27874 Filed 10–20–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of October 20, 27, November 3, and 10, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 20

There are no meetings the week of October 20.

Week of October 27—Tentative

Wednesday, October 29

11:30 a.m.
Affirmation Session (public meeting) (if needed)
2:00 p.m.
Briefing on Site Decommissioning Plan (SDMP) (public meeting) (Contact: John Hickey—301–415–7234)

Thursday, October 30

10:30 a.m. and 1:30 p.m.
All Employees Meetings (public meetings) on ''The Green'' Plaza Area between buildings at White Flint (Contact: Bill Hill—301–415–1661)

Week of November 3

Tuesday, November 4

2:00 p.m.
Meeting with Commonwealth Edison (public meeting)

Wednesday, November 5

9:30 a.m.
Briefing on Staff's Plans for 50.59 Regulatory Process Improvements (public meeting)
11:00 a.m.
Affirmation Session (public meeting) (if needed)

Week of November 10

There are no meetings the week of November 10.

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: October 17, 1997.

William M. Hill, Jr.

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–27999 Filed 10–17–97; 2:16 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Notification of Item Added to Meeting Agenda

DATE OF MEETING: October 6, 1997.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 62 FR 51169, September 30, 1997.

CHANGE: At its meeting on October 6, 1997, the Board of Governors of the United States Postal Service voted unanimously to add an item to the agenda of its closed meeting held on that date: Compensation Issues.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 97–28019 Filed 10–17–97; 3:22 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extention: Rule 17a–23 and Form 17A–23; SEC File No. 270–387; OMB Control No. 3235–0442.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 17a–23 and Form 17A–23 Recordkeeping and Reporting Requirements Relating to Broker-Dealer Trading Systems

Rule 17a–23 and Form 17A–23, under the Securities Exchange Act of 1934 establish recordkeeping and reporting requirements for approximately 143 registered broker-dealers that operate certain automated trading systems (''Broker-Dealer Trading System'' or ''BDTS''). Rule 17a–23 requires any registered broker-dealer that sponsors a BDTS to maintain participant, volume, and transaction records. Rule 17a–23 and Form 17A–23 also require system sponsors to submit three reports to the Commission and, under certain circumstances, to an appropriate self-regulatory organization. These recordkeeping requirements assist the Commission with monitoring broke-dealers that operate BDTSs and with ensuring compliance with Rule 17a–23.

The Commission staff estimates the average number of hours necessary for each BDTS sponsor to comply with Rule 17a–23 is 46 hours annually. The total burden is 6,542 hours annually for the broker-dealers operating BDTSs, based upon past submissions. The average cost per hour is approximately $7.00. Therefore, the total annual cost of compliance for the 143 broker-dealers operating BDTSs is $46,046.00.

Written 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 estimates 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 on respondents, including through the use automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549.

Dated: October 14, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27762 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22856; 812–10632]

Smith Barney Muni Funds, et al.; Notice of Application

October 14, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Order requested to allow a series of a registered investment company to acquire substantially all of the assets and certain liabilities of another of its series. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: Smith Barney Muni Funds (the ''Trust''), Smith Barney Mutual Funds Management Inc. (''SBMFM''), and Smith Barney Inc. (''Smith Barney'')

FILING DATES: The application was filed on April 22, 1997, and amended on August 20, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 10, 1997, and should be accompanied by proof of service on applicants, in the from of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 388 Greenwich Street, 22nd Floor, New York, New York 10013. Attention: Christina T. Sydor, Esq.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisley, Staff Attorney, at (202) 942–0517, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth

Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trust, a Massachusetts business trust, is an open-end management investment company registered under the Act.[1] The Trust currently consists of nine series, including the Ohio Portfolio (the ''Acquired Portfolio'') and the National Portfolio (the ''Acquiring Portfolio,'' and, collectively with the Acquired Portfolio, the ''Portfolios'').

2. SBMFM is the investment adviser to the Portfolios. Smith Barney is the Trust's distributor. As of February 28, 1997, Smith Barney owned 11.2% of the outstanding shares of the Acquired Portfolio. SBMFM and Smith Barney are both wholly-owned subsidiaries of Smith Barney Holdings Inc. (''Holdings'').

3. On September 4, 1996, the board of trustees of the Trust (the ''Board''), including its disinterested trustees, unanimously approved the reorganization (the ''Reorganization'') described in a Plan of Reorganization (the ''Reorganization Plan''). Pursuant to the Reorganization Plan, the Acquiring Portfolio proposes to acquire all or substantially all of the assets and certain liabilities of the Acquired Portfolio in exchange for shares of the Acquiring Portfolio based on the Portfolios' relative net asset values. The number of full and fractional shares of the Acquiring Portfolio to be issued to shareholders of the Acquired Fund will be determined by dividing the value of the Acquired Portfolio's assets, less liabilities, attributable to each class of shares by the net asset value of one share of the same class of the Acquiring Portfolio, computed as of the close of regular trading on the New York Stock Exchange, Inc. on or about the date on which the closing presently is expected to occur, December 12, 1997 (the ''Closing Date'').

4. Each Portfolio offers four classes of shares. Class A shares of both Portfolios are sold with a front-end sales charge. Class B and Class C shares of both Portfolios are sold without a front-end sales charge but are subject to a contingent deferred sales charge (''CDSC''). Classd Y shares of both Portfolios are sold without an initial sales charge or CDSC and are available only to investors investing a minimum of $5 million. There are no Class Y shareholders of the Acquired Portfolio.

5. Class A, Class B, and Class C shares of both Portfolios are sold subject to distribution plans adopted pursuant to rule 12b–1 under the Act. Under their respective plans, the Portfolios pay Smith Barney a service fee at the annual rate of 0.15% of the value of each Portfolio's average daily net assets attributable to each Portfolio's Class A, Class B, and Class C shares. In addition, each Portfolio's Class B and Class C shares pay a distribution fee at an annual rate of 0.50% and 0.55%, respectively, of the value of the Portfolio's average daily net assets attributable to those shares.

6. Each Portfolio pays SBMFM a management fee at the annual rate of 0.45% of the value of its average daily net assets. SBMFM currently is waiving this fee for the Acquired Portfolio.

7. Both Portfolios seek a high level of income exempt from Federal income taxes, although the Acquired Portfolio also seeks to pay its shareholders a high level of income exempt from Ohio personal income taxes. The other investment policies and practices of the Portfolios are substantially similar. As of February 28, 1997, the net assets of the Acquired Portfolio were $7.8 million, and the net assets of the Acquiring Portfolio were $385.6 million.

8. Prior to the Closing Date, the Acquired Portfolio will use its best efforts to discharge all of its known liabilities and obligations. On or before the Closing Date, the Acquired Portfolio will have declared a dividend and/or other distribution so that it will have distributed all of its investment company taxable income, exempt-interest income, and realized net capital gain, if any, for the taxable year ending on or prior to the Closing Date.

9. As soon as practicable after the Closing Date, the Acquired Portfolio will liquidate and distribute *pro rata* to its shareholders of record, determined as of the close of business on the Closing Date, the shares of the Acquiring Portfolio received by it pursuant to the Reorganization. The liquidation and distribution will be accomplished by establishing accounts in the names of the Acquired Portfolio shareholders, each account representing the respective *pro rata* number of shares of the Acquiring Portfolio due to the Acquired Portfolio shareholders. Class A, Class B, and Class C shareholders of the Acquired Portfolio will receive Class A, Class B, and Class C shares, respectively, of the Acquiring Portfolio. After the distribution and winding up of its affairs, the Acquired Portfolio will be liquidated.

10. In considering the advisability of the Reorganization Plan, the Board, including its disinterested trustees, found that the Reorganization is in the best interests of each Portfolio and that the interests of existing shareholders of each Portfolio will not be diluted as a result of the Reorganization.

11. The Board considered a number of factors in making its findings, including: (a) the terms and conditions of the Reorganization; (b) the tax-free nature of the Reorganization; (c) the costs of the Reorganization to the Portfolios; (d) the compatibility of the objectives, policies, and restrictions of the Portfolios; (e) the savings in expenses borne by shareholders expected to be realized by the Reorganization; and (f) the potential benefits to the Portfolios' affiliates, including SBMFM, Smith Barney, and Holdings.

12. The Board also considered that combining the Portfolios should benefit the Acquired Portfolio's shareholders because the much greater size of the Acquiring Portfolio enables it to invest more effectively, to achieve certain economies of scale and, in turn, potentially to increase its operating efficiencies and facilitate portfolio management. During the Board's consideration of the Reorganization, it was noted that shareholders of the Acquired Portfolio would no longer have the benefit of a fund which seeks income exempt from Ohio personal income taxes. However, the Acquired Portfolio was not considered to have sufficient assets to justify maintaining it as a standing alone fund, and no potential for substantial future growth was foreseen.

13. Smith Barney will be responsible for the expenses incurred in connection with the Reorganization, except that each Portfolio will be liable for any fees and expenses of its transfer agent incurred in connection with the Reorganization and the Acquired Portfolio will be liable for all fees and expenses incurred relating to its liquidation. The Reorganization expenses will include professional fees and the cost of soliciting proxies for the meeting of the Acquired Portfolio shareholders, consisting principally of printing and mailing expenses, together with the cost of any supplementary solicitation. The Reorganization Plan provides that it may be terminated by the Board at any time prior to the Closing Date if circumstances should develop that, in the opinion of the Board, make proceeding with the Reorganization Plan inadvisable. If the Board determines, prior to the Closing Date, that proceeding with the Reorganization would be inadvisable,

[1] The Trust was organized on August 14, 1985, under the name Test Managed Municipal Bond Funds. On April 23, 1986, July 31, 1991, and July 20, 1993, the Trust's name was changed to The Muni Bond Funds, Smith Barney Muni Bond Funds, and Smith Barney Muni Funds, respectively.

the Reorganization Plan provides that each Portfolio will bear any expenses it has incurred incidental to the preparation and carrying out of the Reorganization Plan.

14. A registration statement on Form N–14 containing a combined prospectus/proxy statement has been filed with the SEC. Applicants expect to send the prospectus/proxy statement to shareholders of the Acquired Portfolio in October 1997 for their approval at a meeting of shareholders scheduled to be held on or about November 21, 1997.

15. The consummation of the Reorganization is subject to the following conditions set forth in the Reorganization Plan: (a) the shareholders of the Acquired Portfolio will have approved the Reorganization Plan; and (b) the parties will have received exemptive relief from the SEC with respect to the issues that are the subject of the application. Applicants agree not to make any material changes to the Reorganization Plan that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person that owns 5% or more of the outstanding voting securities of such other person and any person directly or indirectly controlling, controlled by, or under common control with such other person; or, if the other person is an investment company, any investment adviser of the investment company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchasers or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions are satisfied.

3. Applicants believe that they may not rely upon rule 17a–8 because the Portfolios may be affiliated for reasons other than those set forth in the rule. Smith Barney owns 5% or more of the outstanding voting securities of the Acquired Portfolio. Because of this ownership, the Acquiring Portfolio may be deemed an affiliated person of an affiliated person of the Acquired Portfolio, and vice versa, for reasons not based solely on their common adviser. Consequently, applicants are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b), in that the terms are fair and reasonable and do not involve overreaching on the part of any person concerned. Applicants note that the Board, including the disinterested trustees, has reviewed the terms of the Reorganization as set forth in the Reorganization Plan, including the consideration to be paid or received, and has found that participation in the Reorganization is the best interests of each Portfolio and that the interests of the existing shareholders of each Portfolio will not be diluted as a result of the Reorganization. Applicants also note that the exchange of the Acquired Portfolio's assets and certain liabilities for the Acquiring Portfolio shares will be based on the Portfolio's relative net asset values.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27761 Filed 10–20–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39236; File No. SR–DCC–97–04]

Self-Regulatory Organizations; Delta Clearing Corp.; Order Granting Approval of a Proposed Rule Change Relating to the Combining of Options and Repo Procedures

October 14, 1997.

On March 17, 1997, Delta Clearing Corp. (''Delta'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DCC–97–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Delta amended the proposed rule change on May 7, 1997, and May 29, 1997. Notice of the proposal was published in the **Federal Register** on September 3, 1997.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposal combines Delta's procedures for the clearance and settlement of options trades (''Options Procedures'') and Delta's procedures for the clearance and settlement of repurchase and reverse repurchase (''repo'') agreement transactions (''Repo Procedures'') into one set of procedures entitled the Procedures for the Clearing of Securities and Financial Instrument Transactions (''Combined Procedures'').

The Combined Procedures allow Delta to integrate the processing of options and repo transactions. For example, the Combined Procedures consolidate the definitions of many terms (*e.g.*, contract, position, and holder) to make these terms applicable to both option and repos.[3] The Combined Procedures also clarify that calculations of a participant's exposure limit and the maximum potential system exposure (''MPSE'') are determined on an aggregate system-wide basis by providing for a single uniform definition of these terms and by providing in Section 204 of the Combined Procedures that each participant agrees to conduct all transactions cleared through the system within such participant's exposure limit.[4]

Similarly, Section 307 of the Combined Procedures provides that Delta has a security interest in all money and securities of a participant as security for payment of any liability of such participant to Delta arising from participation in the system. Upon the occurrence of a participant default,[5] Delta may liquidate all of a participant's repo and options positions contained in the defaulting participant's account through one liquidating settlement account established for such participant. The Combined Procedures combine the margin provisions for repos and options to clarify that a participant is required to deposit margin based upon its

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38971 (August 26, 1997), 62 FR 46530.

[3] The Combined Procedures also provide for more uniform use of the terms ''repo'' and ''repurchase agreement.''

[4] Both the exposure limit and MPSE are designed to limit Delta's uncollateralized exposure to each participant.

[5] The Combined Procedures contain a new term, ''participant default,'' which means a payment default, a delivery default, a premium default, or a margin default.

aggregate net exposure on its options positions and its term repo positions. The Combined Procedures conform the Options Procedures and Repo Procedures by providing that margin deficits shown on the daily margin report must be deposited at or before the later of 11:00 a.m. or the earliest time practicable following the opening of the Federal Reserve System.[6]

In many places, the Options Procedures and Repo Procedures had inconsistent provisions. The Combined Procedures provide uniform rules for both transactions. For example, the proposed rule change extends certain requirements placed on interdealer brokers for options to interdealer brokers for repos,[7] and the trade reporting method for options is made applicable to repos. Section 2202 of the Combined Procedures also incorporates for options transactions the recently approved rule change [8] to the Repo Procedures permitting participants to deposit treasury notes and treasury bonds as margin and incorporating the schedule of applicable haircuts found in Rule 15c3–1(c)(2)(vi)(A)(*1*) under the Act. Section 2204 of the Combined Procedures provides that deposits are not required if the margin deficit shown on the daily margin report is $50,000 or less.[9]

The Combined Procedures adopt the definition of business day previously applicable to options transactions, which excludes Saturday, Sunday, a day on which banking institutions in New York City are authorized by law to close, and any day on which government securities dealers in New York City are not open for business. The Repo Procedures did not exclude days on which government securities dealers are closed.

The Combined Procedures adopt the graduated fine schedule of the Options Procedures which provide for sanctions of $100 for the first filing of a late trade report, $200 for any second violation occurring within three months of the first violation, and $300 for any subsequent violation occurring within three months of a prior violation. Section 3301 of the Repo Procedures provided that the sanction for filing a late trade report was an amount not to exceed $500.

The Combined Procedures use the terms ''Fed Funds'' and ''Federal Reserve System'' instead of the terms ''central bank funds'' and ''central bank wire system'' used in the Repo Procedures.[10] Like the Options Procedures, the Combined Procedures provide that the suspension or termination of Delta's system will not affect the terms of any existing contract absent the consent of the participant which is party to such contract.[11] As currently applicable for repo participants, Section 213 of the Combined Procedures provides that Delta will on an annual basis send a list of current repo and options participants in Delta's system to all participants.

Under the Combined Procedures, a participant may borrow from Delta on an overnight basis up to 35% of the participant's net positive exposure on its options positions and positions in term repos adjusted for performance margin.[12] Previously, participants could only borrow against their exposure on options. Under Section 2212, if the daily margin report shows that the participant has a net positive exposure after adjustment for performance margin, the participant may request on or before 11:00 a.m. of the morning on which the report is sent that Delta lend to it on an overnight basis cash or treasury securities to the extent available to Delta with a value of not more than 35% of the participant's net positive exposure after adjustment for performance margin. In order to make such overnight loans, Delta will generally transmit securities by 3:00 p.m. that day or will transmit funds by 5:00 p.m. that day.

Some provisions are revised from both the Options Procedures and the Repo Procedures. For example, the waiver of suspension provisions of Section 401 are revised to provide that suspension may be deferred not more than two hours in the event of a margin, premium, or payment default and for such period as Delta determines appropriate in the event of a delivery default if Delta determines that the participant required to make delivery has been unable to obtain the security required to be delivered after a good faith effort and that such failure to deliver is not the result of a change in the participant's financial condition.

Section 206 of the Combined Procedures eliminates the requirement that participants deliver audited reports of their internal accounting controls. Participants will continue to be obligated to deliver to Delta annual audited financial statements.

Under the Combined Procedures, Delta, rather than its clearing bank, assumes the authority and obligation to receive, compare, and transmit trade reports and other reports (Articles 23 and 30); to accent trades for clearance (Sections 2303 and 3003); to provide system software (Section 303); to calculate and maintain margin (Article 22); to transmit, receive, and assign exercise notices and to accept exercise notices for clearance (Article 28); and to reconcile differences with participants (Sections 2303 and 3003).

Section 304 of the Combined Procedures provides that inspection by Delta of participants' records will be at such time as may be reasonably requested by Delta and that the scope of such inspections will be limited to matters related to Delta's procedures, the participant's transactions in Delta's system, and other matters related to Delta's business. Previously, Delta's right of inspection of a participant's books and records was not limited to any subject matter.

II. Discussion

Section 17A(b)(3)(F) of the Act[13] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the rule change is consistent with Delta's obligations under the Act. By combining its Options Procedures and Repo Procedures into a single Combined Procedures manual, this rule change, among other things, clarifies that Delta's risk management procedures apply to options and repos on an aggregate basis. For example, the Combined Procedures

[6] Section 602 of the Options Procedures required the deposit of margin other than intraday additional margin at or before the settlement time on each business day. Section 2602.1 of the Repo Procedures provided for the deposit of margin other than supplemental or intraday additional margin at or before 11:00 a.m.

[7] Such provisions establish qualification requirements for interdealer brokers, including compliance with Rule 17a–23 under the Act, maintenance of books and records, and necessary operational capacity.

[8] Securities Exchange Act Release No. 37639 (September 4, 1996), 61 FR 48186 (File No. SR–DCC–96–09) (order granting approval of proposed rule change relating to acceptable forms of collateral).

[9] Section 602 of the Options Procedures provided that deposits of additional margin with respect to margin deficits shown on the daily margin report are not required if the amount to be deposited by the participant is $5,000 or less. The Repo Procedures in Section 2602.1 provided that deposits are not required if such amount is $50,000 or less.

[10] The Repo Procedures in various places used the terms ''central bank funds'' and ''central bank wire system.'' The use of these terms was intended to cover the situation where Delta had received authorization to clear trades to be effected by participants through central banks other than the Federal Reserve.

[11] The Repo Procedures provided that the suspension or termination of the operation of the system will not affect the terms of any existing repo agreement.

[12] Performance margin represents an estimate of the net shortfall from the liquidation of a participant's positions at the close of the next business day.

[13] 15 U.S.C. 78q–1(b)(3)(F).

provide that calculations of exposure limit and MPSE are to be determined on an aggregate system-wide basis and that liquidation of a participant's positions will be conducted through one account. By ensuring that Delta has access to all of a participant's assets held at Delta, the proposed rule change assists Delta in the safeguarding of securities and funds which are in Delta's control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, the proposed rule change (File No. SR–DCC–97–04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27756 Filed 10–20–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39241; File No. SR–DCC–97–06]

Self-Regulatory Organizations; Delta Clearing Corp.; Order Approving a Proposed Rule Change Relating to the Clearance and Settlement of Mortgage-Backed Securities Repurchase Agreements

October 14, 1997.

On April 7, 1997, the Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DCC–97–06) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On May 12, May 29, June 18, and July 9, 1997, DCC amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on July 30, 1997.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposal amends DCC's Procedures for the Clearing of Securities and Financial Instrument Transactions (''Procedures'') to allow DCC to clear and settle repurchase agreements and reverse repurchase agreements (''repos'') in which the underlying collateral is book-entry, mortgage-based securities issued by the Federal National Mortgage Association (''FNMA'') or the Federal Home Loan Mortgage Corporation (''FHLMC''). Currently, DCC provides clearance and settlement services for repos in which the underlying collateral is a U.S. Treasury security.[3]

A. Definition of Mortgage-Backed Security

Under the rule change, a mortgage-backed security[4] is defined as a book-entry security which is directly issued by FNMA or FHLMC and whose underlying value is represented by a pool of mortgages accumulated by FNMA or FHLMC through its mortgage origination program and which is designed to receive principal payments using a predetermined principal balance schedule. In addition, the following securities are excluded from the definition of mortgage-backed securities: (i) Securities which are issued in registered or bearer form and therefore cannot be transferred through the Board of Governors of the Federal Reserve System's FedWire communication system, (ii) securities which are not issued or guaranteed directly by FNMA or FHLMC, (iii) securities for which the underlying assets are mortgage-backed securities rather than a pool of mortgages, and (iv) notional, interest only, principal only, accrual, and partial accrual securities and floaters and inverse floaters.[5]

A mortgage-backed security may be either a fixed rate mortgage-backed security or an adjustable rate mortgage-backed security. A fixed rate mortgage-backed security is defined as a mortgage-backed security whose coupon rate is a fixed rate of interest. An adjustable rate mortgage-based security (''ARMS'') is defined as a mortgage-backed security whose coupon rate is a variable rate of interest consisting of an index and a spread to such index and whose underlying collateral consists of adjustable rate mortgages with indices and spreads that parallel those of the ARMS.[6]

B. The Clearing Process

Mortgage-backed securities repo transactions involve two settlement dates. The first settlement date (''on-date'') is the date on which one participant (''selling participant'') delivers participant'') in exchange for the delivery of cash (''delivery money'') by the purchasing participants to the selling participant. The second settlement date (''off-date'') is the date on which the purchasing participant returns to the selling participant the mortgage-backed securities delivered on the on-date in exchange for the return by the selling participant of the delivery money together with interest based upon a rate agreed to by the participants (''repo rate''). DCC generally clears both the on-date and off-date portion of a repo transaction. However, there may be certain repo transactions where DCC clears only the off-date portion of the transaction.[7]

1. Execution and Reporting of Trades

Mortgage-backed securities repo transactions to be cleared by DCC may be entered into directly between the two participants to a transaction and reported to DCC by the participants, or they may be entered into between two participants through the facilities of an authorized broker and reported to DCC by the authorized broker. The terms of the mortgage-backed securities repo transactions will be agreed to by the participants prior to the submission of

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[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38868 (July 23, 1997), 62 FR 40872.

[3] According to DCC, the market for repo transactions in mortgage-backed securities is estimated to be approximately 25% to 40% of the size of of the market for repo transactions in Treasury securities. DCC also states that this estimate suggests that the outstanding notional size of the market is between $250 billion to $400 billion with daily turnover at 10% of the notional size. For a description of DCC's procedures regarding the clearance and settlement of repos on Treasury securities, refer to Securities Exchange Act Release No. 36367 (October 13, 1997), 60 FR 54095 [File No. SR–DGOC–94–06] (order approving implementation of new procedures allowing for the clearance and settlement of repos on Treasury Securities).

[4] The Procedures refer to mortgage-backed securities as ''mortgage securities.''

[5] For the definitions of these terms, refer to Schedule A of DCC's filing which is attached as Exhibit A.

[6] Sample indices include: (1) The CD rate, which is the weekly average of secondary market interest rates on six month negotiable certificates of deposit as published by the Federal Reserve Board in its Statistical Release H. 15 (519), Selected Interest Rates; (ii) the LIBOR rate, which is a rate which banks charge others banks for U.S. dollar deposits outside the United States for a specified period; (iii) the 11th District cost of funds index, which is the index made available monthly by the Federal Home Loan Bank Board of the cost of funds to members of the Federal Home Loan Bank 11th District; and (iv) the Treasury index, which is the weekly average yield of the benchmark Treasury securities as published by the Federal Reserve Bank. A sample ARMS could bear interest at LIBOR plus 50 basis points with LIBOR adjusting periodically as specified by the terms of the security.

[7] These transactions are referred to the Procedures as novated repos. Securities Exchange Act Release No. 39065 (September 12, 1997), 62 FR 49547 [File No. SR–DCC–97–03] (order approving proposed rule change).

trade reports to DCC.[8] There is an existing practice among mortgage-backed security traders in which the parties to a transaction may agree to a trade amount subject to the right of the delivering party to adjust the amount of the trade by over-delivering mortgage-backed security collateral within a specified percentage of the amount initially agreed to by the parties (*i.e.*, variance). DCC requires that such adjustments be made prior to the submission of trade reports to DCC and be reflected in the trade reports submitted to DCC.

Mortgage-backed securities repo transactions with an on-date later than the trade date will need to be reported to DCC prior to 6:00 p.m. on the trade date. Mortgage-backed securities repo transactions with an on-date on the trade date will need to be reported to DCC: (i) Within one-half hour after the transaction occurs if the transaction occurs prior to 1:30 p.m.; (ii) within five minutes after the transaction occurs if the transaction occurs between 1:30 p.m. and 2:15 p.m.; and (iii) as soon as possible but in no event later than five minutes after the transaction if the transaction occurs after 2:15 p.m.

With respect to mortgage-backed securities repo transactions entered into directly between two participants, each participant will forward a trade report to DCC. If DCC does not receive a trade report from one of the participants to the transaction, DCC will contact that participant within one half-hour of receipt of the trade report to confirm the terms of the trade reported by the other participant. When DCC receives trade reports from both participants, it will match the two trade reports. In order for a transaction to be accepted for clearance, the details of the trade reports for the transaction must agree. If the details of the trade reports do not match, DCC will contact the parties regarding the transaction. Matching of mortgage-backed securities repo transactions will be done continuously throughout the day and at the close of each trading day at 2:30 p.m. All trade reports received through an authorized broker will be confirmed by DCC either orally or via facsimile with the participants to the transaction.

2. Acceptance of Trades

DCC will be deemed to have accepted a transaction for clearance when DCC has matched and verified all the information on the trade reports. However, DCC may reject any transaction if it causes a participant to exceed its exposure limit[9] of if the participant has been suspended from DCC's clearing system. If a transaction is accepted by DCC, DCC will interpose itself as the counterparty to both sides of the transaction. Therefore, for any mortgage-backed securities repo transactions, DCC will assume the position of the purchasing participant with respect to the selling participant and assume the position of the selling participant with respect to the purchasing participant. Prior to 8:00 a.m. each business day, participants will receive a written activity report indicating such participant's transactions which were accepted by DCC the previous business day and indicating all transactions due to settle that day.

3. Clearing and Failures to Deliver or Receive

The details of each transaction accepted by DCC will be sent to DCC's clearing bank. Each participant will need to maintain a bank account in one or more correspondent banks for margin and trade settlements. Because the mortgage-backed securities which DCC proposes to clear repos must be maintained in book-entry accounts at Federal Reserve Banks and will be delivered through the FedWire, the selected correspondent bank must be a depository institution with access to the FedWire.

DCC has established delivery cut-off times. For example, the selling participant on the on-date of a mortgage-backed securities repo transactions and the purchasing participant on the off-date of a mortgage-backed securities repo transaction must deliver mortgage-backed securities to the clearing bank against payment no later than one minute prior to the close of the FedWire system for delivery of securities on the settlement date. The clearing bank will redeliver such securities to the purchasing participant on the on-date or the selling participant on the off-date.

If the delivering participant fails to deliver mortgage-backed securities on the settlement date by one minute prior to the close of the FedWire system or the receiving participant does not accept all of the mortgage-backed securities on the settlement date by one half-hour after the close of the FedWire system, DCC has the option to buy-in or sell-out the securities with the cost of buy-in or sell-out being charged to the defaulting participant. If DCC effects a buy-in or sell-out, DCC will give the defaulting participant written notice of the buy-in or sell-out which will describe the security, quantity, and price.

4. Netting

As a general rule, repo transactions in mortgage-backed securities will be cleared on a delivery versus payment basis. Therefore, the delivery of mortgage-backed securities will be required on settlement date. However, if a participant has a repo and reverse repo agreement with the same underlying collateral and the same on-date or off-date, as applicable, the participant's payment and delivery obligations with respect to such agreements will be netted. Payment obligations for such transactions including repo interest will also be netted.

Section 2207 of DCC's Procedures requires the purchasing participant to forward coupon interest with respect to U.S. Treasury securities or mortgage-backed securities to DCC absent an agreement of the parties to the contrary, and upon receipt, DCC will forward the coupon interest to the selling participant. In the event that repo interest on a repo transaction is due from the selling participant on the same day that coupon interest with respect to the same transaction is required to be paid by the purchasing participant, such payments will be netted. If repo interest has accrued but is not yet due with respect to a transaction, payments of coupon interest which are received by the purchasing participant will not be netted against repo interest; instead, the coupon interest will be forwarded to DCC and then to the selling participant.

Unlike U.S. Treasury securities, mortgage-backed securities involve principal payments as well as payments of coupon interest. DCC's Procedures provide that principal payments, like coupon payments, will be forwarded by the purchasing participant upon receipt to DCC and then forward by DCC to the selling participant. In the event that a principal payment on a mortgage-backed security is received by the purchasing participant on the same date on which a payment of repo interest is due from the selling participant with respect to a repo transaction on such mortgage-backed security, the principal

[8] The trade reports for each mortgage-backed securities repo transaction must set forth the identity of the parties to the transaction, including which party is the selling participant and which party is the purchasing participant; the CUSIP number or numbers for the mortgage-backed securities being delivered in connection with the repo transaction; the par amount of the securities being delivered; the delivery money being delivered by the purchasing participant; the trade date and time; the on-date and off-date for the transaction; and any details relating to any rights of substitution, including the number of rights of substitution to be permitted and any restrictions on rights of substitution.

[9] A participant's exposure limit is the limit prescribed for each participant by DCC based on the incremental margin due to DCC by the participant.

payment and the repo interest payments will be netted.

C. Margin

DCC has adapted its existing margining methodology for U.S. Treasury security repos to incorporate exposures from mortgage-backed securities repo transactions. Under DCC's current margin system,[10] every participant is obligated to maintain a margin account for the benefit of DCC at DCC's clearing bank. Margin will be calculated every business day using a generally available source of mortgage-backed security prices. With respect to term repos, margin will be based on a mark-to-market amount and an amount based on an estimated shortfall from the liquidation of positions on the next day. For overnight repos, margin will be based on an intraday mark-to-market amount.

D. Exposure Limits and MPSE for Mortgage-Backed Securities

The definition of maximum potential system exposure (''MPSE'') is revised to provide that with respect to positions in repo transactions, the MPSE for the DCC's clearance and settlement system shall include net exposure in mortgage-backed securities adjusted to reflect a hypothetical adverse movement in the aggregate of six standard deviations in market prices of mortgage-backed securities.[11] The standard deviation is based upon the volatility represented by the greatest of the following three amounts: (i) The standard deviation of equivalent U.S. Treasury securities for the period of 100 consecutive trading days ending on February 19, 1980, (ii) the standard deviation of equivalent U.S. Treasury securities for any subsequent period of 100 consecutive trading days, and (iii) the standard deviation of mortgage-backed securities during any period of 100 consecutive trading days subsequent to January 1, 1990.[12]

For purposes of clauses (i) and (ii) above, DCC will look to U.S. Treasury securities which are generally accepted equivalents to the applicable mortgage-backed securities. For example, DCC will to treat repo transaction in mortgage-backed securities where the underlying collateral are FNMA and FHLMC securities with original stated maturities of thirty years as equivalent to ten year U.S. Treasury securities. When the underlying collateral are FNMA and FHLMC securities with original stated maturities of fifteen years, DCC will treat these repo transactions as equivalent to five year U.S. Treasury securities. Finally, DCC will treat repo transaction in ARMS as equivalent to one year U.S. Treasury securities.[13]

E. Substitution of Mortgage-Backed Securities as Underlying Collateral

The proposed rule change establishes rights of substitution for both repos on U.S. Treasury securities and for mortgage-backed securities. The right of a selling participant to substitute underlying collateral is subject to various conditions and restrictions. For repo transactions in U.S. Treasury securities, the following requirements apply: (i) A Treasury note or a Treasury bond may be substituted for another Treasury note or Treasury bond; (ii) a Treasury bill may be substituted for a Treasury bill; and (iii) a Treasury note or Treasury bond may not be substituted for a Treasury bill, and a Treasury bill may not be substituted for a Treasury note or Treasury bond. For mortgage-backed securities repo transactions, the following requirements apply: a fixed rate mortgage-backed security may be substituted for a fixed or floating rate mortgage-backed security, but a floating rate mortgage-backed security may only be substituted for a floating rate mortgage-backed security.

In addition to the foregoing requirements, substitution is subject to any restrictions on substitution which have been agreed to by the parties at the time of the trade, including restrictions on the number of rights of substitution. The right of substitution is also subject to the agreement of DCC and the purchasing participant that the fair market value of the collateral which the selling participant proposes to provide in place of the existing underlying collateral for a transaction is at least equal to the fair market value of the existing underlying collateral for such transaction. In order to obtain the consent of the purchasing participant, DCC will notify the purchasing participant of all details of the proposed substitution prior to 12:15 p.m. New York time on the day of the proposed substitution.

II. Discussion

Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder require that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that DCC's proposed clearance system will assist in the development of the national clearance and settlement system by providing a clearance mechanism for transactions that are currently settled outside the facilities of a registered clearing agency. These trades may benefit from DCC's margining and other risk reduction procedures which should decrease the likelihood of failure to settle. Furthermore, the number of securities movements may be reduced because of DCC's netting of transactions. This should result in increased efficiency and promote the prompt and accurate clearance and settlement of mortgage-backed repo transactions. The Commission therefore believes that the proposed rule change is consistent with the Act.

Because of the novelty and complexity of clearing repos on U.S. Treasury securities, the Commission initially limited the average principal amount of outstanding repos on U.S. Treasury securities in DCC's system over a ten day moving period to $45 billion.[14] With this limitation, the Commission found that DCC has the capacity to facilitate the prompt and accurate clearance and settlement of repo transactions in U.S. Treasury securities in a safe and sound manner. Since the Commission's approval, DCC has implemented several enhancements to its clearance and settlement procedures.[15] Nevertheless, the Commission believes that due to the novelty and complexity of mortgage-backed repo transactions that, initially, the average principal amount of outstanding repos and reverse repos in mortgage-backed securities in DCC's system over a ten day moving period may reach but not exceed $45 billion. If, as the volume of DCC's clearance and settlement of mortgage-backed repo transactions nears $45 billion, DCC desires to exceed the $45 billion limitation, it must file a proposed a rule

[10] Section 2201 of DCC's Procedures.

[11] The MPSE is designed to limit the amount of liability that DCC is exposed to from the positions of all of its participants. Pursuant to DCC's rules, MPSE cannot exceed one third of the amount of DCC's credit enhancement facility. For a complete discussion of MPSE, refer to Securities Exchange Act Release No. 38646 (May 15, 1997), 62 FR 28085 (order granting approval of proposed rule change relating to definitions of trading limits and MPSE).

[12] For U.S. Treasury securities, the standard deviation is based upon the volatility during the 100 day period ending February 19, 1980, or any subsequent period of 100 days in which volatility was higher than the 100 day period ending February 19, 1980.

[13] Letter from Stephen K. Lynner, President, DCC (July 16, 1997).

[14] *See* supra note 4.

[15] *See* Letter from Stephen K. Lynner, President, DCC (September 15, 1997).

change pursuant to Section 19(b)(2) of the Act. The proposed rule change may request either an increase in the volume limitation or removal of all volume limitations.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DCC–97–06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—Schedule A to Delta Clearing Corp; Procedures for the Clearing of Securities and Financial Instrument Transactions

Excluded Classes of Mortgage Securities

Notional—A class having no principal balance and bearing interest on the related notional principal balance.

Interest Only—A class that receives some or all of the interest payments made on the underlying mortgage or other assets of a series trust and little or no principal. Interest only classes have either a nominal or a notional principal balance.

Principal Only—A class that does not bear interest and is entitled to receive only payments of principal.

Accrual—A class that accretes the amount of accrued interest otherwise distributable on such class, which amount will be added as principal to the principal balance of such class on each applicable distribution date. Such accretion may continue until some specified event has occurred or until such accrual class is retired.

Partial Accrual—A class that accretes a portion of the amount of accrued interest thereon, which amount will be added to the principal balance of such class on each applicable distribution date, with the remainder of such accrued interest to be distributed currently as interest on such class. Such accretion may continue until a specified event has occurred or until such partial accrual class is retired.

Floater—A class other than an adjustable rate mortgage security with an interest rate that resets periodically based upon a designated index and that varies directly with changes in such index.

Inverse Floater—A class other than an adjustable rate mortgage security with an interest rate that resets periodically based upon a designated index and that varies inversely with changes in such index.

[16] 17 CFR 200.30–3(a)(12).

[FR Doc. 97–27818 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–3932; File No. SR–DTC–97–18]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Participant Exchange Service

October 10, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on August 15, 1997, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will expand DTC's participant exchange service system (''PEX'') to add an additional notice, letters of free funds (''LOFFs''), to the menu of notices currently available.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PEX is an on-line system that enables DTC participants to use DTC's automated network to send and to respond to various notices required by other self-regulatory organizations.[3] The purpose of the proposed rule change is to automate the exchange of LOFFs by adding LOFFs to the menu of notices that can be transmitted through PEX.[4]

LOFFs are notices exchanged between the receiving and delivering brokers of two party customer trades. Currently, LOFFs are sent in hardcopy (*i.e.,* on paper), usually through the mail or by facsimile. The delivering broker sends a LOFF to the receiving broker requesting the receiving broker to verify that the customer has sufficient funds to settle the trade pursuant to Regulation T under the Act.[5] The receiving broker confirms the existence of the funds and returns the LOFF to the delivering broker.

Under the proposed rule change, a delivering broker will be able to send LOFF notices by entering the notice information into DTC's participant terminal system (''PTS'').[6] LOFF notices that do not contain any errors will be stored in a DTC database in open status pending a response from the receiving broker. Each LOFF sent using PEX will be assigned a unique control number. Open notices will be available for browsing and reply through PTS.

Receiving brokers will be able to use PEX to respond to each LOFF notice by its control number.[7] Upon receiving a response, DTC will match its control number to that of an open LOFF notice and mark that notice as either (i) having sufficient funds, (ii) not having sufficient funds, (iii) being rejected, or (iv) having a prime broker relationship with the delivery broker.

All open LOFF notices will be kept on a DTC database for ninety days from the

[3] For a complete description of PEX, refer to Securities Exchange Act Release No. 28123 (June 13, 1990), 55 FR 25188 [File No. SR–DTC–89–21] (order approving proposed rule change establishing PEX).

[4] DTC attached a detailed description of the method by which LOFFs will be added to PEX as Exhibit B to its filing, which is available for review and copying at the Commission's Public Reference Room and through DTC.

[5] 12 CFR 220.

[6] DTC has informed the Commission that participants initially will be able to exchange LOFFs through PEX only by way of PTS. At some later point, participants will be able to exchange LOFFs by way of mainframe dual host or computer-to-computer facility.

[7] Although LOFF notices will not generate tickets, receiving brokers will be able to view LOFF notices through PTS.

notice's initial send date. LOFF notices that have been accepted (*i.e.*, for which funds are available) will remain on the database for two days. LOFF notices that have been declined (*i.e.*, for which funds are available) will remain on the database for five days. All other LOFF notices that receive replies (i.e., prime broker or rejected) will be removed from the database thirty days after the initial send date of the notice.

The proposed rule change is designed to eliminate the physical delivery and confirmation of LOFFs thereby providing DTC participants with a more timely and accurate messaging vehicle for these documents. In addition, by incorporating LOFFs into the PEX System, DTC will offer its participants an efficient means of tracking notices of LOFFs.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act[8] and the rules and regulations thereunder because it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, in the public interest, and for the protection of investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has not solicited participant comments on the proposed rule change. A working group of participants has requested that DTC incorporate LOFFs into the PEX system and has committed to using such a service.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has been effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(e)(4) thereunder[10] because it effects a change in an existing service of DTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–97–18 and should be submitted by November 12, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27758 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78q–1(b)(3)(A).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(e)(4).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39234; File No. SR–MBSCC–97–7]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Use of CUSIP Numbers in Processing Eligible Securities

October 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 25, 1997, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends MBSCC's rules to allow MBSCC to use CUSIP numbers to process eligible securities in addition to the current practice of using class codes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, MBSCC processes transactions relating to eligible securities based on a ten character class code identifying the class of such securities.[3] To accommodate the March 1998 industry-wide conversion to a system based on a nine character CUSIP number, MBSCC will permit participants to submit transactions with either the appropriate class code or CUSIP number. MBSCC anticipates that as of January 1, 1999, it will accept only CUSIP numbers.[4] Other than this technical change from a class system to a CUSIP system, the processing of eligible securities will not change.

With respect to MBSCC's electronic pool notification (''EPN'') system, there is no similar period of time during which EPN users can submit either the class code or CUSIP number. Beginning March 31, 1998, EPN will operate on a CUSIP number basis.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by MBSCC.

[3] ''Class'' is defined in MBSCC's rules as a particular type of eligible securities issues or guaranteed by the same agency and having the same coupon rate and date of maturity.

[4] At such time, MBSCC will submit a rule filing with the Commission under Section 19(b)(3)(A) of the Act to eliminate all references to class codes.

CUSIP numbers will be assigned based on the same factors as currently used for class codes. Standard & Poor's anticipates publishing CUSIPs for eligible securities no later than December 31, 1997.

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [5] and the rules and regulations thereunder because it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments on the proposed rule change were solicited or received. MNSCC will notify the Commission of any written comments its receives.

III. Date for Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) [6] of the Act and pursuant to Rule 19b–4(e) [7] promulgated thereunder because the proposal effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of MBSCC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of MBSCC or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR–MBSCC–97–7 and should be submitted by November 12, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27759 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(e).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39233; File No. SR–NSCC–97–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Establishing Fees for the Annuities Processing Service

October 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 14, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to establish fees for NSCC's annuities processing service (''APS'').

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The test of these statements may be examined at the places specified in Item IV below. Set forth in sections (A), (B), and (C) below, are the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC has filed and had approved by the Commission its APS.[3] APS is a centralized communication link that connects participating insurance carriers with broker-dealers, banks, and the broker-dealers' or banks' affiliated life insurance agencies where appropriate.

The purpose of this proposed rule change is to establish fees for NSCC's APS. Three categories of fees will be established. Membership fees will be $335 per month. Transaction fees will be $0.60 per 1,000 full positions, $0.50 per 1,000 focused positions, and $8.50 per 1,000 commission items. File fees will be $15.00 per file per day for sending or receiving APS related files. The new fees became effective upon implementation of APS.

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act.[4] which requires that the rules of a registered clearing agency provide for an equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release No. 39096 (September 19, 1997), 62 FR 50416 (order approving proposed rule change).

[4] 15 U.S.C. 78q–1(b)(3)(D).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by NSCC, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [5] and Rule 19b–4(e)(2) thereunder.[6] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NSCC. All submissions should refer to the File No. SR–NSCC–97–09 and should be submitted by November 12, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27757 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(e)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39231; File No. SR–OCC–97–16]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Charges

October 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 2, 1997, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises OCC's fees for its clearing service and introduces an interim and regular fee for the Dow Jones Industrial Average (''DJIA'') index option contract service.

4II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

During the first half of 1997, OCC experienced a record volume of options cleared. OCC currently refunds a portion of clearing fees collected during the year to its clearing members when it experiences high volume levels. The practice of refunding clearing fees at the end of OCC's fiscal year creates a gap between when it realizes record clearing fees and when the clearing member realizes its year-end discount.

The purpose of the proposed rule change is to revise OCC's per contract clearing fee from $.10 to $.068 for the remainder of 1997 for all contracts cleared between September 1, 1997, through December 31, 1997. In addition, OCC will not bill clearing members for data services fees and exercise fees from July 1, 1997, through December 31, 1997.[3] OCC believes a reduction in fees allows members to realize an immediate reduction in costs rather than having to wait for OCC to disburse refunds at the end of the fiscal year.

The purpose of the rule change is also to introduce an interim discounted and regular fees for the DJIA index option contract which is scheduled to begin trading in October 1997. OCC believes that the DJIA fee structure will encourage trading and clearance of this new contract. OCC is offering an introductory clearing fee of $.00 per contract per side for the first month the DJIA is traded, $.025 per contract per side for the second month, $.05 per contract per side for the third month, and $.10 per contract per side (*i.e.*, the normal OCC rate) thereafter.[4]

OCC has received approval to store media on CD–ROM to replace the practice of storage on microfiche.[5] While OCC no longer stores new media or data on microfiche, there remains historic data stored on microfiche. Because both the need for retrieval of data stored on microfiche and the costs associated with its retrieval remain, the fees associated with microfiche retrieval will remain on the schedule.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [6] and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among OCC's participants and other parties that use OCC's services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78S(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Such fees consist of a $1.00 exercise fee, $269.00 per month for leased line direct data service, $355.00 per month for dial up data service, and $250.00 per month for service bureau data service.

[4] OCC is considering applying the proposed introductory fee structure for the DJIA to all new contracts introduced in the future.

[5] See Letter to James C. Yong, Vice President, OCC (July 23, 1993).

[6] 15 U.S.C. 78q–1.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments on the proposed rule change were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[7] of the Act and pursuant to Rule 19b–4(e)(2)[8] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–97–16 and should be submitted by November 12, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27760 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(e)(2).

[9] ???

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension: Rule 23c–1 [17 CFR 270.23c–1]; SEC File No. 270–253; OMB Control No. 3235–0260.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 23c–1, among other things, permits a closed-end fund to repurchase its securities for cash if in addition to the other requirements set forth in the rule: (i) payment of the purchase price is accompanied or preceded by a written confirmation of the purchase; (ii) the asset coverage per unit of the security to be purchased is disclosed to the seller or his agent; and (iii) if the security is a stock, the fund has, within the preceding six months, informed stockholders of its intention to purchase stock. The Commission estimates that approximately 575 closed-end funds may rely on rule 23c–1, and that on average, a fund spends approximately 2.5 hours per year on complying with the rule's paperwork requirements. The total annual burden of the rule's paperwork requirements thus is estimated to be 1,438 hours.

In addition, the fund must file with the Commission, during the calendar month following any month in which a purchase permitted by rule 23c–1 occurs, two copies of a report of purchases made during the month, together with copies of any written solicitation to purchase securities given on behalf of the fund to 10 or more persons. The burden associated with filing Form N–23C–1, the form for this report, has been addressed in the submission for that Form.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rule and forms.

Complying with the collection of information requirements of the rule is mandatory. The filings that the rule requires to be made with the Commission are available to the public. 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 control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 14, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27763 Filed 10–20–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0409]

New Vista Capital Fund, L.P.; Notice of Issuance of a Small Business Investment Company; License

On May 14, 1997, an application was filed by New Vista Capital Fund, L.P., at 499 Hamilton Avenue, Suite 140, Palo Alto, California 94301, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/79–0409 on September 17, 1997, to NewVista Capital Fund, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 10, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–27790 Filed 10–20–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0314]

Southwest/Catalyst Capital, Ltd.; Notice of Issuance of a Small Business Investment Company; License

On June 6, 1997, an application was filed by Southwest/Catalyst Capital, Ltd., at Three Riverway Suite 770, Houston, Texas, 77056, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06–0314 on September 26, 1997, to Southwest/ Catalyst Capital, Ltd. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 10, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–27791 Filed 10–20–97; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: To be published 14 October 1977 (Docket No. 9727217).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. (CDT), Wednesday, October 15, 1997.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA Allen Fossil Plant Assembly Room, 2574 Plant Road, Memphis, Tennessee,

CHANGES IN THE MEETING: Each member of the TVA Board of Directors has approved the addition of the following item to the previously announced agenda:

A—BUDGET AND FINANCING

A1. Approval of Tax-Equivalent Payments

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Senior Vice President, Communications, or a member of his staff can respond to requests for information about this meeting. Call (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Edward S. Christenbury,

General Counsel and Secretary of the Board.

[FR Doc. 97–27932 Filed 10–17–97; 10:13 am]

BILLING CODE 8120–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comment on Articles To Be Considered for Accelerated Tariff Elimination Under the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The United States Government and the Governments of Mexico and Canada are engaged in a second round of accelerated tariff elimination talks under the North American Free Trade Agreement (''NAFTA''). The Office of the United States Trade Representative (''USTR'') is providing notice of, and is requesting comments on, those articles that the three NAFTA Governments have agreed to consider for accelerated tariff elimination.

DATES: Comments must be received by December 12, 1997.

ADDRESSES: Comments should be submitted by electronic mail to nafta97@ustr.gov, or to the Office of the Western Hemisphere, *Attention:* NAFTA Acceleration Desk, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Inquiries regarding this notice should be directed to the Office of Western Hemisphere Affairs, USTR, (202) 395–3412. A description of the products covered in Annex I and public versions of petitions for accelerated tariff elimination are available for inspection at the USTR Reading Room. The Reading Room is located at Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, and is open from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, by appointment only. Appointments can be made by calling Brenda Webb at (202) 395–6186. Information may also be obtained via the Internet (see **SUPPLEMENTARY INFORMATION**). Inquiries regarding proposed accelerated tariff eliminations by Canada should be directed to the Interdepartmental Committee on NAFTA Acceleration, 140 O'Connor Street, 14th Floor, Ottawa, Ontario, Canada K1A–0G5. Inquiries regarding proposed accelerated tariff eliminations by Mexico should be directed to the office of the Subsecretaria de Negociaciones Comerciales Internacionales, Secretaria de Comercio y Fomento Industrial (SECOFI), Alfonso Reyes 30, Colonia Hipodromo Condesa, 06140 Mexico, D.F. The fax number is 52–5 729–9352.

SUPPLEMENTARY INFORMATION: On May 12, 1997, USTR announced the second round of accelerated tariff elimination talks under the NAFTA, and invited petitions for the inclusion of specific articles in these talks (see 62 FR 25992). Based on the petitions received in response to the May 1997 notice, and in consultation with the other NAFTA Governments, USTR has prepared lists of the articles that the three NAFTA Governments have agreed to consider for accelerated tariff elimination.

Annex I to this notice lists the subheadings in the Harmonized Tariff Schedule of the United States (''HTS'') that are proposed for accelerated tariff elimination with respect to goods of Mexico. Annex II lists subheadings in the Mexican Tariff Schedule of the General Import Duty Act that are proposed for accelerated tariff elimination with respect to goods of the United States. Annex III lists subheadings in the Customs Tariff of Canada that are proposed for accelerated tariff elimination with respect to goods of Mexico. (The lists do not include proposed accelerated tariff eliminations between Canada and the United States because all applicable U.S.-Canada trade will be duty free as of January 1, 1998.)

Accelerated tariff elimination is generally being considered on a reciprocal basis on the equivalent tariff subheadings by the parties involved. In many cases, however, NAFTA or MFN duty-free treatment may already be provided by one or both other parties. In such cases, the Annexes do not list products already eligible for duty-free treatment.

Descriptions of the goods covered in the subheadings listed in the annexes may be obtained as follows. A description of the articles covered by the HTS subheadings in Annex I is available for inspection on the USTR web site at www.ustr.gov, and in the USTR Reading Room. In addition, the complete HTS is available at the web site of the United States International Trade Commission, www.usitc.gov. The Customs Tariff of Canada and the Mexican Tarifa de la Ley del Impuesto General de Importación (Tariff Schedule of the ''General Import Duty Act'')

should be consulted for a description of the articles covered in the tariff subheadings in Annexes II and III. An Internet source for tariff subheading descriptions of the United States, Canada and Mexico is www.apectariff.org.

The tariff schedules of the United States, Mexico and Canada provide preferential access for some products through the use of a tariff-rate quota (TRQ) or on a seasonal basis only. In addition to, or in place of, accelerated tariff elimination, the governments may also consider increasing a TRQ or modifying the seasonality of a current tariff subheading.

USTR invites comments on the advisability of accelerated tariff elimination with respect to the subheadings listed in the annexes to this notice. The NAFTA Governments will consider accelerated tariff elimination for all products falling under these subheadings. However, acceleration for a subset of the articles covered in a particular subheading will be considered in the alternative, as necessary. Thus, comments should specify if only a subset of all products is of concern to the commenting party.

Comments should be submitted to USTR by December 12, 1997.

Comments will be accepted by the Governments of Mexico and Canada until the same date. Parties interested in providing comments to the Governments of Canada or Mexico should contact the offices cited above for the relevant requirements.

Comments submitted to USTR should be sent either via electronic mail to nafta97@ustr.gov, or in ten type-written copies to the address specified above. USTR prefers that comments be submitted via electronic mail whenever possible. All submissions *must* specify: (1) The tariff subheadings to which the comments refer, and the importing and exporting NAFTA countries (e.g., goods of the United States exported to Mexico, goods of Mexico exported to the United States, goods of Canada exported to Mexico); (2) the name, address and telephone number of the person, firm or organization making the comments; and (3) an indication as to whether the writer represents a producer, importer, exporter, consumer (or any combination), or other party (please specify interest), for each country (for example, a producer and exporter in the United States, and an importer in Mexico and Canada). Submissions not meeting these requirements cannot be considered.

Comments submitted to USTR will be available for public inspection in the USTR Reading Room. Submitters who wish to exempt information from public disclosure should comply with the requirements of 19 CFR 2003.6 regarding submissions containing business confidential information. In addition, such persons should submit a public version of their comments. Submissions containing business confidential information should be submitted in hard copy, rather than by electronic mail.

ITC and Advisory Committee Advice

Pursuant to Section 103 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3313)), USTR is requesting the advice of the United States International Trade Commission concerning the probable economic effect on U.S. industries producing like or directly competitive articles, and on consumers, of the proposed accelerated tariff eliminations with respect to the subheadings listed in Annex I. USTR is also consulting with the appropriate private sector advisory committees.

Jon Huenemann,

Acting Assistant U.S. Trade Representative for North American Affairs.

Annex I

Subheadings in the Harmonized Tariff Schedule of the United States containing products to be considered for accelerated removal of duty on goods of Mexico under the North American Free Trade Agreement (NAFTA).

0401.30.25, 0401.30.75, 0402.10.50, 0402.21.25, 0402.21.50, 0402.21.90, 0402.29.50, 0402.91.70, 0402.91.90, 0402.99.45, 0402.99.55, 0402.99.90, 0403.10.50, 0403.90.16, 0403.90.45, 0403.90.55, 0403.90.65, 0403.90.78, 0403.90.95, 0404.10.15, 0404.10.90, 0404.90.50, 0404.90.70, 0405.10.20, 0405.20.30, 0405.20.40, 0405.20.70, 0405.90.20, 0406.10.08, 0406.10.18, 0406.10.28, 0406.10.38, 0406.10.48, 0406.10.58, 0406.10.68, 0406.10.78, 0406.10.88, 0406.20.10, 0406.20.28, 0406.20.33, 0406.20.39, 0406.20.48, 0406.20.53, 0406.20.55, 0406.20.63, 0406.20.67, 0406.20.71, 0406.20.75, 0406.20.79, 0406.20.83, 0406.20.87, 0406.20.91, 0406.30.18, 0406.30.28, 0406.30.38, 0406.30.48, 0406.30.53, 0406.30.55, 0406.30.63, 0406.30.67, 0406.30.71, 0406.30.75, 0406.30.79, 0406.30.83, 0406.30.87, 0406.30.91, 0406.40.20, 0406.40.40, 0406.40.70, 0406.90.05, 0406.90.12, 0406.90.18, 0406.90.20, 0406.90.25, 0406.90.32, 0406.90.33, 0406.90.37, 0406.90.38, 0406.90.42, 0406.90.48, 0406.90.49, 0406.90.54, 0406.90.59, 0406.90.68, 0406.90.74, 0406.90.78, 0406.90.84, 0406.90.88, 0406.90.92, 0406.90.94, 0406.90.97, 0702.00.20, 0702.00.60, 0703.10.40, 0704.10.40, 0704.10.60, 0704.20.00, 0704.90.40, 0705.11.40, 0705.19.40, 0707.00.40, 0707.00.50, 0708.20.90, 0709.20.90, 0709.30.20, 0709.40.20, 0709.40.60, 0709.51.00, 0709.60.20, 0709.60.40, 0709.90.20, 0709.90.90, 0710.80.20, 0710.80.85, 0710.80.97, 0711.20.40, 0712.20.20, 0712.20.40, 0712.90.40, 0714.90.40, 0804.50.60, 0805.20.00, 0805.30.20, 0805.30.40, 0805.40.60, 0805.40.80, 0807.11.40, 0807.19.10, 0807.19.20, 0807.19.70, 0807.19.80, 0807.20.00, 0811.10.00, 0811.90.22, 0811.90.40, 0812.90.30, 0904.20.40, 1001.10.00, 1006.10.00, 1006.20.20, 1006.20.40, 1006.30.90, 1006.40.00, 1202.10.80, 1202.20.80, 1517.90.60, 1517.90.90, 1604.13.10, 1604.13.20, 1604.13.30, 1701.11.50, 1701.12.50, 1701.91.30, 1701.91.48, 1701.91.58, 1701.99.50, 1702.30.28, 1704.90.58, 1704.90.68, 1704.90.78, 1704.90.90, 1806.20.26, 1806.20.28, 1806.20.36, 1806.20.38, 1806.20.73, 1806.20.77, 1806.20.82, 1806.20.83, 1806.20.87, 1806.20.89, 1806.20.94, 1806.20.98, 1806.20.99, 1806.32.06, 1806.32.08, 1806.32.16, 1806.32.18, 1806.32.70, 1806.32.80, 1806.90.08, 1806.90.10, 1806.90.18, 1806.90.20, 1806.90.28, 1806.90.30, 1806.90.39, 1806.90.49, 1806.90.59, 1901.10.30, 1901.10.40, 1901.10.45, 1901.10.75, 1901.10.85, 1901.10.95, 1901.20.15, 1901.20.25, 1901.20.35, 1901.20.50, 1901.20.60, 1901.20.70, 1901.90.32, 1901.90.36, 1901.90.43, 1901.90.47, 1901.90.54, 1901.90.58, 1901.90.70, 1901.90.90, 2001.90.20, 2001.90.35, 2001.90.60, 2002.10.00, 2002.90.00, 2003.10.00, 2004.90.90, 2005.60.00, 2005.70.02, 2005.70.04, 2005.70.06, 2005.70.08, 2005.70.12, 2005.70.16, 2005.70.18, 2005.70.23, 2005.70.25, 2005.70.50, 2005.70.60, 2005.70.70, 2005.70.75, 2005.70.91, 2005.70.93, 2005.70.97, 2005.90.50, 2005.90.55, 2005.90.80, 2007.91.10, 2007.99.60, 2007.99.65, 2008.11.15, 2008.11.35, 2008.11.60, 2008.30.35, 2008.30.40, 2008.30.65, 2008.30.85, 2008.70.00, 2008.92.10, 2008.99.10, 2008.99.42, 2008.99.60, 2009.11.00, 2009.19.25, 2009.19.45, 2009.20.20, 2009.20.40, 2009.30.40, 2009.30.60, 2009.40.20, 2009.60.00, 2009.90.40, 2103.20.40, 2103.90.78, 2105.00.20, 2105.00.40, 2106.90.09, 2106.90.26, 2106.90.28, 2106.90.36, 2106.90.38, 2106.90.46, 2106.90.48, 2106.90.52, 2106.90.54, 2106.90.66, 2106.90.72, 2106.90.76, 2106.90.80, 2106.90.87, 2106.90.91, 2106.90.94, 2106.90.97, 2202.10.00, 2202.90.28, 2202.90.30, 2202.90.35, 2202.90.36, 2202.90.37, 2203.00.00, 2204.21.30, 2204.21.50, 2204.29.20, 2204.29.40, 2204.29.60, 2204.29.80, 2309.90.28, 2309.90.48, 2710.00.05, 2710.00.10, 2710.00.15, 2710.00.18, 2710.00.20, 2710.00.25, 2710.00.30, 2710.00.45, 2710.00.60, 2901.10.40, 2901.10.50, 2905.17.00, 2906.21.00, 2909.49.10, 2909.49.15, 2915.90.14, 2915.90.18, 2916.11.00, 2916.39.03, 2916.39.06, 2916.39.45, 2916.39.75, 2917.36.00, 2917.39.70, 2921.22.10, 2921.30.10, 2921.30.30, 2922.49.27, 2924.29.75, 2933.40.08, 2933.40.15, 2933.40.20, 2933.40.26,

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Annex II

Headings and subheadings in the Mexican Tariff Schedule of the General Import Duty Act containing products to be considered for accelerated removal of duty on goods of the United States under the North American Free Trade Agreement (NAFTA). This list is for information purposes only and contains only those subheadings which are currently dutiable for U.S. exports to Mexico under NAFTA. Please refer to the Government of Mexico for the complete and official list.

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Annex III

Headings and subheadings in the the Customs Tariff of Canada that are proposed for accelerated duty elimination for goods of Mexico under the North American Free Trade Agreement (NAFTA). For 6, 4 and 2-digit headings, part or all of each 8-digit subheading contained within this heading is being considered for accelerated duty elimination. This list is for information purposes only. Please refer to the Government of Canada for the official list.

0203.11, 0203.12, 0203.19, 0203.21, 0203.22, 0203.29, 0206.30.00, 0206.41.00, 0206.49.00, 0209.00.10, 0210.11, 0210.12, 0210.19, 0603.10.90, 0701.90, 0702.00.91, 0703.10.31, 0704.90.21, 0706.10.11, 0706.10.12, 0707.00.91, 0707.00.10, 0710.80.10, 0710.80.10, 0710.80.20, 0710.90.00, 0711.40.00, 0713.31, 0713.32, 0713.33, 0713.39, 0713.40, 0811.10.10, 0811.10.90, 0812.20.00, 1001.10, 1001.90, 1003.00, 1103.12.00, 1104.11, 1104.12, 1107.10.11, 1107.10.12, 1107.10.91, 1107.10.92, 1107.20.11, 1107.20.12, 1107.20.91, 1107.20.92, 1208.90, 1214.10, 1214.90, 1501.00.00, 1514.10.00, 1514.90.00, 1516.10.00, 1516.20.00, 1517.10.00, 1517.90.91, 1604.13, 1701.99.00, 2002.90.00, 2004.10, 2004.90.10, 2004.90.20, 2005.20.00, 2005.60.00, 2007.99.10, 2009.50.00, 2103.20.10, 2103.20.90, 2201.10, 2201.90, 2202.10.00, 2203.00.00, 2306.40.00, 2309.10.00, 2309.90, 2903.43.00, 2903.44.00, 2903.45.00, 2903.49.00, 2903.49.00, 2909.19.00, 2909.49.00, 2915.70.00, 2917.33.00, 2917.34.00, 2921.19.00, 2921.21.00, 2921.22.00, 2932.11.00, 3005.10, 3214.10.00, 3822.00.00, 3822.00.00, 3903.20.90, 3903.20.10, 3904.40.00, 3916.90.90, 3917.10.12, 3918.10.90, 3919.10.99, 3920.10.00, 3920.30.00, 3920.30.00, 3920.41.00, 3924.90.00, 3925.90.00, 3926.90.99, 3926.90.99, 3926.90.99, 4015.11.00, 4015.19.00, 4202.11.00, 4202.12.10, 4202.12.90, 4202.19.00, 4202.21.00, 4202.22.10, 4202.22.90, 4202.29.00, 4202.31.00, 4202.32.10, 4202.32.90, 4202.39.00, 4202.91.19, 4202.91.90, 4202.92.19, 4202.92.91, 4202.92.99, 4202.92.11, 4202.99.90, 4203.10.00, 4203.10.00, 4203.21.90, 4203.29, 4205.00.00, 4303.10, 4303.90.00, Chapter 44, 4407, 4408, 4412, 4818.90.10, 4818.90.90, 4819.20, 4819.50, 5106.10, 5106.20, 5107.10, 5107.20, 5108.10, 5108.20, 5109.10, 5109.90, 5111.11, 5111.19, 5111.20, 5111.30, 5111.90, 5112.11, 5112.19, 5112.20, 5112.30, 5112.90, 5113.00, 5204.11.00, 5204.19.00, 5204.20.00, 5205.11.00, 5205.12.00, 5205.13.00, 5205.14.00, 5205.15.00, 5205.21.00, 5205.22.00, 5205.23.00, 5205.24.00, 5205.26.00, 5205.27.00, 5205.28.00, 5205.31.00, 5205.32.00, 5205.33.00, 5205.34.00, 5205.35.00, 5205.41.00, 5205.42.00, 5205.43.00, 5205.44.00, 5205.46.00, 5205.47.00, 5205.48.90, 5205.48.10, 5206.11.00, 5206.12.00, 5206.13.00, 5206.14.00, 5206.15.00, 5206.21.00, 5206.22.00, 5206.23.00, 5206.24.00, 5206.25.00, 5206.31.00, 5206.32.00, 5206.33.00, 5206.34.00, 5206.35.00, 5206.41.00, 5206.42.00, 5206.43.00, 5206.44.00, 5206.45.00, 5207.10.00, 5207.90.00, 5208.11.90, 5208.12.00, 5208.13.00, 5208.19.00, 5208.19.00, 5208.21.00, 5208.22.90, 5208.23.00, 5208.29.00, 5208.29.00, 5208.31.00, 5208.32.90, 5208.33.00, 5208.39.00, 5208.39.00, 5208.41.00, 5208.42.90, 5208.43.00, 5208.49.00, 5208.51.00, 5208.52.90, 5208.53.00, 5208.59.00, 5208.59.00, 5209.11.00, 5209.12.00, 5209.19.00, 5209.19.00, 5209.21.00, 5209.22.00, 5209.29.00, 5209.29.00, 5209.31.00, 5209.32.00, 5209.39.00, 5209.39.00, 5209.41.00, 5209.42.00, 5209.42.00, 5209.43.00, 5209.49.00, 5209.51.00, 5209.52.00, 5209.59.00, 5209.59.00, 5210.11.00, 5210.11.00, 5210.12.00, 5210.19.00, 5210.19.00, 5210.21.00, 5210.22.00, 5210.29.00, 5210.29.00, 5210.31.00, 5210.32.00, 5210.39.00, 5210.39.00, 5210.41.00, 5210.42.00, 5210.49.00, 5210.51.00, 5210.52.00, 5210.59.00, 5210.59.00, 5211.11.00, 5211.11.00, 5211.12.00, 5211.19.00, 5211.19.00, 5211.21.00, 5211.22.00, 5211.29.00, 5211.29.00, 5211.31.00, 5211.32.00, 5211.39.00, 5211.39.00, 5211.41.00, 5211.42.00, 5211.42.00, 5211.43.00, 5211.49.00, 5211.51.00, 5211.52.00, 5211.59.00, 5211.59.00, 5212.11.20, 5212.11.10, 5212.11.90, 5212.12.10, 5212.12.20, 5212.12.90, 5212.13.90, 5212.13.10, 5212.13.20, 5212.14.10, 5212.14.20, 5212.14.90, 5212.15.10, 5212.15.20, 5212.15.90, 5212.21.10, 5212.21.20, 5212.21.90, 5212.22.10, 5212.22.20, 5212.22.90, 5212.23.10, 5212.23.20, 5212.23.90, 5212.24.10, 5212.24.20, 5212.24.99, 5212.25.10, 5212.25.20, 5212.25.90, 5401.10.00, 5401.20.00, 5402.10.90, 5402.10.10, 5402.20.90, 5402.31.00, 5402.32.90, 5402.33.00, 5402.39.00, 5402.39.00, 5402.41.90, 5402.41.90, 5402.41.90, 5402.43.10, 5402.43.90, 5402.49.90, 5402.49.90, 5402.49.90, 5402.51.00, 5402.51.00, 5402.52.90, 5402.52.10, 5402.52.90, 5402.59.00, 5402.59.00, 5402.59.00, 5402.61.00, 5402.61.00, 5402.62.00, 5402.62.00, 5402.69.00, 5402.69.00, 5402.69.00, 5403.10.00, 5403.20.00, 5403.20.00, 5403.33.00, 5403.39.00, 5403.42.00, 5403.49.00, 5404.10.90, 5404.10.90, 5404.10.90, 5404.10.90, 5404.10.90, 5404.10.90, 5404.90.90, 5405.00.00, 5405.00.00, 5405.00.00, 5405.00.00, 5405.00.00, 5406.10.00, 5406.10.00, 5406.10.00,

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[FR Doc. 97–27783 Filed 10–20–97; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 10, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–3000.

Date Filed: October 10, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 7, 1997.

Description: Application of Haiti Aviation, S.A. d/b/a Air D'Ayiti, pursuant to 49 U.S.C. 41302, and subpart Q of the Regulations, applies for a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail between the co-terminal points Miami, FL, San Juan, PR, and New York, NY, on the one hand, and Port-Au-Prince, Haiti, on the other hand, and beyond to Santo Domingo, Dominican Republic; Puerto Plata, Dominican Republic; Caracas, Venezuela; Isla Margarita, Venezuela; Pointe-A-Pitre; Fort-de-France; Curacao; and Aruba.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–27742 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–070]

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The U.S. Coast Guard has submitted for emergency processing an information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act. The ICR concerns special permits for the transportation and storage of hazardous materials on board vessels. OMB approval of the ICR was requested by October 6, 1997.

ADDRESSES: You may mail comments about the ICR to Commandant (G–SII–2), U.S. Coast Guard Headquarters, Room 6106 (Attn: Barbara Davis), 2100 Second St, SW., Washington, DC 20593–0001, or deliver them to the same address between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–2326.

DATES: Comments must be received on or before December 22, 1997.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

Request for Comments

The U.S. Coast Guard encourages interested persons to submit written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice and give reasons for each comment. The U.S. Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

A copy of the individual ICR, with applicable supporting documentation may be obtained by contacting Ms. Davis where indicated under **ADDRESSES**.

The comments will become part of this docket [CGD–97–070] and will be available for inspection and copying by appointment at the above address.

Information Collection Requests

Title: Carriage of Bulk Solids Requiring Special Handling.

OMB No.: 2115–0100.

Frequency: On occasion.

Burden Estimate: The estimated burden is 575 hours annually.

Respondents: Solid Bulk Cargo Vessel/Barge Owners or Operators.

Description: The information required to be submitted when applying for a Special Permit allows the Coast Guard to make a determination as to the severity of the hazard posed by the material, allows specific guidelines for safe carriage, or if determined that the material presents too great a hazard, to deny permission for shipping the material.

Need: The U.S. Coast Guard administers and enforces laws and regulations for the safe transportation and stowage of hazardous materials, including bulk solids. Under 46 CFR part 148, the Coast Guard has the authority to issue Special Permits for transportation and stowage of hazardous material on board vessels.

Dated: October 10, 1997.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 97–27744 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–069]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to request renewals for five Information Collection Requests (ICRs). These ICRs include: 1. U.S. Coast Guard Academy Preliminary Application and Supplemental Forms; 2. 33 CFR 157—Requirements for the Installation and Use of Oil Discharge Monitoring Equipment on Tank Vessels and International Oil Pollution Prevention Certificate (IOPP); 3. Characteristics of Liquid Chemicals Proposed for Bulk Water Movement; 4. Emergency Evacuation Plan For Manned Outer Continental Shelf (OCS) Facilities; and 5. Direct User Fees For Inspection of Examination of U.S. and Foreign Commercial Vessels. Before submitting the ICR packages to the Office of Management and Budget (OMB), the U.S. Coast Guard is asking for comments on the collections as described below.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: You may mail comments to Commandant (G–SII–2), U.S. Coast Guard Headquarters, Room 6106 (Attn: Barbara Davis), 2100 Second St., SW, Washington, DC 20593–0001, or deliver them to the same address between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–2326.

The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

Request for Comments

The U.S. Coast Guard encourages interested persons to submit written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this Notice and the specific ICR to which each comment applies, and give reasons for each comment. The U.S. Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

Interested persons can receive copies of the complete ICR by contacting Ms. Davis where indicated under **ADDRESSES**.

Information Collection Requests

1. Title: U.S. Coast Guard Academy Preliminary Application and Supplemental Forms.

OMB Control No. 2115–0012.

Summary: The collection of information will require individuals who wish to compete for an appointment as a Coast Guard Cadet to fill out Preliminary and Supplement Application Forms.

Need: Title 46 U.S.C. 211(a) authorizes the Superintendent of the U.S. Coast Guard Academy to ensure that qualified individuals have every opportunity to compete for a cadet appointment

Respondents: Men and Women between the ages of 17 and 22.

Frequency: One time only.

Burden Estimate: The estimated burden is 6640 hours annually.

2. Title: 33 CFR 157—Requirments for the installation and use of oil discharge monitoring equipment on tank vessels and International Oil Pollution Prevention Certificate (IOPP).

OMB control No.: 2115–0518.

Summary: This collection of information requires U.S. flag tank vessels, 150 gross tons or more, to maintain oily mixture discharge data. Also U.S. flag oil tankers of 150 gross tons and above and each U.S. ship of 400 gross tons and above that engage in international voyages are required to have an IOPP Certificate. This collection is a combination of OMB No. 2115–0526 and OMB No. 2115–0518 under one OMB approval number.

Need: 33 U.S.C. 1901–1911 requires that MARPOL 73/78 requirements be implemented in U.S. regulations.

Respondents: Owners or operators of U.S. flag tank vessels, 150 gross tons or more for discharge data. Owners or operator of U.S. flag oil tankers of 150 gross tons and above and each U.S. ship of 400 gross tons and above that engage in international voyages for IOPP Certificates.

Frequency: On occasion and every five years.

Burden Estimate: The estimated burden is 784 hours annually

3. Title: Characteristics of Liquid Chemicals Proposed for Bulk Water Movement.

OMB Control No.: 2115–0016.

Summary: The Coast Guard requires manufacturers of chemicals to submit data on new materials. From this information, the Coast Guard determines the appropriate precautions to be taken.

Need: Under 46 C.F.R. 30–40, 151, 153 and 154, the Coast Guard regulates the transportation of hazardous materials. Due to the nature of the chemical industry, new materials are being produced which must be shipped. Each of these new materials has unique characteristics which require special attention to their mode of shipment.

Repondents: Chemical manufacturers.

Frequency: On occasion.

Burden Estimate: The estimate burden is 300 hours annually.

4. Title: Emergency Evacuation Plan (EEP) For Manned Outer Continental Shelf (OCS) Facilities.

OMB Control No.: 2115–0580.

Summary. This collection of information requires the operators of manned OCS facilities, including Mobile Offshore Drilling Units, (MODUs) to submit facility emergency evacuation plans (EEPs) to the U.S. Coast Guard.

Need: Under 43 U.S.C. Section 133(d), the Coast Guard has the authority to promulgate and enforce reasonable regulations promoting the safety of life and property on OCS facilities. Pub. L. 99–509 required the coast Guard to issue regulations for the evacuation of personnel from manned OCS facilities. This information is used by the Coast Guard to ensure that these facilities establish and maintain efficient and safe methods for evacuation.

Respondents: Operators of manned OCS facilities and MODUs.

Frequency: When facilities are established or when established facilities undergo significant changes.

Burden Estimate: The estimated burden is 3,460 hours annually.

5. Title: Direct User For Inspection or Examination of U.S. and Foreign Commercial Vessels.

OMB Control No.: 2115–0617.

Summary: This collection requires the submission of identifying information such as vessel name, vessel identification number and if the owner chooses to pay fees for future years, a written request to the Coast Guard is requested.

Need: The Omnibus Budget Reconciliation Act of 1990, which amended 46 U.S.C. 2110, now requires the Coast Guard to collect user fees from inspected vessels. In order to properly track the collection and management of fees, the Coast Guard must have current identification information. This collection helps to ensure that fee collection is carried out efficiently.

Respondents: Vessel owners of certain inspected vessels.

Frequency: Annually.

Burden Estimate: The estimated burden is 2,855 annually.

Dated October 10, 1997.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 97–27745 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–044]

Port Access Routes; Approaches to the Mississippi River via Southwest Pass, South Pass, Tiger Pass Including the Mississippi River Gulf Outlet

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard is conducting a study to evaluate the need for vessel routing or other traffic management measures in the Mississippi River. The Coast Guard will conduct two public meetings to obtain information from members of the regulated community and the general public on impediments that interfere with their mobility on the waterway. The information will be used to evaluate the effectiveness of existing traffic management measures as well as identify other safety concerns.

DATES: The meetings will be held Wednesday, November 12, 1997 from 7

p.m. to 10 p.m. and on Thursday, November 13, 1997, from 1 p.m. to 4 p.m. Written material must be received not later than November 20, 1997.

ADDRESSES: The November 12, 1997, meeting will be held in the Buras Auditorium, 111 Auditorium Drive, Buras, LA. The November 13, 1997, meeting will be held in the Basement Conference Room, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Written comments may be mailed to Commander (mov-1), Eighth Coast Guard District, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, or may be delivered to room 1341 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments will become part of this docket and will be available for inspection or copying at room 1341, Eighth Coast Guard District office, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, Commander, Eighth Coast Guard District (m), Room 1341, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: The Coast Guard initiated a port access route study because of safety concerns raised by the Associated Branch Pilots and the Coast Guard Marine Safety Office in New Orleans, LA. The study was announced in the **Federal Register** on August 21, 1997 (62 FR 44428). The notice of study explained in detail the various traffic management measures, i.e., traffic separation scheme, two-way route, precautionary area, that may be used to address any safety problems in the study area.

The study area encompasses the approaches to the Mississippi River, the Mississippi Gulf Outlet as well as the area offshore of southeast Louisiana used by commercial vessels transiting to and between these ports. The Coast Guard is trying to determine the scope of any safety problems associated with vessel transit in this area.

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. The meetings will be workshops to identify and prioritize the impediments which interfere with mobility on the waterway. Written material may be submitted prior to, during, or after the meetings.

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact Mr. Monty Ledet at (504) 589–4686 as soon as possible.

Dated: October 10, 1997.

T.H. Gilmour,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–27746 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RSGC–7–SPO, Notice No. 1I]

RIN 2130–AA

Temporary Cessation of Sounding of Locomotive Horn

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of interim final order and request for comments.

SUMMARY: FRA is issuing an Interim Final Order in which The Burlington Northern and Santa Fe Railway Company would be ordered to temporarily cease the sounding of locomotive horns at a specific crossing within Spokane County, Washington. As provided by statute, the Secretary of Transportation, in order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail crossings, may, in connection with demonstration of proposed new supplementary safety measures, order a railroad to temporarily cease the sounding of locomotive horns at such crossings.

DATES: Written comments must be received by November 20, 1997. Comments received after that date will be considered to the extent possible without incurring additional delay.

ADDRESSES: Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, Mail Stop 10, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Bruce F. George, Staff Director, Highway Rail Crossing and Trespasser Programs, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202–632–3312); Grady C. Cothen, Jr., Deputy Associate Administrator for Safety Standards, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone: 202–632–3309; or Mark Tessler, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–632–3171) (e-mail address: mtessler@fra.dot.gov) .

SUPPLEMENTARY INFORMATION:

Background

Section 20153 of Title 49 of the United States Code authorizes DOT (and by delegation of the Secretary of Transportation, FRA) to prescribe regulations requiring that locomotive horns be sounded while each train is approaching and entering upon each public highway-rail grade crossing. The statute also permits the Secretary to exempt from the requirement to sound the locomotive horn any category of rail operations or categories of highway-rail grade crossings for which supplementary safety measures fully compensate for the absence of the warning provided by the horn. Section 20153(e)(1) states that ''In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.''

FRA has been requested by representatives of Spokane County, Washington, the Washington Utilities and Transportation Commission, and the Burlington Northern Santa Fe Railroad Company to order the temporary cessation of sounding of locomotive horns at two crossings in Spokane County in order to demonstrate new and innovative engineering solutions to prevent motorists from entering onto highway-rail grade crossings equipped with fully functioning grade crossing warning devices. The crossings which are the subject of this Order are located at University Road within Spokane County, approximately five miles east of the City of Spokane. Two parallel BNSF tracks, each with a separate set of automatic grade crossing warning devices, cross University Road approximately 100 feet south of State Route 290 (Trent Avenue).

In order to institute this demonstration project as soon as possible, FRA is issuing this order on an interim basis. Upon compliance with

the provisions contained in the order, BNSF will be required to cease sounding of the locomotive horn at the crossings under the terms of the order. FRA will revise the order, rescind it, or issue a final order without change, depending on information contained in any comments received.

FRA has evaluated the proposed actions in accordance with its procedures for ensuring full consideration of the environmental impact of FRA action, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and the DOT Order 5610.1c. It has been determined that the proposed actions will have a beneficial impact on the environment by the cessation of the sounding of locomotive horns.

This action has been evaluated in accordance with existing regulatory policies and procedures and is considered to be non-significant under DOT policies and procedures (44 FR 11304). This action will not have an impact on a substantial number of small entities.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. Inasmuch as implementation of this order is, by its own terms, dependent on the request of Spokane County that such order be issued, and the purpose of the order is to enable the county to comply with the purposes of a Washington State statute, there are insufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Public Participation

Interested parties are invited to participate in this proceeding by submitting to the Docket Clerk written data, views, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify the FRA Docket Clerk at the above listed address, in writing, before the end of the comment period and specify the basis for their request.

Interim Final Order

Based on the above, FRA issues the following order:

Interim Final Order to Temporarily Cease Sounding of Locomotive Horns

I find that:

1. Spokane County, Washington, in conjunction with The Burlington Northern and Santa Fe Railway Company (BNSF) and the Washington Utilities and Transportation Commission, and in consultation with the Federal Railroad Administration (FRA), has instituted a demonstration of new and innovative engineering solutions to prevent motorists from entering the public highway-rail grade crossing at University Road in Spokane County.

2. As part of the demonstration, and preliminary to the temporary cessation of the sounding of locomotive horns at the crossing, Spokane County has tested various configurations of non-mountable median curbs. As configured for the principal phases of the demonstration, these curbs are of different dimensions in height and length than arrangements previously evaluated and provide additional security for rail operations over the two-track highway-rail crossing. Roadway geometry in the area is challenging. The maintainability of curbs, roadways, and highly visible delineators during winter conditions also pose issues of interest for policy development.

3. As an integral part of this demonstration, Spokane County gathered data concerning base line safety risk and the impact on risk of installing these proposed new supplementary safety measures. Data concerning responses to the automated warning system by motor vehicle drivers was gathered by means of video monitoring of driver behavior. FRA has evaluated this and other data and finds pursuant to 49 U.S.C. 20153 that the proposed new supplementary safety measures will fully compensate for the loss of the train horn as a warning device at this crossing.

4. All engineering improvements comprising the demonstration have been tested and evaluated and are deemed necessary in lieu of the locomotive horn.

5. Spokane County officials have expressed a strong interest in establishing a quiet zone at this crossing, which is placed within a segment of railroad exceeding one-half mile in length, making establishment of a quiet zone clearly practicable.

6. Issuance of this order will assist the FRA in gathering information and data useful to development of final rules under 49 U.S.C. § 20153.

7. At the request of Spokane County and the FRA, the BNSF has fully cooperated in the exploration of options for safety improvements at the University Road crossing but considers that the company is not able to unilaterally cease use of the train horn at University Road due to requirements of state law, absent issuance of this order.

Accordingly, pursuant to 49 U.S.C. 20153(e)(1), and in order to promote the quiet of Spokane County and to promote the development of innovative safety measures at highway-rail crossings, *I hereby order* the BNSF, during the term of this order and in accordance with its provisions, to cease sounding of locomotive horns on approach to and at the above highway-rail crossing for a period of four months, beginning October 15, 1977 (or such later date as Spokane County may request), subject to the following conditions:

(a) Non-mountable median curbs with delineators as approved by the WUTC, shall remain installed and shall be maintained at the crossing by Spokane County;

(b) All highway-rail grade crossing warning devices installed at the crossing are operating properly in accordance with the provisions of 49 CFR part 234. In the event of a warning system malfunction as defined in 49 CFR 234.5, an engineer operating a train through the crossing is not responsible for sounding the locomotive horn until he or she has been informed of the warning system malfunction.

(c) Advance warning signs, as approved by the WUTC shall be posted and maintained by Spokane County advising motorists that locomotive horns will not be sounded;

(d) Spokane County, through an authorized officer, requests in writing that the sounding of the locomotive horn cease pursuant to the terms of this order and serves such request on the BNSF and the Associate Administrator for Safety, FRA, at least 14 days prior to the date on which cessation is requested;

(e) Spokane County, in consultation with the FRA Regional Administrator, Region 8, provides for further data collection to determine the long-term effect on motorist behavior of the new engineering improvements at this highway-rail crossing without use of a train-borne audible warning.

The Associate Administrator for Safety is delegated the authority to extend the period of this order, as appropriate, until the effective date of a final rule issued pursuant to 49 U.S.C. 20153, if the Associate Administrator for Safety determines that data developed during the initial demonstration period confirms the effectiveness of the subject engineering improvements and periodic monitoring continues to confirm this effectiveness.

Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn to provide a warning to

vehicle operators, pedestrians, trespassers or crews on other trains in an emergency situation if, in the engineer's sole judgment, such action is appropriate in order to prevent imminent injury, death or property damage. This order does not require that such warnings be provided nor does it impose a legal duty to sound the locomotive horn in such situations.

Nothing in this order excuses compliance with sections 214.339, 234.105, 234.106, and 234.107 of title 49, Code of Federal Regulations, concerning use of the locomotive horn under circumstances therein described. Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn or whistle to provide necessary communication with other trains and train crew members if other means of communication are unavailable.

Issued in Washington, D.C. on October 15, 1997.

Jolene M. Molitoris,

Administrator.

[FR Doc. 97–27800 Filed 10–20–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33488]

Norfolk and Western Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company has agreed to grant local and overhead trackage rights to Norfolk and Western Railway Company (NW) over approximately 50.2 miles of rail line located in Illinois as follows: (1) Local access trackage rights over approximately 4.7 miles of line between Monterey Lead milepost 4.4 at Monterey Mine No. 1 (near Carlinville) and Monterey Lead milepost 0.0 at Monterey Junction, and both legs of the wye track and related trackage between milepost 104.5 and milepost 104.8 at Monterey Junction; (2) local access trackage rights over approximately 15.0 miles of line between milepost 104.8 at Monterey Junction, and milepost 119.8 at DeCamp; (3) overhead trackage rights over approximately 15.4 miles of line between milepost 119.8 at DeCamp and milepost 135.2 at Edwardsville; and (4) overhead trackage rights over approximately 15.1 miles of line between milepost 135.2 at Edwardsville and milepost 150.3 at Madison. The transaction is expected to be consummated on or soon after October 15, 1997, the effective date of the exemption.

The purpose of the proposed trackage rights is to permit the movement of coal traffic directly between Monterey Mine No. 1 and Madison, IL, and on to Coffeen, IL, entirely via NW; and to eliminate costly delays in handling and interchanges.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33488, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: James R. Paschall, General Attorney, Norfolk and Western Railway Company, Three Commercial Place, Norfolk, VA 23510–2191.

Decided: October 14, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27859 Filed 10–21–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 10, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0024.

Form Number: ATF F 1 (5320.1).

Type of Review: Extension.

Title: Application to Make and Register Firearm.

Description: This form is used by the public when applying to make a firearm that falls within the purview of the National Firearms Act (NFA). The information supplied by the applicant on the form helps to establish the applicant's eligibility for approval of the request.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 1,271.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,084 hours.

OMB Number: 1512–0129.

Form Number: ATF F 4473 (5300.9) Part I.

Type of Review: Extension.

Title: Firearms Transaction Record, Part I Over the Counter.

Description: This form is used to determine the eligibility of a person to receive a firearm from a Federal Firearms Licensee. It is also used to establish the identify of the buyer. The form is also used in law enforcement in investigations/inspections to trace firearms to confirm criminal activity. Implementing regulations are prescribed in 27 CFR 78.124.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Recordkeepers: 6,000,000.

Estimated Burden Hours Per Recordkeeper: 1,026,000.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1,026,000 hours.

OMB Number: 1512–0387.

Recordkeeping Requirement ID Number: ATF REC 5130/5.

Type of Review: Extension.

Title: Principal Place of Business on Beer Labels.

Description: ATF regulations permit domestic brewers who operate more than one brewery to show as their address on labels and kegs of beer, their ''principal place of business'' address. This label option may be used in lieu of showing the actual place of production on the label or of listing all of the brewer's locations on the label.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 172,250.

Estimated Burden Hours Per Recordkeeper: 3 hours.

Frequency of Response: Other.

Estimated Total Reporting Burden: 559,791 hours.

OMB Number: 1512–0474.

Recordkeeping Requirement ID Number: ATF REC 5130/5.

Type of Review: Extension.

Title: Principal Place of Business on Beer Labels.

Description: ATF regulations permit domestic brewers who operate more then one brewery to show as their address on labels and kegs of beer, their ''principal place of business'' address. This label option may be used in lieu of showing the actual place of production on the label or of listing all of the brewer's locations on the label.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per Respondent: 0 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1512–0490.

Form Number: ATF F 4473 (5300.24) Part I (LV) and ATF F 4473 (5300.25 Part II (LV).

Recordkeeping Requirement ID Number: ATF REC 7570/2.

Type of Review: Extension.

Title: Firearms Transaction Record Part I—Low Volume—Over-the-Counter (4473 LV Part I); and Firearms Transaction Record Part II—Low Volume—Intra-State Non-Over-the-Counter (4473 LV Part II).

Description: ATF Form 4473 LV Parts I and II is for use only by Federal firearms licenses disposing of 50 or fewer firearms per 12-month period. It is kept, at a licensees option, in lieu of ATF F 4473 and records of acquisition and disposition.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Recordkeepers: 5,000.

Estimated Burden Hours Per Recordkeeper: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1,042 hours.

OMB Number: 1512–0520.

Form Number: ATF F 5300.35.

Type of Review: Extension.

Title: Statement of Intent to Obtain a Handgun.

Description: This form is used to establish the eligibility of the buyer to determine if the handgun sale is legal, prior to the actual delivery of the handgun. This for is retained by the dealer for use by the Office of Enforcement in compliance inspections and criminal investigations. Implementing regulations are prescribed in 27 CFR 178.130.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 2,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 478,300 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–27765 Filed 10–20–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

October 14, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1098.

Regulation Project Number: TD 8418 Final (FI–91–86; FI–90–86; FI–90–91; and FI–1–90).

Type of Review: Extension.

Title: Arbitrage Restrictions on Tax-Exempt Bonds.

Description: This regulation requires state and local governmental issuers of tax-exempt bonds to rebate arbitrage profits earned on nonpurpose investments acquired with the bond proceeds. Issuers are required to submit a form with the rebate. The regulations provide for several elections, all of which must be in writing.

Respondents: Not-for-profit institutions, State, Local or Tribal Governments.

Estimated Number of Respondents/ Recordkeepers: 3,100.

Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours, 46 minutes.

Frequency of Response: On occasion, Other (at most every 5 years).

Estimated Total Reporting/ Recordkeeping Burden: 8,550 hours.

OMB Number: 1545–1160.

Regulation Project Number: CO–93–90 Final.

Type of Review: Extension.

Title: Corporations; Consolidated Returns—Special Rules Relating to Dispositions and Deconsolidations of Subsidiary Stock.

Description: These regulations prevent elimination of corporate-level tax because of the operation of the consolidated returns investment adjustment rules. Statements are required for dispositions of a subsidiary's stock for which losses are claimed, for basis reductions within 2 years of the stock's deconsolidation, and for elections by the common parent to retain the NOL's of a disposed subsidiary.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Other (one time).

Estimated Total Reporting/ Recordkeeping Burden: 6,000 hours.

OMB Number: 1545–1440.

Regulation Project Number: INTL–64–93 Final.

Type of Review: Extension.

Title: Conduit Arrangements Regulations.

Description: This document contains regulations relating to when the district director may recharacterize a financing arrangement as a conduit arrangement. Such recharacterization will affect the amount of withholding tax due on financing transactions that are part of the financing arrangement. These regulations will affect withholding agents and foreign investors.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 1,000.

Estimated Burden Hours Per Recordkeeper: 10 hours.

Estimated Total Recordkeeping Burden: 10,000 hours.

OMB Number: 1545–1449.

Regulation Project Number: IA–57–94.

Type of Review: Extension.

Title: Cash Reporting by Court Clerks.

Description: Section 6050I(g) imposes a reporting requirement on criminal court clerks that receive more than $10,000 in cash as bail. The IRS will use the information to identify individuals with large cash incomes. Clerks must also furnish the information to the United States Attorney for the jurisdiction in which the individual charged with the crime resides and to each person posting the bond whose name appears on Form 8300.

Respondents: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting Burden: 125 hours.

OMB Number: 1545–1548.

Revenue Procedure Number: Revenue Procedure 97–40.

Type of Review: Extension.

Title: Late S Corporation Election Relief.

Description: Revenue Procedure 97–40 provides that taxpayers whose S corporation election was filed late (but was filed within 6 months of the statutory due date, and before a tax return is due for that taxable year) can obtain late S election relief by filing Form 2553 and attaching a statement explaining the reasonable cause for the failure to file a timely S corporation election.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (must be done within 6 months of Form 2553's due date).

Estimated Total Reporting Burden: 200 hours.

OMB Number: 1545–1550.

Notice Number: Notice 97–45.

Type of Review: Extension.

Title: Highly Compensated Employee Definition.

Description: This notice provides guidance on the definition of a highly compensated employee within the meaning of section 14(q) of the Internal Revenue Code as simplified by section 1431 of the Small Business Job Protection Act of 1996, including an employer's option to make a top-paid group election under section 414(q)(1)(B)(ii).

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Recordkeepers: 218,683.

Estimated Burden Hours Per Recordkeeper: 18 minutes.

Estimated Total Recordkeeping Burden: 65,605 hours.

OMB Number: 1545–1551.

Revenue Procedure Numbers: Revenue Procedures 97–36, 97–37, 97–38 and 97–39.

Type of Review: Extension.

Title: Changes in Methods of Accounting.

Description: The information collected in the four revenue procedures is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the conditions of the change.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms.

Estimated Number of Respondents/Recordkeepers: 12,350.

Estimated Burden Hours Per Respondent/Recordkeeper: 17 hours, 20 minutes.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting/Recordkeeping Burden: 214,144 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–27766 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

October 9, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1222.

Form Number: IRS Forms 8628, 8635 and 9383.

Type of Review: Revision.

Title: Order Blank for Federal Income Tax Forms for ''Plan Only'' Accounts (8628); BPOL Order Blank for Federal Income Tax Forms (8635); and Fax Order Blank for BPOL Reorders (9383).

Description: These forms allow banks, post offices and libraries to distribute tax forms and publications to taxpayers at convenient locations. Participation is on a voluntary basis and done as a public service for the Internal Revenue Service.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 63,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Time per response (minutes)
8628	3
8635	6
9383	6

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 5,450 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–27767 Filed 10–21–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12–26]

Delegation of Authority To Approve the Use of Cash for Official Travel

October 9, 1997.

1. *PURPOSE.* The purpose of this Directive is to delegate authority to heads of bureaus to approve all cash purchases of passenger transportation services.

2. *DELEGATION.* This Directive delegates to heads of bureaus, the Deputy Assistant Secretary (Administration), and the Inspector General, the authority to approve all

cash purchases of passenger transportation services, including instances where a Federal traveler has failed to use a Government Transportation Request (GTR), a Government Travel Account (GTA), or contractor-issued Government employee charge card. This delegation is in accordance with 41 CFR 101–41.203. For purposes of this Directive, the term ''bureau'' includes Departmental Offices (DO) and the Office of Inspector General (OIG).

3. *REDELEGATION*.

a. The authority to approve cash purchases in excess of $100 may be redelegated to the Bureau Chief Financial Officer, or the equivalent management official at regional locations. No further redelegation shall be permitted.

b. The authority to approve cash purchases of $100 or less when approval is required by 41 CFR 101–41.203–2 may be redelegated without limitation.

c. All redelegations shall be in writing, and copies of the redelegations shall be retained to permit examination by General Services Administration (GSA) auditors.

4. *GUIDELINES*.

a. As long as the conditions set out in 41 CFR 101–41.203 are met, bureau heads may, in limited circumstances, approve the use of cash to procure emergency or nonemergency transportation services costing more than $100. In the interest of promoting good cash management, all other methods of disbursement should be considered before providing cash. Approval shall be granted only when sufficient justification has been documented. In nonemergency situations, authorization to use cash in excess of $100 should be obtained prior to travel.

b. To justify the use of cash in excess of $100 instead of a Government provided method of payment when procuring passenger transportation services, both the bureau head (or designated representative) and the traveler shall certify on the travel voucher the reasons for such use.

c. 41 CFR 101–41.203–2(b)(1)(i) requires that the agency determine if the use of cash was due to an emergency or another reason. Bureaus shall establish guidelines for approval of cash purchases in excess of $100 and determine if the use of cash is due to: (a) Emergency circumstances where use of a GTR, contractor-issued Government employee charge card, or GTA was not possible, or (b) failure of the bureau to advise new employees and/or invited or infrequent travelers of proper procedures for purchasing transportation services.

d. Cash purchases of transportation services in excess of $100 in nonemergency circumstances shall be discouraged and kept to a minimum. If a cash purchase is determined to have been made under a nonemergency circumstance, reimbursement shall be limited to the cost which would have been properly chargeable to the Government if the transportation services had been procured using one of the Government-provided methods of procurement. Cash shall not be used to circumvent the use of city-pair contracts.

e. Bureaus shall establish procedures to encourage travelers to use a GTR, contractor-issued Government employee charge card, or GTA instead of cash to purchase passenger transportation services. Use of a credit card other than the contractor-issued Government employee charge card or use of travelers checks shall be considered the equivalent of cash and subject to the $100 limitation.

f. Cash purchases of transportation services costing more than $10 but not more than $100 may be approved if no Government provided method of payment is practical. Bureaus are authorized to implement the guidance set forth in 41 CFR 101–41.203–2.

g. Travelers using cash to purchase individual passenger transportation services shall procure such services directly from the carrier or from travel agents under GSA contract. They shall account for those expenses on their travel vouchers and furnish passenger coupons or other evidence, as appropriate. Furthermore, travelers shall assign to the Government the right to recover any excess payments involving carriers' use of improper rates. That assignment must be preprinted or otherwise annotated on the travel voucher and shall be initialed by the traveler.

h. Each bureau shall apprise travelers using cash to procure passenger transportation services of the provision of FPMR 101–41.209–4 concerning a carrier's liability for liquidated damages because of failure to provide confirmed reserved space.

i. Travelers using cash to procure passenger transportation services shall adhere to the regulations at 41 CFR 301–3.6 regarding the use of U.S. flag vessels and air carriers.

j. Should a traveler make repeated cash purchases without just cause or deliberately attempt to circumvent use of GSA contract air or rail service for personal convenience, the bureau may send all documents related to the travel to the GSA Board of Contract Appeals, 18th and F Streets, NW, Washington, DC 20548, for a decision on the traveler's right to reimbursement as provided in 31 U.S.C. 3702.

5. *RECORDKEEPING.* Travel vouchers shall be maintained in the bureau to be available for site audit by GSA auditors. General Records Schedule 9, ''Travel and Transportation Records,'' provides instructions for the disposal of travel vouchers. GSA, Transportation Audit Division (FWA) will report suspected travel management errors and/or misroutings which result in higher travel costs to the Government to the appropriate bureau travel manager for appropriate action.

6. *REPORTING REQUIREMENTS.* After the traveler has been reimbursed for a cash purchase, copies of the travel authorization, ticket coupons, and any ticket refund applications, or Standard Form 1170, ''Redemption of Unused Tickets,'' shall be forwarded for audit to the GSA, Transportation Audit Division (FWA), Attention: Code E, Washington, DC 20405.

7. *AUTHORITY*. 41 CFR 101–41.203–2.

8. *REFERENCE.* 41 CFR Part 301–3.6 and 301–15.

9. *EXPIRATION DATE.* This Directive shall expire three years from the date of issuance unless superseded or cancelled prior to that date.

10. *OFFICE OF PRIMARY INTEREST*. Office of Accounting and Internal Control, Office of the Deputy Chief Financial Officer, Office of the Assistant Secretary for Management and Chief Financial Officer.

Nancy Killefer,

Assistant Secretary for Management and Chief Financial Officer.

[FR Doc. 97–27824 Filed 10–20–97; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12–32]

Delegation of Authority Concerning Personnel Security

October 15, 1997.

1. *Delegation*. Pursuant to section 5 of Treasury Order (TO) 102–17, ''Delegation of Authority Concerning the Personnel Security Program,'' this Directive redelegates to the Director, Office of Security, the authority to exercise and perform all duties, rights, powers, and obligations delegated by that Order. This includes the authority to make all determinations and appointments and to issue any regulations required to implement the

Department's personnel security program established in TO 102–17 (hereafter ''personnel security program''), except:

a. any matter in which, by law, executive order, or regulation of outside agencies, the personal decision of the head of the agency or principal deputy is required; and

b. the Assistant Secretary Management and Chief Financial Officer shall appoint members of any security appeals panel convened pursuant to section 5.2 of Executive Order (E.O.) 12968, ''Access to Classified Information.''

2. *Redelegation.*

a. The Director, Office of Security, shall redelegate to bureau heads and the Inspector General the authority to perform the operating functions relating to personnel security, except as stated in paragraph 2.c. and Section 4 below, but including:

(1) the designation of position sensitivity; and

(2) making determinations of eligibility for access to classified information, and the consequent granting, suspending, denying, and revoking of access to classified information, in conformity with the provisions of E.O. 12968;

b. Any authority so delegated to a bureau head or the Inspector General may be further redelegated, with the concurrence of the Director, Office of Security, within bureau headquarters or the Office of Inspector General.

c. The Assistant Director (Personnel Security), Office of Security, shall perform the operating functions relating to personnel security for the Departmental Offices.

3. *Responsibilities.* The Director, Office of Security, serves as the principal adviser to the Assistant Secretary Management and Chief Financial Officer with respect to the Department's personnel security program, and shall:

a. define the operating functions relating to personnel security and prescribe uniform policies and general procedures in Treasury Department Publication (TD P) 71–10, ''Department of the Treasury Security Manual;''

b. serve as a member of, and chair, any security appeals panel convened pursuant to section 5.2 of E.O. 12968;

c. be responsible for overseeing and implementing the National Industrial Security Program within the Department pursuant to E.O. 12829, ''National Industrial Security Program,'' concerning contractors, subcontractors, vendors, and suppliers requiring access to classified information or material;

d. conduct periodic evaluations of implementation and administration of the personnel security program throughout the Department;

e. represent the Department on all interagency committees and act as liaison with the Security Policy Board, Federal agencies, and the White House concerning personnel security matters; and

f. act as liaison with the Department of Energy on all matters pertaining to clearances for access to information designated ''Restricted Data'' or ''Formerly Restricted Data'' pursuant to the Atomic Energy Act of 1954, as amended.

4. *Reserved Functions.* The following functions are reserved to the Director, Office of Security, and may not be redelegated outside of the Office of Security:

a. receiving all reports of investigations involving loyalty matters on Department of the Treasury employees and potential employees, and directing such matters to appropriate authorities for processing or resolution;

b. assuming jurisdiction for all cases within the Department involving a potential determination that an employee should be suspended, reassigned, or terminated on the grounds that such action is necessary in the interests of the national security pursuant to E.O. 10450, ''Security Requirements for Government Employment,'' and 5 U.S.C. 7532;

c. making disclosure determinations concerning loyalty information contained in personnel security files throughout the Department pursuant to 31 CFR Part 1, including requests for disclosure under the Freedom of Information Act or Privacy Act (5 U.S.C. 552 and 552a); and

d. designating position sensitivity and making determinations of eligibility for access to classified information, and the consequent granting, suspending, denying, and revoking of access to classified information, in conformity with the provisions of E.O. 12968, for the following positions:

(1) all presidential appointees in the Department requiring confirmation by the Senate, and the Inspector General, to the extent of the Department's authority with respect to these officials;

(2) heads of bureaus and their first deputies; and

(3) bureau security officers and any official to whom the authority to grant security clearances has been delegated.

5. *Special Assistant To The Secretary (National Security).* The responsibilities of the Special Assistant to the Secretary (National Security) are not affected by this Directive.

6. *Authorities.*

a. E.O. 10450, ''Security Requirements for Government Employment,'' dated April 27, 1953, as amended.

b. E.O. 12968, ''Access to Classified Information,'' dated August 2, 1995.

c. E.O. 12958, ''Classified National Security Information,'' dated October 17, 1995, as amended.

d. E.O. 12829, ''National Industrial Security Program,'' dated January 6, 1993, as amended.

e. 5 U.S.C. 7531–7533.

f. TO 102–17, ''Delegation of Authority Concerning the Personnel Security Program,'' dated May 2, 1996.

7. *References.*

a. TD P 71–10, ''Department of the Treasury Security Manual.''

b. The Atomic Energy Act of 1954 (42 U.S.C. 2011).

c. Presidential Decision Directive 29, ''Security Policy Coordination,'' dated September 16, 1994.

8. *Cancellation.* TD 12–32, ''Delegation of Authority Concerning Personnel Security,'' dated January 10, 1995, is superseded.

9. *Expiration Date.* This Directive expires three years after the date of issuance unless cancelled or superseded by that date.

10. *Office of Primary Interest.* Office of Security, Office of the Assistant Secretary for Management and Chief Financial Officer.

Nancy Killefer,

Assistant Secretary for and Chief Financial Officer.

[FR Doc. 97–27823 Filed 10–20–97; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–112–88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–112–88 (TD 8337), Allocation and Apportionment of Deduction for State Income Taxes (§ 1.861–8(e)(6)).

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation and Apportionment of Deduction for State Income Taxes.

OMB Number: 1545–1224.

Regulation Project Number: INTL–112–88.

Abstract: This regulation provides guidance on when and how the deduction for state income taxes is to be allocated and apportioned between gross income from sources within and without the United States in order to determine the amount of taxable income from those sources. The reporting requirements in the regulation affect those taxpayers claiming foreign tax credits who elect to use an alternative method from that described in the regulation to allocate and apportion deductions for state income taxes.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–27866 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–43–94]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, FI–43–94 (TD 8649), Regulations Under Section 1258 of the Internal Revenue Code of 1986; Netting Rule for Certain Conversion Transactions (§ 1.1258–1).

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Regulations Under Section 1258 of the Internal Revenue Code of 1986; Netting Rule for Certain Conversion Transactions.

OMB Number: 1545–1452.

Regulation Project Number: FI–43–94.

Abstract: Internal Revenue Code section 1258 recharacterizes capital gains from conversion transactions as ordinary income to the extent of the time value element. This regulation provides that certain gains and losses may be netted for purposes of determining the amount of gain recharacterized. To be eligible for netting relief, the taxpayer must identify on its books and records all the positions that are part of the conversion transaction. This must be done before the close of the day on which the positions become part of the conversion transaction.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–27867 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–54–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, IA–54–90 (TD 8459), Settlement Funds (§§ 1.468B–1, 1.468B–2, 1.468B–3, and 1.468B–5.

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Settlement Funds.

OMB Number: 1545–1299.

Regulation Project Number: IA–54–90.

Abstract: This regulation prescribes reporting requirements for settlement funds, which are funds established or approved by a governmental authority to resolve or satisfy certain liabilities, such as those involving tort or breach of contract. The regulation relates to the tax treatment of transfers to these funds, the taxation of income earned by the funds, and the tax treatment of distributions made by the funds.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 2 hours, 22 minutes.

Estimated Total Annual Burden Hours: 3,542.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 15, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–27868 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–81–88]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, EE–81–88 (T.D. 8599), Deductions for Transfers of Property (§ 1.83–6(a)).

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Deductions for Transfers of Property.

OMB Number: 1545–1448.

Regulation Project Number: EE–81–88.

Abstract: Section 1.83–6(a) of the regulation provides that when property is transferred in connection with the performance of services, the recipient of service may claim a deduction for the amount included as compensation in the gross income of the service provider. The service provider will be deemed to have included an amount in gross income if the service recipient provides a timely Form W–2 or 1099, as appropriate.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

The estimated annual burden of reporting will be reflected in the reporting requirements for Forms W–2 and 1099–MISC.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 10, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–27869 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–78–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, PS–78–91 (TD 8430), Procedure for Monitoring Compliance With Low-Income Housing Credit Requirements (§ 1.42–5).

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Procedure for Monitoring Compliance With Low-Income Housing Credit Requirements.

OMB Number: 1545–1291.

Regulation Project Number: PS–78–91.

Abstract: The low-income housing credit under Internal Revenue Code section 42 is allowable only if the owner of a qualified low-income building receives an allocation from a state or local housing credit agency, unless the building is exempt under Code section 42(h)(4)(B). This regulation requires state allocation plans to provide a procedure for state and local housing credit agencies to monitor for compliance with the requirements of Code section 42 and report any noncompliance to the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individual or households, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 3 hours, 45 minutes.

Estimated Total Annual Burden Hours: 18,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 10, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–27870 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–48

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning Revenue Procedure 97–48, Automatic Relief for Late S Corporation Elections.

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Automatic Relief for Late S Corporation Elections.

OMB Number: 1545–1562.

Revenue Procedure Number: Revenue Procedure 97–48.

Abstract: The Small Business Job Protection Act of 1996 provides the IRS with the authority to grant relief for late S corporation elections. This revenue procedure provides that, in certain situations, taxpayers whose S corporation election was filed late can obtain relief by filing Form 2553 and attaching a statement explaining that the requirements of the revenue procedure have been met.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 9, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–27871 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Commissioner's Advisory Group: Public Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public meeting of Commissioner's Advisory Group.

SUMMARY: Public meeting of the Commissioner's Advisory Group (CAG) will be held in Washington, D.C.

DATES: The meeting will be held November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Merci del Toro at (202) 622–5081 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a public meeting of the CAG will be held on November 6, 1997, beginning at 9 a.m., in Room 3313, main IRS building, 1111 Constitution Avenue, NW., Washington, DC. 20224.

The agenda will include the following topics: various IRS issue updates and reports by the CAG subgroups on notification of Appeals rights and process; customer service initiatives; small business issues and initiatives; education and training initiatives; and, Federal tax deposit rules.

Note: Last minute changes to the agenda or order of topic discussion are possible and could prevent effective advance notice.

The meeting will be in a room that accommodates approximately 50 people, including CAG members and IRS officials. Due to the limited conference space and security specifications, notification of intent to attend the meeting must be made with Lorenza Wilds. Ms. Wilds can be reached at (202) 622–6440 (not toll-free). Attendees are encouraged to arrive early to allow enough time to clear security at the 1111 Constitution Avenue, NW entrance.

If you would like to have the CAG consider a written statement, please call (202) 622–5081 or write: Merci del Toro, Office of Public Liaison, C:I, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 3308 IR, Washington, D.C. 20224.

Dated: October 9, 1997

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–27872 Filed 10–20–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on the Future of VA Long-Term Care; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Advisory Committee on the Future of VA Long-Term Care will be held on November 6–7, 1997, at the Department of Veterans Affairs, in Room 230, located at 810 Vermont Avenue, NW, Washington, DC. The purpose of the Committee is to provide professional advice on the present scope and structure of VA's long-term care services, and about changes necessary to ensure that services are available and effective in a future healthcare setting. The Committee will begin at 8:30 a.m. (EDT) and continue until 5:00 p.m. (EDT) on November 6 and will begin at 8:30 a.m. (EDT) and continue until 12:00 noon (EDT) on November 7.

The agenda for November 6 will cover issues of investment in institutional and noninstitutional long-term care services, sub-acute care in long-term care settings, enriched housing options for those in need of assisted living, and care management for a long-term care population.

On November 7 the Committee will continue to review long-term care investment strategies and will discuss priorities for facility construction.

The meeting will be open to the public. Those wishing to attend should contact Jacqueline Holmes, Program Assistant, Geriatrics and Extended Care

Strategic Healthcare Group at 202–273–8539 not later than October 31, 1997.

Dated: October 14, 1997.

By direction of the Secretary-Designate.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–27764 Filed 10–20–97; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday
October 21, 1997

Part II

Environmental Protection Agency

40 CFR Parts 9 and 86

Control of Emissions of Air Pollution From Highway Heavy-Duty Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 86

[AMS–FRL–5908–8]

RIN 2060–AF76

Control of Emissions of Air Pollution From Highway Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The new standards and related provisions contained in this final rule will result in significant progress throughout the country in protecting public health and the environment. In this action, EPA is adopting a new emission standard and related provisions for diesel heavy-duty engines (HDEs) intended for highway operation, beginning with the 2004 model year. The new standard represents a large reduction (approximately 50 percent) in emission of oxides of nitrogen (NO_x), as well as reductions in hydrocarbons (HC) from diesel trucks and buses. The reduction in NO_x will also result in significant reductions in secondary nitrate particulate matter (PM) in areas where levels of nitrate PM are high. For diesel HDEs, EPA is also finalizing changes to the existing averaging, banking, and trading program that provide additional flexibility for manufacturers in complying with the stringent new standards. EPA is also adopting several provisions to increase the durability of emission controls, help ensure proper levels of maintenance, and prevent tampering, including during engine rebuilding. The resulting emission reductions will translate into significant, long-term improvements in air quality in many areas of the U.S. This will provide much-needed assistance to states and regions facing ozone and particulate air quality problems that are causing a range of adverse health effects for their citizens, especially in terms of respiratory impairment and related illnesses.

Although EPA proposed new standards and related averaging, banking, and trading provisions for otto-cycle HDEs (e.g., gasoline-fueled engines), EPA is not taking final action for that category of engines at this time. EPA received several comments urging the Agency to adopt more stringent control measures for these engines than those proposed in the NPRM (June 27, 1996). EPA continues to evaluate the comments received regarding otto-cycle engines and plans to issue a Supplemental Notice of Proposed Rulemaking to address otto-cycle engines specifically.

DATES: This regulation is effective December 22, 1997. The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of December 22, 1997.

ADDRESSES: Materials relevant to this final rule have been placed in Public Docket No. A–95–26. The docket is located at the Air Docket Section, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 (Telephone 202–260–7548; Fax 202–260–4400) in Room M–1500, Waterside Mall, and may be inspected weekdays between 8:00 a.m. and 5:30 p.m. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Chris Lieske, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Rd., Ann Arbor, Michigan 48105. Telephone: (313) 668–4584. Fax: (313) 741–7816.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those that sell new motor vehicles heavy-duty engines in the United States and entities who rebuild/remanufacture such engines. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	New motor vehicle heavy-duty engine manufacturers.
Industry	Heavy-duty engine rebuilders/remanufacturers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your activities are regulated by this action, you should carefully examine the applicability criteria in 40 CFR 86.094–1 and, for engine rebuilders/remanufacturers, § 86.004–40 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Electronic Copies of the Regulatory Documents

The preamble, Summary and Analysis of Comments, regulatory language and Regulatory Impact Analysis are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost you already incur for internet connectivity. The electronic **Federal Register** version is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Web site listed below.

Internet (Web)

http://www.epa.gov/docs/fedrgstr/EPA–AIR/
(either select desired date or use Search feature)

http://www.epa.gov/OMSWWW/
(look in What's New or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Outline and List of Acronyms

The Supplementary Information section of this final rule is organized as follows:

List of Acronyms and Abbreviations

ABT Averaging, banking, and trading
ANPRM Advance Notice of Proposed Rulemaking
ARB Air Resources Board
ATA American Trucking Association
CAA or Act Clean Air Act as amended in 1990
CFR Code of Federal Regulations
DDC Detroit Diesel Corporation
EGR Exhaust gas recirculation
EPA United States Environmental Protection Agency
FRM Final Rulemaking
GVWR Gross vehicle weight rating
HC Hydrocarbons
HDDEs Heavy-duty diesel engines
HDEs Heavy-duty engines
HDVs Heavy-duty vehicles
HHDDEs Heavy heavy-duty diesel engines
HHDVs Heavy heavy-duty vehicles
ICR Information Collection Request
I/M Inspection and Maintenance
LEV Low emissions vehicle
LHDDEs Light heavy-duty diesel engines
LHDVs Light heavy-duty vehicles
MHDDEs Medium heavy-duty diesel engines
MOU Memorandum of Understanding
NAAQS National Ambient Air Quality Standard
NESCAUM Northeast States for Coordinated Air Use Management
NLEV National Low Emissions Vehicle
NMHC Nonmethane hydrocarbons
NO_X Oxides of nitrogen
NPRM Notice of Proposed Rulemaking
NRDC Natural Resources Defense Council
OBD On-bourd diagnotics
OMB Office of Management and Budget
OTAG Ozone Transport Assessment Group
PM Particulate matter
R&D Research and development
RIA Regulatory Impact Analysis
ROM Regional Oxidant Model
SAE Society of Automotive Engineers
SEA Selective Enforcement Audit
SOP Statement of Principles
UAM Urban Airshed Model
VOC Volatile organic compounds

I. Introduction/Summary of Proposal

Air pollution continues to represent a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. This threat exists despite the fact that, over the past two decades, great progress has been made at the local, state and national levels in controlling emissions from many sources of air pollution. As a result of this progress, many individual emission sources, both stationary and mobile, pollute at only a fraction of their pre-control rates. However, continued industrial growth and expansion of motor vehicle usage threaten to reverse these past achievements. Today, many states are finding it difficult to meet the current ozone and PM National Ambient Air Quality Standards (NAAQSs) by the deadlines established in the Act.[1] Furthermore, other states which are approaching or have reached attainment of the current ozone and PM NAAQSs will likely see those gains lost if current trends persist.

In recent years, significant efforts have been made on both a national and state level to reduce air quality problems associated with ground-level ozone, with a focus on its main precursors, oxides of nitrogen (NO_X) and volatile organic compounds (VOCs).[2] In addition, airborne particulate matter (PM) has been a major air quality concern in many regions. As discussed below, ozone and PM have been linked to a range of serious respiratory health problems and a variety of adverse environmental effects.

The states have jurisdiction to implement a variety of stationary source emission controls. In most regions of the country, states are implementing significant stationary source NO_X controls (as well as stationary source VOC controls) for controlling acid rain, ozone, or both. In many areas, however, these controls will not be sufficient to reach and maintain the current ozone standard without significant additional NO_X reductions from mobile sources. Generally, the Clean Air Act specifies that standards for controlling NO_X, HC, and PM emissions from new motor vehicles must be established at the federal level.[3] Thus, the states look to the national mobile source emission control program as a complement to their efforts to meet air quality goals. The concept of common emission standards for mobile sources across the nation is strongly supported by manufacturers, which often face serious production inefficiencies when different requirements apply to engines or vehicles sold in different states or areas.

Motor vehicle emission control programs have a history of technological success that, in the past, has largely offset the pressure from constantly growing numbers of vehicles and miles traveled in the U.S. The per-vehicle rate of emissions from new passenger cars and light trucks has been reduced to very low levels. As a result, increasing attention is now focused on heavy-duty trucks (ranging from large pickups to tractor-trailers), buses, and nonroad equipment.

Since the 1970s, manufacturers of heavy-duty engines for highway use have developed new technological approaches in response to periodic increases in the stringency of emission standards.[4] However, the technological characteristics of heavy-duty engines, particularly diesel engines, have thus far prevented achievement of emission levels comparable to today's light-duty gasoline vehicles. While diesel engines provide advantages in terms of fuel efficiency, reliability, and durability, controlling NO_X emissions is a greater challenge for diesel engines than for gasoline engines. Similarly, control of PM emissions, which are very low for gasoline engines, represents a substantial challenge for diesel engines. Part of this challenge is that most traditional NO_X control approaches tend to increase PM, and vice versa.

Despite these technological challenges, there is substantial evidence of the ability for heavy-duty highway engines to achieve significant additional emission reductions. In their successful efforts to reach lower NO_X and PM levels over the past 20 years, heavy-duty highway diesel engine manufacturers have identified new technologies and approaches that offer promise for significant new reductions. The emerging technological potential for much cleaner diesel heavy-duty engines is discussed elsewhere in this preamble and in the Regulatory Impact Analysis (RIA) associated with this final rule.

Recognizing the need for additional NO_X and PM control measures to address air quality concerns in several

[1] See 42 U.S.C. 7401 *et seq.*

[2] VOCs consist mostly of hydrocarbons (HC).

[3] The CAA limits the role states may play in regulating emissions from new motor vehicles. California is permitted to establish emission control standards for new motor vehicles, and other states may adopt California's programs (Sections 209 and 177 of the Act).

[4] Highway heavy-duty engines, sometimes referred to as highway HDEs, are used in heavy-duty vehicles, which EPA defines as highway vehicles with a gross vehicle weight rating over 8,500 pounds.

parts of the country and the growing contribution of the heavy-duty engine sector to ozone and PM problems, EPA, the California Air Resources Board, and engine manufacturers representing over 90 percent of annual nationwide engine sales signed a Statement of Principles (SOP) in July of 1995. The SOP established a framework for a proposed rulemaking, setting out goals and conditions supported by the signatories. EPA sought early comment on the general regulatory framework laid out in the SOP in an Advance Notice of Proposed Rulemaking (ANPRM) on August 31, 1995 (60 FR 45580) and issued a Notice of Proposed Rulemaking (NPRM) on June 27, 1996 (61 FR 33421).

The centerpiece of EPA's proposal was a new NO_X plus nonmethane hydrocarbon standard (NMHC) of 2.4 g/bhp-hr (or 2.5 g with a 0.5 g NMHC cap) for 2004 and later model years, which represents over a 50 percent reduction from the 1998 NO_X and HC standard of 4.0 g/bhp-hr and 1.3 g/bhp-hr, respectively. EPA proposed the standard for both diesel and otto-cycle (primarily gasoline-fueled) engines. EPA requested comment on options for more stringent control of emissions from otto-cycle engine in response to comments received by the Agency on the ANPRM. Because the standards would require the use of technologies not yet fully developed and proven, EPA also proposed to reopen the rulemaking in 1999 and review the appropriateness of the standards.

In addition, EPA proposed several other provisions. To provide critical flexibility to the manufacturers and help ease their transition to the new standards, EPA proposed a modified averaging, banking, and trading (ABT) program. The proposed program was viewed to be tied directly to the stringency of the standard. In the NPRM, the Agency stressed that the program changes would allow manufacturers to reasonably achieve a more stringent standard earlier than without the changes. EPA proposed a modified program for model years 1998 through 2006, with the current ABT program resuming in 2007. Under the proposed modified program, engine manufacturers could earn undiscounted, unlimited life NO_X and PM credits for use in meeting the 2004 standards. The current program requires a one-time 20 percent discount on any credits traded or banked for future use and limits credit life to 3 years. For the modified program, EPA also proposed that manufacturers maintain at least a 5 percent compliance margin, unless they had data to support the use of a smaller margin.

EPA also proposed several provisions to help ensure adequate durability of emissions controls and proper maintenance and repair of emissions controls during the life of the engine, including during engine rebuilding. EPA viewed the proposals as necessary because the proposed standards would likely prompt manufacturers to add emissions control technologies, such as exhaust gas recirculation and exhaust aftertreatment. The failure of such systems would not necessarily cause decreased engine performance. Thus, EPA could not be certain that failure of emissions control systems would prompt the owner to perform repairs. Additionally, the proposed changes were intended to update existing requirements to consider recent increases in engine life.

The primary proposals for updating existing regulations included a proposed increase in the useful life mileage interval for heavy heavy-duty engines from 290,000 miles to 435,000 miles, an increase in the minimum allowable maintenance intervals for several emissions related components, and changes in the emissions defect and performance warranties. EPA also proposed provisions to help ensure that emission controls are properly addressed during the process of engine rebuilding and not removed or otherwise dismantled.

This preamble is organized as follows: Section II. describes the need for control and air quality benefits associated with the final rule, Section III. describes in detail the standards and all other provisions being finalized; Section IV. describes each of the proposals, key comments received by EPA, and any changes to the proposals as a result of those comments; Section V. reviews the results of EPA's economic analyses; The remaining preamble sections pertain to administrative requirements, statutory authority, judicial review, and more information on how to obtain copies of rulemaking documents. The actual regulatory language follows the preamble.

II. Need for Control and Air Quality Benefits of This Rule

The new emission standards for highway HDEs that EPA is issuing today represent a major step in reducing the human health and environmental impacts of ground-level ozone and a significant contribution to reducing secondary nitrate particulate matter (PM). This section summarizes the air quality rationale for these new standards and their anticipated impact on heavy-duty vehicle emissions.

A. Ozone

There is a large body of evidence showing that ozone (which is caused by the photochemical reaction of NO_X and VOCs) causes harmful respiratory effects including chest pain, coughing, and shortness of breath, affecting people with compromised respiratory systems and children most severely. In addition, NO_X itself can directly harm human health. Beyond their human health effects, other negative environmental effects are also associated with ozone and NO_X. Ozone has been shown to injure plants and materials; NO_X contributes to the secondary formation of PM (nitrates), acid deposition, and the overgrowth of algae in coastal estuaries. These environmental effects, as well as the health effects noted above, are described in the Regulatory Impact Analysis. (Additional information may be found in EPA's ''staff papers'' and ''air quality criteria'' documents for ozone and nitrogen oxides[5 6 7 8]).

Today, many states are finding it difficult to show how they can meet or maintain compliance with the current National Ambient Air Quality Standard (NAAQS) for ozone by the deadlines established in the Act.[9] There are 66 areas currently designated ''nonattainment'' for ozone.

Local, state and federal organizations charged with delivering cleaner air have mounted significant efforts in recent years to reduce air quality problems associated with ground-level ozone, and there are signs of partial success. The main precursors of ozone, oxides of nitrogen (NO_X) and volatile organic compounds (VOCs)[10] appear to have been reduced, and average levels of ozone seem to have begun gradually decreasing. However, this progress is in jeopardy. EPA projects that reductions in ozone precursors that will result from the full implementation of current emission control programs will fall far short of what would be needed to offset the normal emission increases that accompany economic expansion. By the middle of the next decade, the Agency expects that the downward trends will have reversed, primarily due to

[5] U.S. EPA, 1996, Review of National Ambient Air Quality Standards for Ozone, Assessment of Scientific and Technical Information, OAQPS Staff Paper, EPA–452/R–96–007.

[6] U.S.EPA, 1996, Air Quality Criteria for Ozone and Related Photochemical Oxidants, EPA/600/P–93/004aF.

[7] U.S. EPA, 1995, Review of National Ambient Air Quality Standards for Nitrogen Dioxide, Assessment of Scientific and Technical Information, OAQPS Staff Paper, EPA–452/R–95–005.

[8] U.S.EPA, 1993, Air Quality Criteria for Oxides of Nitrogen, EPA/600/8–91/049aF.

[9] See 42 U.S.C. 7401 *et seq.*

[10] VOCs consist mostly of hydrocarbons (HC).

increasing numbers of emission sources. By around 2020, EPA expects that NO_X levels will have returned to current levels in the absence of significant new reductions.[11] To the extent that some areas are seeing a gradual decrease in ozone levels in recent years, EPA believes that the expected increase in NO_X will likely result in an increase in ozone problems in the future.

NO_X controls are an effective strategy for reducing ozone where its levels are relatively high over a large region (as in the Northeast and much of the Midwest, Southeast, and California). EPA and states see control of NO_X emissions as a key to improving regional-scale air quality in many parts of the country, in addition to local-scale VOC and NO_X controls. Specifically, EPA believes that regional-scale reductions in NO_X emissions will be necessary for many areas to attain and maintain compliance with the current ozone NAAQS. For the regions listed above, the NO_X reductions needed are very large (greater than 50 percent from base 1990 emissions in many cases). New programs to control emissions from both stationary and mobile sources will be necessary in most of these areas, since it is unlikely that cost effective controls of this magnitude can be achieved with either source category alone. Although in some locations and circumstances moderate reductions in local NO_X emissions may be associated with localized increases in ozone, the Agency is convinced that the ultimate attainment goal of all nonattainment areas necessitates continued reduction of regional-scale NO_X emissions.

The new emission standards for highway HDEs issued in today's rule are intended to address the effects of ozone (and also PM, as discussed below) through substantial regional-scale reductions in NO_X throughout the country. EPA projects that the nationwide NO_X reduction by 2020 will be approximately 1.1 million tons per year, or about 9.5 percent of projected 2020 mobile source NO_X emissions and 4.5 percent of all 2020 NO_X emissions. This is shown in Figure 1 and is discussed in detail in the RIA for this rule. The Agency also expects that small NMHC reductions will also result from this program. EPA has designed this program to play a significant role in reducing ozone levels in many areas of the country in concert with other mobile source and stationary source ozone reduction programs at the federal, state, and local levels.

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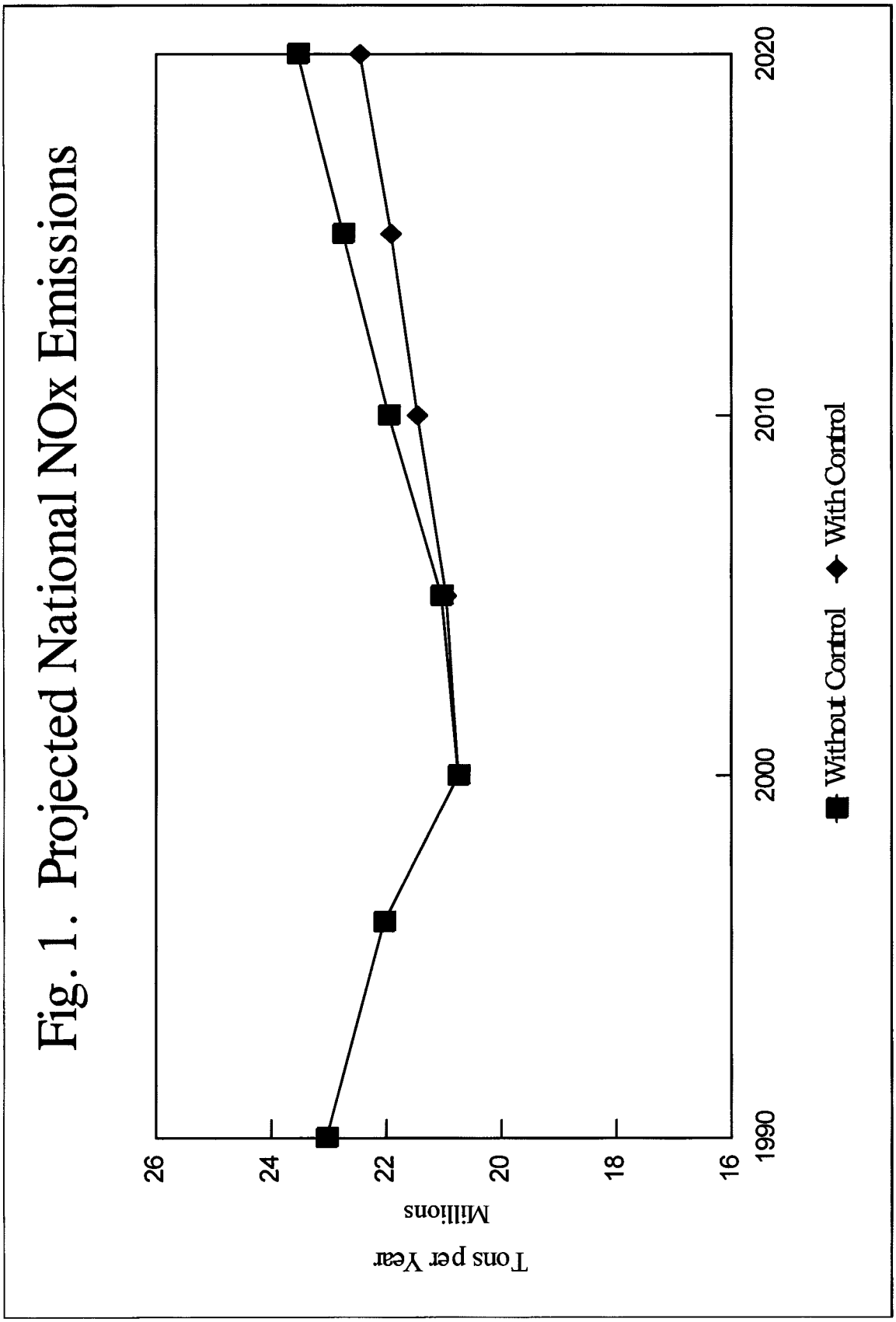
[11] See Chapter 2 of the Regulatory Impact Analysis associated with this rule.



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B. Particulate Matter

Particulate matter, like ozone, has been linked to a range of serious respiratory health problems. Particles are deposited deep in the lungs and result in effects including premature death, increased hospital admissions and emergency room visits, increased respiratory symptoms and disease, decreased lung function (particularly in children and individuals with asthma), and alterations in lung tissue and structure and in respiratory tract defense mechanisms. These effects are discussed further in the RIA for this rule. (Additional information may be found in EPA's ''staff paper'' and ''air quality criteria document'' for particulate matter.[12] [13])

Currently, there are 80 PM–10 nonattainment areas across the U.S. (PM–10 refers to particles smaller than 10 microns in diameter). As is the case with NO_X, levels of PM caused by mobile sources are also expected to rise in the future. EPA believes that this projected increase will occur both because of the expected increase in numbers of PM sources, including diesel engines, and because NO_X from heavy-duty diesels and other sources is transformed in the atmosphere into fine secondary nitrate particles.

Secondary nitrate PM accounts for a substantial fraction of the airborne particulate in some areas of the country, especially in the West. Measurements of ambient PM in some western U.S. urban areas that are having difficulty meeting the current NAAQS for PM–10 have indicated that secondary PM is a very important component of the problem. Secondary nitrate PM (consisting mostly ammonium nitrate) is the major constituent of this secondary PM. For example, in Denver, on days when PM levels are high, about 25 percent of the measured PM–2.5 is ammonium nitrate. In the Provo/Salt Lake City area, secondary PM comprises about 40 percent of the measured PM–10. Similarly, in the Los Angeles Basin, secondary nitrate PM levels represent about 25 percent of measured PM–10.[14] Nitrate PM constitutes a smaller, but often important, fraction of PM in other areas of the country.

Because the atmospheric chemistry of secondary PM formation has common attributes to that of ozone, secondary PM also tends to be a regional, rather than a strictly local phenomenon. For this reason, EPA believes that regional-scale NO_X controls, including control of mobile NO_X sources, are very effective in reducing secondary PM over a significant area. For example, California's PM SIPs for serious areas conclude that secondary formation of nitrate particulate due to regional-scale NO_X emissions contributes to the particulate problem in the South Coast Air Basin, Coachella Area, and the San Joaquin Valley.[15] EPA and the State of California believe that reduction of this fraction of the total PM will require additional regional-scale reductions in NO_X emissions.

The primary effect of the standards promulgated in this Notice on ambient PM levels will occur as a result of the large anticipated reductions in NO_X. EPA expects that the resulting reductions in secondary PM will be significant, especially in areas of the West where nitrate PM is a major contributor to overall PM levels. In the proposal, EPA estimated on the basis of existing information that 100 tons of NO_X will on average result in the formation of about 4 tons of nitrate PM. EPA recently evaluated this effect in more detail.[16] The report's conclusions confirmed EPA's earlier estimate, also concluding that 100 tons of NO_X reduction will on average result in about 4 tons of secondary PM reduction. (The conversion rate varies from region to region, and is greatest in the West.). Based on the average conversion rate, EPA estimates that the approximately 1.1 million tons per year of NO_X reduction from today's rule by 2020 will result in a national average reduction in secondary PM of about 44,000 tons per year. This estimated average nitrate PM reduction is similar in magnitude to that which would result from reducing the diesel PM emission standard by half.[17]

III. Content of the Final Rule

The following is a concise description of the regulations being adopted in this final rule, with any changes from the proposal also noted. A summary of the proposal is contained in preamble Section I., above. A full description of the proposals, supporting rationale for these actions, and response to comments are contained in the Summary and Analysis of Comments for the rule. Preamble section IV., Public Participation, also provides additional information.

A. Emission Standards

1. Standard Levels

EPA is adopting the proposed NMHC+NO_X emission standards for on-highway heavy-duty diesel-cycle engines fueled by diesel, methanol, and gaseous fuels and their blends. These standards apply to model year 2004 and later. Engine manufacturers will have the choice of certifying heavy-duty diesel engines to either of two optional sets of standards:

2.4 g/bhp-hr NMHC+NO^x, or
2.5 g/bhp-hr NMHC+NO_X with a limit of 0.5 g/bhp-hr on NMHC.

All emissions standards other than NMHC and NO_X applying to 1998 and later model year heavy-duty engines continue at their 1998 levels. No new standards are being finalized for on-highway heavy-duty otto-cycle engines.

2. 1999 Review

EPA is also finalizing today a regulatory provision providing for 1999 review of the standard levels finalized in this rule. As proposed, this review will reassess the appropriateness of the standards under the Clean Air Act including the need for and technical and economical feasibility of the standards based on information available in 1999. If during the review EPA concludes that a revision is appropriate, a rulemaking will be conducted to determine the appropriate level for the model year 2004 and later standards. The standards finalized today will stay in effect unless revised by this subsequent rulemaking procedure. In addition, EPA, together with the oil and engine industries, is engaged in assessing the potential impact of fuel changes on emissions from 2004 and later model year diesel engine technology.

The 1999 review process has the potential of either tightening or relaxing the standards finalized today. If due to new information in 1999 EPA finds the standards to not be technologically feasible for model year 2004 or otherwise not in accordance with the Act, then EPA expects to propose adjusted standards which do not exceed the following:

[12] U.S. EPA, 1996, Review of National Ambient Air Quality Standards for Particulate Matter, Assessment of Scientific and Technical Information, OAQPS Staff Paper, EPA–452/R–96–013.

[13] U.S.EPA, 1996, Air Quality Criteria for Particulate Matter, EPA/600/P–95/001aF.

[14] Summary of Local-Scale Source Characterization Studies, EPA–230–S–95–002, July, 1994.

[15] Memorandum to the docket from Carol Bohnenkamp, EPA Region 9, regarding regional nature of secondary nitrate PM in California, July 30, 1997. Docket A–95–27.

[16] Benefits of Mobile Source NO_X Related Particulate Matter Reductions, October 1996, EPA Contract No. 68–C5–0010.

[17] Based on the following calculation: The difference between the 1998 and 2004 HDE NO_X standards is nominally 2.0 g/bhp-hr (4.0 vs. 2.0 g/bhp-hr). Using the above estimated average factor of 4% of NO_X being converted to secondary PM, an equivalent reduction in secondary PM of 0.08 g/bhp-hr can be estimated. This reduction in secondary PM compares to the roughly 0.05 g/bhp-hr that potentially would result from a reduction in the HDE PM standard from 0.1 to 0.05 g/bhp-hr.

2.9 g/bhp-hr NMHC+NO^x or

3.0 g/bhp-hr NMHC+NO^x with a limit of 0.6 g/bhp-hr NMHC

EPA believes that the 2004 model year standards being finalized today are technologically feasible without any changes to diesel fuel. As part of the 1999 review, EPA will evaluate in light of any new information whether diesel fuel improvements are needed for the standards to be appropriate for 2004. If EPA finds that diesel fuel changes are needed to meet the standards finalized here and if EPA believes such changes would be a cost-effective method for reducing emissions and appropriate under section 211 of the Clean Air Act, then EPA will address the potential for fuel improvements through a separate rulemaking which will include a separate cost-effectiveness analysis and opportunity for public comment. However, if EPA were to determine in the 1999 review that the feasibility of the standards requires diesel fuel changes and EPA does not engage in a rulemaking to require such changes, EPA expects to propose adjusted standards which do not exceed the following:

3.4 g/bhp-hr NMHC+NO^x or

3.5 g/bhp-hr NMHC+NO^x with a limit of 0.7 g/bhp-hr on NMHC

Based on the technical analysis in the RIA, the levels described above represent upper limits for any potential revisions. Because EPA does not at this point predict further breakthroughs in innovative emission reduction technology for mass production in the 2004 time frame which would allow for a standard lower than that being finalized, a lower limit is not predicted at this time. However, if EPA determines that lower standards are technologically feasible and appropriate under the Clean Air Act, EPA expects to propose those lower standards.

3. NMHC Measurement

For heavy-duty diesel engines, EPA is allowing three options to the measurement procedures currently in place for alternative fueled engines. They are as follows: (1) Use a THC measurement in place of an NMHC measurement; (2) use a measurement procedure specified by the manufacturer with prior approval of the Administrator; or (3) subtract two percent from the measured THC value to obtain an NMHC value. The methodology must be specified at time of certification and will remain the same for the engine family throughout the engines' useful life.

For natural gas vehicles, EPA is allowing the option of measuring NMHC through direct quantification of individual species by gas chromatography.

4. Non-Conformance Penalties

Section 206(g) of the Clean Air Act requires EPA to allow a HDE manufacturer to receive a certificate of compliance for an engine family which exceeds the applicable standard (but does not exceed an upper limit) if the manufacturer pays a non-conformance penalty established by EPA through rulemaking. The NCP program established through rulemaking is codified in Subpart L of 40 CFR Part 86. EPA plans to address provisions related to NCPs for the 2004 model year standards in conjunction with the 1999 review discussed above.

B. In-Use Emissions Control Elements

EPA is finalizing provisions to enhance the control of emissions from in-use vehicles subject to the new model year 2004 standards. Where noted, some of the provisions below also apply to 2004 and later model year otto-cycle engines. The in-use provisions include both: (1) Revisions of existing regulations, including useful life, emissions-related maintenance, and emissions defect and performance warranties, and (2) new provisions regarding maintenance and repair of emissions controls after the end of the useful life, including manufacturer requirements and engine rebuild provisions. All of the following changes to the regulations are effective beginning with the 2004 model year.

1. Useful Life

EPA is finalizing a revised useful life for the heavy heavy-duty diesel engine service class of 435,000 miles, 22,000 hours, or 10 years, whichever occurs first, for all pollutants beginning in model year 2004.[18] In response to comments, EPA has modified the useful life for heavy heavy-duty engines from the proposal by increasing the hours interval and removing a minimum mileage interval. EPA proposed a useful life of 435,000 miles, 13,000 hours, or ten years whichever occurred first, but in no case less than 290,000 miles. As proposed, EPA is also establishing a useful life years interval of 10 years for all heavy-duty engine service classes, otto-cycle and diesel-cycle, and all pollutants.

2. Emissions Related Maintenance

EPA is finalizing the changes to emission related maintenance intervals shown in Table 1, with compliance beginning in 2004. The intervals are in miles or hours, whichever occurs first. The term ''Add-on emissions-related component'' is being defined as a component whose sole or primary purpose is to reduce emissions or whose failure will significantly degrade emissions control and whose function is not integral to the design and performance of the engine. EPA is not changing the interval for EGR filters and coolers from its current interval of 50,000 miles (1,500 hours). The maintenance interval changes are being finalized as proposed.

TABLE 1—CHANGES TO MINIMUM EMISSION-RELATED MAINTENANCE INTERVALS

Intended service class	Component or system	Change to minimum maintenance interval
Otto-cycle engines	EGR system (except filters and coolers).	Increase from 50,000 miles (1,500 hours) to 100,000 miles (3,000 hours).
Light HDDEs	EGR system (except filters and coolers).	Increase from 50,000 miles (1,500 hours) to 100,000 miles (3,000 hours).
	—Add-on emission-related components.	Establish 100,000 mile (3,000 hour) interval.
	—Catalytic converter	
Medium and heavy HDDEs	EGR system (except filters and coolers).	Increase from 50,000 miles (1,500 hours) to 150,000 miles (4,500

[18] Note that for an individual engine, if the useful life hours interval is reached before the engine reaches 10 year or 100,000 miles, the useful life shall become 10 years/100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d). EPA believes that this provision will be used only very rarely, if ever, given the usage patterns of affected vehicles.

TABLE 1—CHANGES TO MINIMUM EMISSION-RELATED MAINTENANCE INTERVALS—Continued

Intended service class	Component or system	Change to minimum maintenance interval
	—Add-on emission-related components. —Catalytic converter	Establish 150,000 mile (4,500 hour) interval.

3. Emissions Defect and Performance Warranties

Currently, the emissions defect and emissions performance warranty periods are specified in hours and miles intervals. The regulations also provide that the warranty periods for highway HDEs may in no case be less than the manufacturer's basic mechanical warranty period for the engine family.[19] However, manufacturers often provide extended warranties for individual engines. EPA proposed that the warranty period be at least as long as the basic mechanical warranty of the engine, whether it be the published warranty for the engine family or a longer warranty provided to the engine purchaser. In response to comments, EPA is revising the regulations regarding the warranty period as follows. The warranty period shall not be less than the basic mechanical warranty of the particular engine as provided to the purchaser. Thus, the warranty shall be longer than that published for the engine family in cases where a manufacturer provides to the customer a longer basic mechanical warranty for a particular engine. Extended warranties on select parts do not extend the emissions warranty requirements for the entire engine but only for those parts. Also, in cases where responsibility for an extended mechanical warranty is shared between the owner and the manufacturer, the manufacturer is responsible only for their share of the emissions warranty per the warranty agreement. These changes to the warranty provisions apply to both diesel and otto-cycle engines.

4. Additional Manufacturer Requirements

EPA proposed modest new manufacturer requirements which may increase the likelihood of emissions related maintenance being performed when needed after the end of the engine's useful life by providing information to the vehicle owner. EPA received only supportive comments on these proposals. Therefore, all of the following manufacturer requirements are being finalized as proposed for both diesel and otto-cycle engines.

Engine manufacturers provide owners with manuals specifying maintenance needed to ensure proper engine operation. Starting in 2004, EPA is requiring that manufacturers include in the engine service manual, maintenance which may be needed for emissions related components after the end of the engine's regulatory useful life, including mileage/hours intervals and procedures for determining whether or not maintenance or repair is needed. The recommended practices must also include instructions for accessing and responding to any emissions-related diagnostic codes that may be stored in on-board monitoring systems. The recommended maintenance practices may be based on engineering analysis or other sound technical rationale. In the event that an emission-related component is designed not to need maintenance during the full life of the vehicle, the manual would need to contain, at a minimum, a description of the component, noting its purpose, and a statement that the component is expected to last the life of the vehicle without maintenance or repair. In addition, manufacturers are required to include in the manual the rebuild provisions being adopted by the Agency, as described below, to ensure that owners and rebuilders are aware of the requirements.

Under existing regulations, manufacturers must ensure that critical emissions-related scheduled maintenance has a reasonable likelihood of being performed in-use. Manufacturers may elect to provide such assurance by using some form of on-board driver notification when maintenance is needed on a critical emission related component.[20] The signal may be triggered either based on mileage intervals or component failure. It is currently considered a violation of the Clean Air Act's prohibition on tampering (Section 203(a)(3)) to disable or reset the signal without also performing the indicated maintenance procedure.[21]

EPA is finalizing a requirement that manufacturers of 2004 and later model year engines electing to use such signal systems to ensure that critical emissions-related maintenance has a reasonable likelihood of being performed must design the systems so that they do not cease to function at or beyond the end of the regulatory useful life. For example, if the signal is designed to be actuated based on mileage intervals, it must be designed to continue to signal the driver at the same intervals after the end of the useful life. EPA will not, however, hold the manufacturer responsible or liable for recall due to signal failure in instances where the signal fails to function as designed beyond the end of the useful life. Manufacturer recall liability is limited to failures during the regulatory useful life under section 207 of the Clean Air Act. (The manufacturer is also not responsible for repairs when the signal does function after the end of the useful life unless such repairs are covered by the emission warranty.)

5. Engine Rebuilding Provisions

Clean Air Act section 203(a)(3) states that it is prohibited for ''any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine'' in compliance with regulations, either before or after its sale and delivery to the ultimate purchaser. 42 U.S.C. 7522 (a)(3)(A). EPA commonly refers to violations of this provision of the Clean Air Act as tampering. Engine rebuilding practices are currently addressed in general terms under EPA policies established under Clean Air Act section 203(a)(3) regarding tampering. The Agency has established a policy that when switching heavy-duty engines the new engine must be ''identical to a certified configuration of a heavy-duty engine of the same or newer model year''.[22] EPA has also established policies regarding the use of aftermarket parts during rebuild.[23] EPA is codifying these policies as they apply to engine rebuilding, and also finalizing new measures, as follows, for both diesel and otto-cycle engines.

[19] 40 CFR 86.094–2(f).

[20] 40 CFR 86.094–25(b)(6)(ii)(C).

[21] 40 CFR 86.094–25(b)(6)(iii).

[22] Engine Switching Fact Sheet, April 2, 1991. Docket A–95–27, II–B–6.

[23] ''Interim Tampering Enforcement Policy'', Mobile Source Enforcement Memorandum No. 1A., June 25, 1974. Docket A–95–27, II–B–5.

Under the regulatory provisions finalized today, parties involved in the process of rebuilding or remanufacturing model year 2004 and later engines (which may include the removal of the engine, rebuilding, assembly, reinstallation and other acts associated with engine rebuilding) must follow the provisions described below to avoid the actions being characterized as tampering with the engine and its emissions controls:

(1) During engine rebuilding, parties involved must have a reasonable technical basis for knowing that the rebuilt engine is equivalent, from an emissions standpoint, to a certified configuration (i.e., tolerances, calibrations, specifications) and the model year(s) of the engine configuration must be identified. A reasonable basis would exist if:

(a) Parts used when rebuilding an engine, whether the part is new, used, or rebuilt, is such that a person familiar with the design and function of motor vehicle engines would reasonably believe that the part performs the same function with respect to emissions control as the original part, *and*

(b) Any parameter adjustment or design element change is made only (i) in accordance with the original engine manufacturer's instructions or (ii) where data or other reasonable technical basis exists that such parameter adjustment or design element change, when performed on the engine or similar engines, is not expected to adversely affect in-use emissions.

(2) When an engine is being rebuilt and remains installed or is reinstalled in the same vehicle, it must be rebuilt to a configuration of the same or later model year as the original engine. When an engine is being replaced, the replacement engine must be an engine of (or rebuilt to) a configuration of the same or later model year as the original engine.

(3) At the time of rebuild, emissions-related codes or signals from on-board monitoring systems may not be erased or reset without diagnosing and responding appropriately to the diagnostic codes, regardless of whether the systems are installed to satisfy EPA requirements under 40 CFR 86.094–25 or for other reasons and regardless of form or interface. Diagnostic systems must be free of all such codes when the rebuilt engines are returned to service. Further, such signals may not be rendered inoperative during the rebuilding process.

(4) When conducting an in-frame rebuild or the installation of a rebuilt engine, all emissions-related components not otherwise addressed by the above provisions must be checked and cleaned, repaired, or replaced where necessary, following manufacturer recommended practices.

Any person or entity engaged in the process, in whole or in part, of rebuilding engines who fails to comply with the above provisions shall be liable for tampering in violation of CAA section 203(a)(3). Parties are responsible for the activities over which they have control and as such there may be more than one responsible party for a single engine in cases where different parties perform different tasks during the engine rebuilding process (e.g., engine rebuild, full engine assembly, installation). EPA is not finalizing any certification or in-use emissions requirements for the rebuilder or engine owner.

In response to comments, EPA has removed proposed provisions requiring that the rebuilder or remanufacturer rebuild engines to the same or newer model year configuration when the engine is not going to be placed back into the original vehicle. EPA has also modified rebuild provision (2) which, in the proposal, read ''A replacement engine must be of (or rebuilt to) a configuration of the same or later model year engine. Thus, in addition, under the proposed regulations a party supplying a rebuilt engine would be prohibited from supplying a replacement engine that is not rebuilt to a configuration of the same or later model year as the trade-in engine.'' Provision (2) was modified because the language regarding ''a party supplying a rebuilt engine'' could be construed to mean an engine remanufacturer or other party not working directly with the vehicle. EPA believes that parties not working directly with the vehicle should not have an obligation to ensure that the correct engine is placed in the vehicle.

EPA is adopting minor recordkeeping requirements which EPA believes are in-line with customary business practices and which will assist EPA in assessing compliance with the new rebuild provisions. The records shall be kept by persons involved in the process of heavy-duty engine rebuilding or remanufacturing and shall include the mileage and/or hours at time of rebuild and a list of the work performed on the engine and related emission control systems including a list of replacement parts used, engine parameter adjustments, design element changes, emissions related codes and signals that are responded to and reset and the response to the signals and codes, and work performed as described in item (4) of the rebuild provisions above. EPA is requiring such records to be kept for two years after the engine is rebuilt.

Parties may keep the information in whatever format or system they choose, provided that the information can be understood by an EPA enforcement officer. Parties are not required to keep information that they do not have access to as part of normal business practices.

If it is customary practice to keep records for engine families rather than specific engines, where the engines within that family are being rebuilt or remanufactured to an identical configuration, such recordkeeping practices would satisfy these requirements. Rebuilders can use records such as build lists, parts lists, and engineering parameters that they keep for the engine families being rebuilt rather than on individual engines, provided each engine is rebuilt in the same way to those specifications. In addition, rebuilders are not required to keep information on each individual emissions related diagnostic code that might be reset if the codes are always addressed through a set of uniform procedures that are followed during the rebuilding process. For example, if an engine is equipped with a sensor that monitors the EGR flow rate, the rebuilder may keep on record the specifications and procedures used to rebuild the EGR system in all instances. EPA expects that engine remanufacturers currently keep these types of records in order to control the quality of their products.

In the NPRM, EPA explained that it was considering adopting minor recordkeeping requirements in the final rule. In response to comments, EPA has modified the contemplated recordkeeping requirements to: (1) Further clarify that records may be kept on an engine family basis, (2) allow parties to keep information in whatever format or system they choose, provided that the information can be understood by an EPA enforcement officer, and (3) not require parties to keep information that they do not have access to as part of normal business practices.

C. Revised Averaging, Banking, and Trading Provisions

EPA is finalizing with revisions various modifications to the ABT program. EPA believes this program is an important element in making the stringent emissions standards adopted today appropriate with regard to technological feasibility, lead time, and cost. The ABT program provides important flexibility to manufacturers, helping them to transition their entire product lines to the new standards. The ABT program also encourages the early

introduction of cleaner engines, thus securing earlier emissions benefits. The modified ABT program being implemented by EPA for 1998 and later model year engines applies only to diesel cycle engines. EPA proposed but is not finalizing the modified ABT program for otto-cycle engines. (The ABT program implemented in 1990 remains in effect for otto-cycle engines). The provisions being finalized for the modified ABT program are described below. As proposed, the modified program and current program are separate and engines cannot participate in both programs. Credits generated under the modified program may be used only in 2004 and later model years. As was proposed, credits generated between 1998 and 2003 are based on NO_X only, not NMHC+NO_X, and are calculated against the 4.0 g/BHP-hr NO_X emission standard. Diesel PM credits are based on reductions beyond the 0.10 g/BHP-hr emission standard for truck engines and the 0.05 g/BHP-hr emission standard for urban buses. Credits earned under the modified program may be transferred to the current program but would then be subject to the current program's credit life limit of three years from model year of generation and a one-time 20 percent discount.

For the modified program between 1998 and 2003, for engine families certified at NO_X levels ≤3.5 g/BHP-hr, no discount will be applied to any NO_X or PM credits generated for banking or trading. For engine families certified at NO_X levels above 3.5 g/BHP-hr, a one-time 10 percent discount will be applied to all credits generated for banking and trading against the model year 2004 standards, both NO_X and PM. For example, if an engine family is certified to a NO_X level of 3.7 in the modified program, the manufacturer will earn only 0.27 g/bhp-hr (0.3x.9) credit for use in meeting the 2004 standard. The credit life for credits under the modified program is unlimited.

Beginning in 2004, the form of the standard changes from separate HC and NO_X standards to a combined NMHC+NO_X standard. Therefore, starting in 2004, credits will be based on combined NMHC+NO_X values. NMHC+NO_X credits will be generated against the 2.4 g/BHP-hr standard. Diesel PM credits will continue to be generated against the 0.10 g/BHP-hr emission standard for truck engines and the 0.05 g/BHP-hr emission standard for urban buses. For engine families certified with NMHC+NO_X levels at or below 1.9 g/BHP-hr, credits will not be discounted. Credits for banking and trading will be discounted by 10 percent for engines with certification levels above 1.9 g/bhp-hr NMHC+NO_X with the following exception: carry-over engine families certified prior to 2004 with NO_X+NMHC certification levels below the 2004 standards may earn undiscounted credits through model year 2006. For model year 2007 and thereafter, the 10 percent discount applies. As with credits generated in the modified program prior to 2004, there will be no limit on credit life for credits generated after 2004 under the modified program. As proposed, the upper limits for NMHC+NO_X and PM certification will be 4.5 g/BHP-hr and 0.25 g/BHP-hr, respectively. That is, no engine family may use credits to establish FELs above either of these levels.

For reasons discussed later in this document, as well as in the Summary and Analysis of Comments, the provisions regarding credit life and discounting differ somewhat from those proposed. EPA proposed no discounting or credit life limits for the modified program. EPA also proposed that the modified program end in 2007 and that all credits thereafter would be generated under the current program which includes a one-time discount of 20 percent and a three year credit life limit. Under the final rule, the modified program does not end in 2007, but continues indefinitely. In addition, as noted above, credits for engine families certified above the appropriate trigger level will have a 10 percent discount.

There are several other provisions which apply to the modified program beginning in model year 1998. First, as proposed, EPA is eliminating the ''buy high-sell low'' conversion factor provision of 86.094–(c)(2) and replacing it with the production-weighted average value. Under the current buy high-sell low provision, families generating credits use the lowest horsepower configuration factor and those using credits use the highest horsepower configuration factor in the formula to establish the number of credits generated or used. In the modified program, the production-weighted average value will be used in both cases. Second, because the 2004 standards apply in all fifty states, beginning in 2004, the California and federal programs will harmonize and ABT will be applicable to all federal certifications. Third, EPA is finalizing provisions to allow manufacturers the option to make the NO_X and PM credits generated by their engines available to other persons for use outside the ABT program instead of limiting credits to only manufacturers.

Based on comments received EPA is not finalizing two provisions which had been proposed. First, EPA is not finalizing its proposal for pre-2004 model years to allow NO_X credits to be generated based on a useful life of 435,000 miles while retaining the actual useful life for the engine family at 290,000 mile interval for all other program purposes. EPA proposed to allow manufacturers to establish an FEL based on simple extrapolation of the deterioration factor for NO_X from 290,000 miles to 435,000 miles and earn credits up to 435,000 miles without incurring any additional in-use liability for the mileage between 290,000 mile and 435,000 miles. Because EPA is not finalizing the proposed change, all credits must be based on the useful life of the engine family, which is the current Agency requirement. Manufacturers wanting to generate credits up to 435,000 miles will be required to establish the 435,000 mile interval as the official useful life for the engine family. Second, EPA is not finalizing its proposal to require a compliance margin (i.e., the difference between the engine certification level and the FEL) of at least 5 percent under the modified ABT program. All of the above changes to the modified ABT program are being made for the reasons explained in the Summary and Analysis of Comment document for this rule.

D. Display of OMB Control Numbers

EPA is also amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. This amendment updates the table to accurately display those information requirements contained in this final rule. This display of the OMB control numbers and their subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

The ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

IV. Public Participation

Following the NPRM, EPA held a public hearing on August 12, 1996, and accepted written comments on the proposals. This preamble section provides an overview of certain key issues raised in the NPRM, a summary of comments on these issues, and EPA's response to the comments, including

any significant changes to the rulemaking as a result of the comments. For EPA's detailed analysis of the comments received on the NPRM, the reader is directed to the Summary and Analysis of Comments document for the rulemaking. For information on how to obtain copies of the public hearing transcript, written comments, and the Summary and Analysis of Comments document, please see the **ADDRESSES** section above.

A. EPA's Air Quality Justification for the Proposed Program

In the NPRM, EPA expressed its belief that improvements in air quality in many parts of the country will continue to be necessary in the future. Specifically, the Agency presented the results of analyses indicating that the emissions of key pollutants can be expected to increase without further controls and that air quality (in the case of both ozone and particulate matter) is likely to worsen as a result. In proposing new standards for highway HDEs, the Agency relied on these projections in concluding that it should proceed with regulatory action as soon as possible.

Some commenters questioned this conclusion, disputing whether the available information in fact justifies establishing new standards for highway HDEs. Others argued the opposite—that immediate action is indeed justified. Those questioning EPA's analysis raised several issues. First, some commenters argued that currently available computer modeling is not of sufficient quality to draw conclusions about the future need for NO_X control. Second, several commenters had differing opinions about how much EPA national ozone reduction policy should be affected by the fact that NO_X reductions can cause increases in ozone under localized conditions. EPA stated its belief in the proposal that the large expected benefits of NO_X control over broad areas within and surrounding nonattainment areas should be pursued even if these NO_X reductions have a neutral or negative effect in localized portions of some nonattainment areas. Third, one commenter presented an analysis of ozone monitors concluding that the number of national ozone exceedances has been steadily decreasing over time (when adjusted for ambient temperatures). These issues are discussed below.

1. Modeling

The emissions and air quality modeling to which the commenters refer falls into two related categories that are generally performed sequentially. The first major step is to develop emission inventories simulating the atmospheric loading of ozone precursors in future years. These inventories are useful for projecting trends in emissions over time and for understanding the relative importance of various emission sources. The second major step is to input specially prepared inventories into a complex grid-based air quality model which simulates the photochemistry of ozone formation over a geographic area for the same future years. Modelers have been able to gradually improve the quality of both of these types of modeling over many years, and improvements continue.

As discussed more fully in the Summary and Analysis of Comments document, EPA believes that the available computer modeling of emissions and air quality, while of necessity complex and continually undergoing improvement, clearly provides a legitimate basis for today's rule. The Agency believes that its modeling projects with reasonable accuracy that, absent new control programs, NO_X emissions would increase in the future and that the expected result would be increased ozone problems for many areas.

2. Possible Ozone Increases From NO_X Reduction

In the ANPRM and NPRM, EPA discussed the well known phenomenon that reducing NO_X emissions in a local area may in certain circumstances result in an increase in ozone in limited parts of the area. Some commenters suggested that, as a result of this phenomenon, any proposed action to reduce NO_X emission would be unwise or premature. After consideration of all comments received on this subject, EPA believes that nothing in the comments warrants a different course of action than that proposed by the Agency. In fact, air quality modeling work done since the analysis presented in the NPRM shows that the Agency's justification for pursuing the proposed program is appropriate.

The OTAG addressed the complex issue of regional impacts due to transport of NO_X and VOC emissions. The OTAG modeling results indicate that urban NO_X reductions produce widespread decreases in ozone concentrations on high ozone days. In addition, urban NO_X reductions also produce limited increases in ozone concentrations locally, but the magnitude, time, and location of these increases generally do not cause or contribute to high ozone concentrations. Most urban ozone increases modeled in OTAG occur in areas already below the ozone standard and, thus, in most cases, urban ozone increases resulting from NO_X reductions do not cause exceedance of the ozone standard. There are a few days in a few urban areas where NO_X reductions are predicted to produce ozone increases in portions of an urban area with high ozone concentrations. In these circumstances, additional VOC control measures may be needed to offset associated ozone increases due to NO_X emissions decreases in local areas.

Nonetheless, modeling analyses conducted as part of the OTAG process indicated that, in general, NO_X reduction disbenefits are inversely related to ozone concentration. On the low ozone days leading up to an ozone episode (and sometimes the last day or so) the increases are greatest, and on the high ozone days, the increases are least (or nonexistent); the ozone increases occur on days when ozone is low and the ozone decreases occur on days when ozone is high. This indicates that, in most cases, urban ozone increases may not produce detrimental effects. Overall, OTAG modeling thus demonstrates that the ozone reduction benefits of NO_X control outweigh the disbenefits of urban ozone increases in both magnitude of ozone reduction and geographic scope.

The Agency has concluded that the overall benefit of large regional reductions in NO_X, like those that would occur with the HDE standards finalized today, warrant such controls even where localized ozone increases may occur.[24] [25]

3. Trends in Ozone Levels

EPA is aware of data indicating gradual improvements in ozone levels over the past several years. The Agency attributes this apparent trend to the success of past NO_X and VOC control programs. Since the Agency has concluded that NO_X levels will continue downward for several years but then level off and begin to rise, the welcome downward trend in ozone cannot, unfortunately, be expected to continue without new emission reductions. EPA does not agree with the commenter that the current trends indicate that new NO_X control programs are not necessary. Rather, these data help show that NO_X control can be very effective in reducing ozone. Moreover, the data reinforce EPA's belief (as discussed in Section II. above) that there will likely be an

[24] "EPA Staff Observations from Recent Air Quality Modeling," Memorandum from Norm Possiel to Tad Wysor, August, 1997.

[25] Also see EPA's notice of denial of API petition for reconsideration of the Phase II reformulated gasoline NO_X standard. (62 FR 11346 (March 12 1997)).

upward trend in NO_X emissions and ozone in the future if further NO_X controls are not implemented. The Agency believes, therefore, that further NO_X controls, including the HDE standards issued today, must be vigorously pursued.

B. Level of Standards

1. Diesel Engines—NO_X Plus NMHC

EPA proposed a combined NMHC+NO_X standard of 2.4 g/bhp-hr with an option to manufacturers of 2.5 g/bhp-hr with a NMHC cap of 0.5 g/bhp-hr. The emission standards proposed in the NPRM for diesel-cycle engines were based on what EPA considered to be the greatest achievable reductions from technology expected to be available in 2004, giving appropriate consideration to cost, energy, and safety. Commenters showed general support for the alternative NMHC+NO_X standards proposed by EPA. The manufacturers commented that the proposed NMHC+NO_X standards will be feasible for most highway heavy-duty diesel engines in 2004, provided that PM standards do not change. Manufacturers expressed specific support for the standards as they were proposed, including the optional 2.5 g/bhp-hr standard with 0.5 g/bhp-hr NMHC cap. EPA did not receive comment recommending another level for the standard for diesel engines.

Based on current information, EPA has determined that the proposed revision of NO_X and NMHC standards is appropriate for 2004. The assessment of feasibility in the NPRM remains unchanged. An overview of the engine changes manufacturers are expected to make to meet the standards can be found in the Economic Impact discussion later in the preamble and in the Regulatory Impact Analysis.

2. Highway Diesel Engine—PM

In the NPRM, EPA proposed to leave the diesel engine PM standards at their current levels: 0.10 g/bhp-hr for truck engines and 0.05 g/bhp-hr (0.07 in-use) for urban buses. State, health, and environmental groups were unanimous in their comments exhorting EPA to move forward with additional control of diesel PM from on-highway heavy-duty diesel engines. These commenters focused on the need for control of diesel PM in the context of health effects from PM exposure and EPA's recent proposal to revise the National Ambient Air Quality Standard for PM. The groups also noted that the urban bus standard for PM was 0.05 g/bhp-hr and argued that all diesel HDEs could meet that level. In contrast, the manufacturers commented that even meeting the current diesel PM standards while reducing NO_X emissions by 50 percent presents a significant technical challenge. The manufacturers commented that further reduction in the PM standard would threaten the overall feasibility and cost-effectiveness of the 2004 NMHC plus NO_X standards. In the case of urban buses, manufacturers asked for a relaxation in the level of the PM standard to be able to meet the new levels for NMHC+NO_X emissions.

EPA understands the concerns that have been raised by the state, environmental, and health commenters and has an interest in pursuing further control of PM emissions if appropriate. As discussed in more detail above and in the Regulatory Impact Analysis, PM emissions can cause risks to public health and welfare, including a range of respiratory illnesses and aggravation of cardiovascular disease. EPA is reviewing and will continue to review many strategies for reducing harmful emissions of PM, including reduction of emissions from internal combustion engines. In fact, the reductions in NO_X emissions resulting from this rule will significantly lower secondary formation of nitrate PM.[26]

However, based on the information available today and the statutory factors set forth in section 202(a)(3)(A) of the Clean Air Act, EPA has determined that the current diesel PM standards are the lowest appropriate levels in 2004 in the context of an approximate 50 percent reduction in NO_X. Because of the trade-off between NO_X and PM emissions, manufacturers will have to undertake considerable effort to keep PM emissions below the current standard while essentially halving NO_X emissions. EPA cannot be certain at this time that any further reductions in PM emissions can be realized in manner that is durable, reliable for the majority of the fleet, and cost-effective. As discussed below and in the Summary and Analysis of Comments, the ability of urban buses to meet a more stringent standard for PM does not necessarily mean that such a standard is feasible and appropriate for all heavy duty diesel engines.

Open issues regarding control technology and strategy have contributed to EPA's decision not to lower PM standards at this time. To date, most medium heavy-duty and all heavy heavy-duty diesel engine families have been successful in meeting the 0.10 g/bhp-hr diesel PM standard using in-cylinder or engine-based control strategies. However, most of the light heavy-duty diesel engines have employed the use of aftertreatment devices such as oxidation catalysts to reach this level. All urban bus engines have used aftertreatment to achieve the applicable 0.05 g/bhp-hr diesel PM standard, albeit at somewhat higher cost and cost effectiveness values than for truck engines. While there are clearly different emission control strategy philosophies among the manufacturers and differences among engines technologies that lead to these variations in technological approach, further work is needed to identify and evaluate what set of control strategies have the greatest potential to achieve full life emission control at diesel PM levels less than 0.10 g/bhp-hr while also reducing NO_X to approximately 2 g/bhp-hr. This ultimate set of strategies may involve aftertreatment techniques similar to those currently used on light heavy-duty diesel engines and urban buses or could be a technology still in research and development. However, at this time, it is uncertain whether potential methods for reduction of PM and NO_X from heavy-duty engines are capable of reducing emission levels for the great majority of the heavy-duty engine fleet below the standards promulgated today in a manner that is reliable for the full useful life of the engines. Further discussion regarding technological feasibility can be found in the Summary and Analysis of Comments and the Regulatory Impact Analysis.

Closely related are the issues of cost and cost effectiveness. The purchase and operating cost implications of any additional control technology must be considered as part of further evaluation, as should the cost-effectiveness of further reductions in new engine emission standards. This is best evaluated in the context of the possible control technologies as discussed above.

There are other open scientific and technical issues that EPA plans to consider prior to the 1999 review. One issue is related to the form of the diesel particulate standard. Current EPA diesel particulate standards are based on mass per unit work (g/BHP-hr), and EPA continues to believe that this is the appropriate form for setting standards. Recently, an issue of a potential impact of technology on particle size distribution has arisen. Virtually all diesel particulate matter has a diameter less than 1.0 micron and is thus fully respirable by humans. A recent study sponsored by the Health Effects Institute on two similar and recent engine models (one of a later technology)

[26] Benefits of Mobile Source NO_X Related Particulate Matter Reductions, October 1996, EPA Contract No. 68–C5–0010.

indicated that while the total mass of PM emissions was lower in the newer technology engine, the remaining particles from the new engine were smaller in diameter and more numerous.[27] The implications of this information are not clear either with regard to technology or health effects. While EPA continues to believe that mass-based emission standards for PM are the most appropriate form, more information on the impact of any advanced engine and emission control technology on diesel PM size, particle count, and chemical constituents as well as the health effects of any changes in these particle characteristics would be helpful.

Another issue is related to the magnitude of the directly-emitted diesel PM inventory and its relative air quality impact. Unlike nonroad diesel engines PM emissions, highway diesel engine PM emissions have been controlled since 1988, and current standards require an 80 to 90 percent reduction over uncontrolled levels. Nonetheless, it is clear that control of diesel PM emissions is important, and more data on the percentage of highway engine diesel PM in the various urban areas and nonattainment area inventories and the in-use performance of controlled highway diesels would be helpful in guiding the Agency's future initiatives with regard to potential highway diesel engine PM control strategies. In any case, tightening NO_x standards alone results in lower levels of ambient PM due to the accompanying reduction in secondary formation of nitrate PM, as discussed elsewhere in this preamble.

EPA considers further control of highway diesel engine PM emissions to be an important air quality goal and plans to further study these issues and others over the next two years, and to reassess the diesel PM standard in the 1999 review. In that context, EPA encourages continued research and development on PM control technology and seeks input in all of the areas described above.

Urban bus engines are and will continue to be a special case because they have unique operating characteristics, are used in only a limited range of vehicle applications, and are treated differently than other heavy duty engines under the Clean Air Act. Urban buses experience a typical duty cycle for which engines can relatively easily be designed; other heavy duty engines, in contrast, can be applied to several different types of truck applications and can experience a much wider range of duty cycles. The duty cycle that engines will see is important because manufacturers must design engines to meet the standards over their full useful lives. Moreover, the particular emphasis on PM reductions in section 219 of the Act indicates that Congress was especially interested in such reductions from urban bus engines and considered more stringent standards appropriate for such engines, even if costs are higher relative to other HDEs. For these reasons, EPA believes that the new NMHC+NO_x standard along with the more stringent urban bus PM standard will be feasible and appropriate for urban buses. As part of the 1999 review, EPA will reevaluate the appropriateness of the urban bus standards.

3. Otto-Cycle Engines

In response to the ANPRM, environmental groups provided comments highlighting manufacturers' certification data for the 1996 model year, which included some engine families with emission levels considerably below the standards proposed for the 2004 model year. While EPA proposed to adopt more stringent emission standards applicable to both diesel and otto-cycle (which are primarily gasoline-fueled) heavy-duty engines, EPA also requested comment on the possibility of adopting more stringent emission standards for heavy-duty gasoline engines. Certification data for 1997 showed a larger number of engine families emitting at or below the 2004 levels, with some engines certified at emission levels only ten to twenty percent of the 2004 emission standards.

At this point, EPA is not yet ready to take final action on the issues associated with otto-cycle HDEs and is not finalizing any revised standards for heavy-duty otto-cycle engines. EPA intends to issue a Supplemental Notice of Proposed Rulemaking to address these engines specifically. A variety of options are under consideration for inclusion in the supplemental proposal. First, as described in the initial proposal, EPA may pursue a more stringent numerical standard using the existing test on an engine dynamometer. Second, EPA will evaluate the appropriateness of adopting emission standards for some otto-cycle heavy-duty vehicles based on testing with a chassis dynamometer. Chassis testing, and associated standards, could be patterned after the program adopted by the California Air Resources Board for medium-duty vehicles. Alternatively, EPA could develop a test and standard using the chassis test cycle specified in 40 CFR Part 86, subpart M for heavy-duty gasoline vehicles.

C. In-Use Emissions Control and Compliance

1. In-Use Emissions Control Regulatory Elements

The NPRM contained several proposals which involved modifications to existing regulations, including regulations for the useful life of the engine, emissions performance and defect warranties, and maintenance requirements. These proposals would update the existing requirements, which were established several years ago, to better align them with current industry experience of longer lasting engines. EPA also proposed some elementary provisions regarding engine rebuilding to help ensure that rebuilding does not result in the removal of emissions control equipment or the reconfiguring of the engine in a way that would result in a significant increase in emissions. EPA's final actions on these items are described in section III.B. of this preamble. The reader is directed to the Summary and Analysis of Comments for a full discussion of comments received by EPA on its in-use emissions related proposals and EPA analysis and response to those comments.

2. State Inspection and Maintenance Programs

EPA noted in the preamble to the NPRM its intention to develop a guidance document for states to follow in designing inspection and maintenance programs for heavy-duty trucks and buses. Several commenters urged EPA to issue guidance to states quickly regarding how to conduct in-use inspection and maintenance programs. Commenters noted that several states and regions are working on in-use emissions programs and EPA guidance is critical to help ensure consistent programs from state-to-state. Commenters requested that EPA evaluate the Society of Automotive Engineers (SAE) test procedure J–1667 and move rapidly to endorse its use in road-side smoke inspection programs. State organizations recommended, further, that EPA move to adopt the J–1667 procedure or other short test procedures as certification short test procedures and develop correlations between the short tests and the full certification tests. This would allow states and EPA to determine vehicle compliance in the field. NESCAUM noted that research is needed on the relationship between smoke opacity and particulate emissions. NRDC

[27] K.J. Baumgard, J.H. Johnson, ''The Effect of Fuel and Engine Design on Diesel Exhaust Particle Size Distributions,'' Society of Automotive Engineers, 960131, 1996.

commented that the smoke test will be inadequate for verifying compliance with the standard proposed in the rule.

EPA recognizes the importance of providing guidance to states in these matters. EPA has been working informally with stakeholders including representatives from States, the trucking industry, engine manufacturers, and EPA Regions, among others, in its development of such guidance. As a result of this effort, EPA has recently issued guidance to states recommending the SAE J–1667 test procedure for their I/M programs.[28] EPA plans to continue working with stakeholders to address other concerns related to the smoke test procedure such as the establishment of appropriate cut-points. The correlation of test cycles, establishment of certification short tests, and short tests for emissions other than smoke emissions, are complex in nature and must be studied further. For these reasons and also because I/M was not a subject of any proposals in the NPRM, the Agency is not adopting such programs or requirements in this rule.

3. In-use Compliance Issues

EPA received comments in several areas related to in-use emissions control, but not related to any specific proposals contained in the NPRM. Several commenters expressed substantial concern over what they believe to be EPA's lack of a practical in-use compliance program for heavy-duty engines. They contend that EPA relies entirely on self certification and selective enforcement audits for heavy-duty compliance due to the impracticality and high cost of in-use engine testing. Commenters expressed concern that a number of HDEs have failed the SEA testing in recent years. The commenters urged EPA to develop an effective in-use compliance testing program including a viable recall program to ensure that engines comply with applicable standards over their useful lives. One commenter noted that the threat of in-use deterioration will increase as the standards are lowered. Commenters recommended that the Agency develop a supplemental certification test, such as a loaded chassis test, which could be used for in-use compliance and one commenter urged the Agency commit to a schedule for development and implementation.

EPA received comments urging the Agency to adopt requirements for manufacturers to install on-board diagnostics (OBD) systems in heavy-duty vehicles. Commenters believe that OBD could be a valuable tool in improving maintenance practices and assessing the in-use performance of heavy-duty engines. State organizations who commented are interested in having OBD systems available as a tool for inspection and maintenance programs.

EPA also received comment that a more representative test cycle is a key to controlling excess emissions associated with high speeds and loads typical of real world conditions not currently represented in the federal test procedure (i.e., off cycle emissions). The commenter also believes that the increasing use of onboard computers to control the operation of engines further exacerbates the need for different and more variable test cycles. The commenter notes that onboard computers can be used to change the engine operating conditions to optimize fuel economy at the expense of emissions in modes of operation that are not well represented in the EPA test procedure. The commenter urged EPA to evaluate its current heavy-duty engine test procedure and consider such options as a random test cycle to minimize the impact of off-cycle emissions.

While EPA believes that the new standards will achieve the emissions reductions estimated in section II of this preamble, EPA also recognizes that improvements in the understanding of in-use emissions and the need to establish a viable in-use compliance presence are essential. To address these concerns EPA has recently engaged in a number of activities to address in-use emissions. EPA has signed a Memorandum of Understanding (MOU) with the California Air Resources Board (ARB) and the Northeast States for Coordinated Air Use Management (NESCAUM) to develop a better understanding of in-use emissions from heavy-duty vehicles.[29]

Under the context of this MOU, EPA has recently implemented a small-scale chassis-based screening program for in-use HDV's that will establish a viable in-use compliance presence. The screening program seeks to identify high emitting engines or technologies, and the causes of high emissions. The screening program is initially focused on light heavy-duty gasoline engines, although EPA plans to work with ARB and NESCAUM to expand the program to all sectors of the on-highway heavy-duty industry in the next several months and include on-road emissions measurements. Such a screening program will allow EPA to identify high-emitting engine families, potentially signaling the need for recall action under section 207 of the Clean Air Act. In addition, the in-use screening program will allow EPA to enforce certain provisions of section 203 of the Act, including the prohibition against manufacturer-designed strategies or devices that defeat the operation of the emissions control system, and the prohibition against tampering with the emissions control system. Lastly, the screening program will allow EPA to assess in-use deterioration of HDE's by testing trucks at various mileages. Although the screening program will also provide important information regarding off-cycle emissions, EPA understands that further work in this area may be necessary to fully address the off-cycle concern.

In addition to the screening program and engine testing conducted under the MOU, EPA will continue to work with state groups and others to develop tools for states to reduce in-use HDV emissions. Many states are implementing, or are considering implementing, inspection and maintenance (I/M) programs for HDV's. As noted above, EPA has recently issued guidance regarding an in-use I/M smoke test procedure, and plans to follow-up that guidance with recommended pass/fail cut-points. In addition, the EPA plans to study the benefits and feasibility of on-board diagnostics (OBD) and other concepts that may prove to be useful I/M tools.

EPA is also committed to working with states and industry to implement a voluntary retrofit program aimed at reducing emissions from older in-use vehicles that would be modeled after EPA's Urban Bus Retrofit/Rebuild Program. Such a program could lead to emission reductions from the in-use fleet beyond those required by the applicable standards through the retrofit of advanced emission control technologies.

In response to EPA and commenter concerns about the growing number of engines which fail SEA testing, EPA believes that a viable long-term in-use recall presence will provide the necessary assurances that new production engines will comply with applicable standards. In the near-term, EPA plans to engage the industry in constructive dialogue aimed at better understanding production processes and variability, manufacturer-based

[28] ''Guidance to States on In-use Smoke Test Procedure For Highway Heavy-duty Diesel Vehicles'', United States Environmental Protection Agency, April 3, 1997. Docket A–95–27.

[29] ''Developing an Understanding of In-use Emissions from Heavy-duty Diesel Engines'', Memorandum of Understanding, United States Environmental Protection Agency, Northeast States for Coordinated Air Use Management, California Air Resources Board, March 1997, Docket A–95–27.

production line testing programs, and methodologies used determine deterioration factors. Through these discussions, EPA believes that incremental improvements in SEA performance can be achieved. EPA is committed to further review of its compliance programs, and revisions to its regulatory programs if needed.

EPA believes that these near-term actions will begin to address many of the concerns raised by commenters with respect to in-use emissions, and that changes in the HDV compliance program could result from these near-term actions. In addition, continued long-term study of in-use HDV emissions will further enhance our understanding and will provide a basis for future programmatic, regulatory, or other changes to ensure the emissions reductions from more stringent standards are reflected in the in-use emissions from HDV's.

D. Averaging, Banking, and Trading

As discussed above, EPA proposed a modified ABT program as part of the transition to more stringent emissions standards for NOx and NMHC in 2004. Many comments were received on the ABT provisions of the NPRM. As discussed in the Summary and Analysis of Comments supporting this final rule, EPA has considered the comments received on the proposal and revised the provisions as appropriate. The ABT program EPA is implementing is consistent with the goals of the ABT concept as discussed in the NPRM. The modified ABT program being implemented in this rule provides the manufacturers the incentive to achieve improvements on current technology and pull ahead 2004-era technology to generate early emission reductions. These early reductions provide a near-term benefit to the environment and the emission credits generated provide the manufacturers significant compliance flexibility. As stated by the manufacturers, this compliance flexibility is a significant factor in the manufacturers' ability to certify a full line of engines in 2004 and helps to allow implementation of the new more stringent standard as soon as permissible under the Clean Air Act.

1. Applicability

The NPRM proposed a modified ABT program for both diesel and otto-cycle engines. However, as noted above, EPA received comment regarding whether EPA's proposed otto-cycle standards and ABT provisions were appropriate. As a result of EPA's evaluation of these comments, EPA is not promulgating final standards for otto-cycle HDEs in this rule. EPA is also not finalizing a modified ABT program for otto-cycle HDEs. EPA will address such standards and ABT provisions in a Supplemental Notice of Proposed Rulemaking in the future. The modified ABT program being implemented by EPA for 1998 through 2003 and the modified program finalized for 2004 and later apply only to diesel-cycle engines.

2. The Modified ABT Program Diesel-Cycle Engines (1998–2003)

As will be discussed further below, the current ABT program will be retained for credit generation and use by production otto-cycle engines and credit use by diesel-cycle engines during the 1998–2003 model years. Effective for the 1998 model year, EPA is implementing a modified certification ABT program designed to help ensure compliance with the NMHC+NO_X and PM standards beginning in 2004. The provisions of this program are described below.

Credits generated under the modified program may be used only in 2004 and later model years. Manufacturers may not use credits generated in the current program on engines generating credits under the modified program. However, credits generated under the modified program may be used before 2004, subject to the regulatory provisions of the current ABT program. As was proposed, credits generated between 1998 and 2003 under this modified program are based on NO_X only and are calculated against the 4.0 g/bhp-hr NO_X emission standard. The NMHC levels of most heavy-duty engines are well below the present standard and would result in windfall credits if the credit calculation included NMHC. Diesel PM credits are based on reductions beyond the model year 0.10 g/bhp-hr emission standard for truck engines and the 0.05 g/bhp-hr emission standard for urban buses.

In the NPRM, EPA proposed that there be no discounts for credits banked under the modified program. However, in response to comments and further consideration by EPA on the best way to align this program with the general goals of the ABT program and other EPA market incentive programs, EPA is finalizing somewhat different provisions. To better align the ABT program with the goal of pull-ahead technology, EPA has decided to implement a trigger concept as a mechanism to distinguish engine families eligible for no discount. For engine families certified at NO_X levels less than 3.5 g/bhp-hr NO_X, no discount will be applied to any NO_X or PM credits generated for banking. The 3.5 g/bhp-hr cut-point was suggested by commenters and EPA judges this level to be a reasonable discriminator for pull-ahead technology. It is similar in stringency to the California LEV standard for these engines and only three federal 1997 heavy-duty diesel families are certified below this level. For engine families certified at NO_X levels above 3.5 g/bhp-hr, a 10 percent discount will be applied to all credits generated, both NO_X and PM. EPA has decided to retain a discount for this portion of the program because smaller incremental reductions such as this are less likely to represent the pull-ahead technology which ABT is designed to encourage. These smaller credits nonetheless represent early reductions and are appropriate given the stringency of the model year 2004 standard, consistent with the ABT concept.

As was mentioned above, the modified program includes a 10 percent discount for engines certified above the trigger. This level of discount was selected based on a combination of factors. Several commenters stated that a discount should be retained, some suggesting 10 percent, some implying the current 20 percent level. Other commenters supported the Agency's proposal to eliminate all credit discounts. In attempting to design a program which meets all of the goals of ABT, the Agency selected 10 percent. The manufacturers comments indicated that a 20 percent discount was far too large and created a significant disincentive for the introduction of new or improved technology. Conversely, EPA believes that eliminating the discount for all credits as was proposed would have reduced the incentive to develop and implement significantly cleaner technology. A 10 percent discount for credits generated at FELs above 3.5 g/bhp-hr, strikes a balance between these views, and aligns the discount in the heavy-duty engine ABT program with others in the mobile source program such as the National Low Emission Vehicle program.

Some commenters opposed allowing PM credits to be generated and used in the modified program because the PM standard is not changing. In response, EPA believes that it is appropriate to include PM in the modified ABT program. For most in-cylinder control technologies, there is a strong inverse relationship between NO_X and PM which makes it difficult to control both pollutants at the same time. The control technologies expected to be used to reduce NO_X to model year 2004 levels are likely to increase PM. Therefore, EPA believes that applying the ABT modifications to PM as well as NO_X allows the manufacturer more flexibility

in addressing the technology issues involved with reducing NO_X emissions to the NO_X plus NMHC standard being finalized in this rule, while maintaining PM emissions at 0.10 g/bhp-hr. The Agency has decided to apply the NO_X trigger to PM emissions because engines generating PM credits at NO_X levels below the trigger in this time frame are likely to employ new, or at least significantly improved, PM control technology, because of the natural trade-off between NO_X and PM emissions.

EPA proposed that the 3 year credit life restriction in the current ABT program not apply in the modified program. After considering comments, EPA is finalizing this provision as proposed. Even though several commenters believed that the credit life limit should be retained, EPA believes that an unlimited credit life is consistent with the emission reduction goal of ABT, not only because of the increased manufacturer flexibility in meeting the new standards but also because it eliminates the ''use or lose'' aspect of the current program's limit on credit life, which creates the perverse incentive for manufacturers to use credits as quickly as possible. Unused credits are extra emission reductions beyond what the EPA regulations require. The only concern with unlimited credit life is that a manufacturer could stockpile a large number of credits and delay the effectiveness of a new standard in the future. This certainly would be a concern in a situation where standards are less stringent and not technology-forcing. However, 2.4 g/bhp-hr NMHC+NO_X and 0.10 g/bhp-hr PM (0.05 g/bhp-hr for buses) are quite challenging for diesel engines; EPA expects most pre-2004 credits will be needed in the first few years of the new standard.

3. The Modified ABT Program 2004 and Later

EPA proposed that the current program be reinstated for 2007 and later models years, including the 20 percent discount and 3 year credit life. Some commenters who opposed the modified program urged the Agency to reinstate the current program beginning in 2004. Manufacturers argued that the current program should not be reinstated because the current program would remove much of the incentive to pull-ahead technology in the post 2004 time-frame.

EPA considered the comments carefully and decided to implement, beginning in 2004, a modified program which will fully and permanently replace the current ABT program for diesel-cycle engines, though with significant changes from the proposal. Many of the same concepts that appear in the 1998–2003 ABT program will be employed beginning in 2004, but modifications have been made as appropriate. Beginning in 2004, the form of the standard changes from separate HC and NO_X standards to a combined NMHC+NO_X standard. Therefore in 2004, credits will be based on combined NMHC+NO_X values. For diesel engines, NMHC+NO_X credits will be generated against the 2.4 g/bhp-hr standard. Diesel PM credits will continue to be generated against the 0.10 g/bhp-hr emission standard for truck engines and the 0.05 g/bhp-hr emission standard for urban buses. For the same basic reasons as laid out above, the trigger concept will continue to be applied to the discount for NMHC+NO_X and PM credits. This trigger will be set at 1.9 g/bhp-hr NMHC+NO_X. There are currently no diesel-fueled engines certified even close to this level.

As above, there will be no limit on credit life. Removing discounts and credit life limits for the cleaner engines will provide maximum incentive for the development and introduction of petroleum- and alternative-fueled diesel-cycle engines with emission levels approaching the 1.0 g/bhp-hr NO_X and 0.05 g/bhp-hr PM research objectives of the 1995 SOP.

Credit use in 2004 and later years will follow the same pattern as under the current program. As proposed, the upper limits for NMHC+NO_X and PM certification will be 4.5 g/bhp-hr and 0.25 g/bhp-hr, respectively. That is, no engine family may be certified above either of these levels using credits. These limits provide the manufacturers adequate compliance flexibility while protecting against the introduction of unnecessarily high emitting engines.

4. Other Changes for the Modified ABT Program

Five other provisions were proposed or were discussed with requests for comment which impact the modified ABT program. EPA is implementing three of these and not finalizing two of the proposed modifications.

Of the three being finalized, first, EPA proposed to eliminate the ''buy high—sell low'' provision of § 86.094–15(c)(2) and to replace it with the production-weighted average value. Under this existing provision, families generating credits use the lowest horsepower configuration factor and those needing credits use the highest horsepower configuration factor. In the modified program the production-weighted average value will be used in both cases, as proposed. There was no adverse comment on this change. The second area relates to geographical applicability. The 2004 standards apply in all fifty states. California is not included in the current ABT program because they have a separate control program. Beginning in 2004 the California and federal programs will harmonize and ABT will be applicable for all federally certified HDEs without restrictions based on geographical limitations on the certificate. Prior to 2004, the current ABT program remains limited to HDEs certified for sale outside California. There was no adverse comment on this issue.

The third change EPA is finalizing is related to the ownership of credits. EPA requested comment on the concept that manufacturers be given the option to make the NO_X and PM credits generated by their engines available parties other than the manufacturers for use in other programs. This provision was supported by those who commented, so the regulatory language accompanying the rule includes provisions to permit credits to be excluded from the ABT program by the manufacturer in order to be used by engine purchasers or other parties, while preventing double counting. The ability to transfer credits out of this program does not of course imply that these credits can be used without restriction in other programs. Credits purchased for use in other programs must meet the use requirements of the emission programs for which they are purchased. For example, local emission programs will likely have limits on their geographic scope which may limit the use of emission credits that are used to trade out of local emission requirements.

One provision not being finalized is related to the impact of the change in useful life for heavy heavy-duty diesel engines in 2004 on credit generation and use. The useful life value is a factor in determining the amount of credits earned or used by an engine family. Beginning in 2004 for these engines, the minimum useful life increases 50 percent from 290,000 miles to 435,000 miles. If a manufacturer uses the minimum useful life value of 290,000 miles to calculate credits generated prior to 2004, 50 percent more credits will be needed in 2004 to cover an engine certified with a useful life of 435,000 miles. EPA sought comments on two options to address this issue for NO_X and PM. These included for NO_X allowing manufacturers to base their FEL on an emission level determined from a simple extrapolation of the deterioration factor for NO_X from 290,000 miles to 435,000 miles and to

earn credits up to 435,000 miles. Under such an approach, engine families would continue to have a useful life of 290,000 miles and manufacturers would be liable for emissions only up to the end of the useful life. EPA also sought comment on requiring manufacturers to apply for a longer useful life under the provisions of § 86.094–21(f) if they wanted to earn NO_X credits based on a useful life of more than 290,000 miles. This second option is allowed under the current regulations. For PM, EPA did not propose the use of the former approach proposed for NO_X credits, only the latter approach, due to concerns about the potential for deterioration of PM emissions.

EPA received comments from manufacturers supporting the simple extrapolation of the NO_X deterioration factor for calculating credits and comments arguing that PM deterioration in in-use vehicles was negligible and predictable and that the extrapolation proposed for NO_X should be extended to PM. EPA also received comments that the Agency should not allow credits to be generated over a period where the manufacturer is not liable for emissions control.

As discussed in the Summary and Analysis of Comments, EPA has decided not to finalize the simple deterioration factor extrapolation method for either NO_X or PM. In general, it would be inconsistent with current EPA credit program policy to allow credits without accompanying liability, even if the program is transitional. Furthermore, for both NO_X and PM there is some concern that deterioration after the useful life may not be linear, especially for engines using EGR or aftertreatment. Therefore, manufacturers desiring credits for the longer useful life will have to certify to the longer life for those pollutants as allowed under § 86.094–21(f) of the current regulations.

Finally, EPA is not finalizing the mandatory compliance margin provisions proposed in the NPRM. EPA had proposed these provisions as a means to address concerns that compliance margins (the difference between the family emission limit and the certification level) had been shrinking over time, and that the modified ABT program could provide an incentive to shave margins inappropriately to gather additional credits. One commenter provided examples where margins were reduced by manufacturers in order to earn additional credits. Commenters recommended margins of 10–15 percent due to concerns over margin shaving. Other commenters believed that the best way to ensure that manufacturers set appropriate margins would be through the use of EPA's audit and compliance programs to target suspect engine families. Manufacturers noted that they can improve their manufacturing processes to allow for small margins while still complying with the FEL and should not be penalized with a mandatory compliance margin.

Valid comments were presented on both sides of this issue, but the Agency has concluded that the issue of the size of the compliance margin is not solely an ABT issue. Indeed, compliance margins are important in non-ABT families as well. Thus, the Agency has concluded that any actions to address this issue are better implemented as part of improvements in the overall compliance program, discussed above, rather than as a regulatory fix in the context of a modified ABT program. Moreover, EPA's final regulations, which implement a discount on credits earned by engine families that are less than 0.5 g/bhp-hr below the applicable NO_X or $NMHC+NO_X$ standard should reduce the concern evidenced in the comments regarding the possibility that the modified program will further erode compliance margins.

V. Economic Impact and Cost-effectiveness

The engine manufacturers, by signing the Statement of Principles, have committed themselves to challenging, long-term design targets. This provides manufacturers fully eight years to allocate resources and conduct planning for a very thorough long-term R&D program. Manufacturers have expressed a confidence that several years of research will provide them opportunity to develop a complying engine that they can market with full confidence. EPA's analysis of the costs of complying with the new standards anticipates a significant degree of technological development during this period.

The technologies described in the RIA together show a good deal of promise for controlling emissions, but also make clear that much effort remains to optimize for maximum emission-control effectiveness with minimum negative impacts on engine performance, durability, and fuel consumption. On the other hand, it has become clear that manufacturers have a great potential to advance beyond the current state of understanding by identifying aspects of the key technologies that contribute most to hardware or operational costs or other drawbacks and pursuing improvements, simplifications, or alternatives to limit those burdens. To reflect this improvement and long-term cost saving potential, the cost analysis includes an estimated $270 million (net present value in 1995) in R&D outlays for heavy-duty engine emission control over several years. The cost analysis accordingly presumes extensive improvements on the current state of technology from these future developments. The 1999 program review provides an opportunity to reassess EPA's projected costs in light of new information. EPA will revisit the analysis of the full life-cycle costs as part of the 1999 review. EPA and manufacturers will then confirm whether or not technology development is progressing as needed to meet the 2004 model year emission standards.

In assessing the economic impact of changing the emission standards, EPA has used a current best judgement of the combination of technologies that an engine manufacturer might use to meet the new standards at an acceptable cost. Full details of EPA's cost and cost-effectiveness analyses, including information not presented here, can be found in the Regulatory Impact Analysis in the public docket. EPA received a variety of comments on the cost analysis, either stating generally that the estimated costs were too low or recommending changes to specific details of the analysis. EPA made several minor changes to the analysis in response to comments received on the proposal. The most significant change was to include a broader use of EGR cooling. Further investigation of the EGR and EGR cooling led to revised cost estimates for those technologies. All the comments related to the cost projections and the associated changes are described in the Summary and Analysis of Comments.

Estimated cost increases are broken into purchase price and total life-cycle operating costs. The incremental purchase price for new engines is comprised of variable costs (for hardware and assembly time) and fixed costs (for R&D, retooling, and certification). Total operating costs include any expected increases in maintenance or fuel consumption. Cost estimates based on these projected technology packages represent an expected incremental cost of engines in the 2004 model year. Costs in subsequent years would be reduced by several factors, as described below. Separate projected costs were derived for engines used in three service classes of heavy-duty diesel engines. All costs are presented in 1995 dollars. Life-cycle costs have been discounted to the year of sale.

A. Engine Costs

It is difficult to make a distinction between technologies that are needed to reduce NO_X emissions for compliance with 2004 model year standards and those technologies that offer other benefits for improved fuel economy and engine performance or for better control of particulate emissions. This is because several NO_X control methods such as the use of EGR can have negative impacts on these items for which the manufacturer must then compensate. EPA believes that manufacturers, in the absence of 2004 model year standards, would continue research on and eventually deploy numerous technological upgrades to improve engine performance or more cost-effectively control emissions. EPA therefore believes that a small set of technologies represent the primary changes manufacturers must make to meet the 2004 model year standards. Other technologies applied to heavy-duty engines, before or after implementation of new emission standards, will make relatively minor positive contributions to controlling NO_X emissions and are therefore considered secondary improvements for this analysis. In this category are design changes such as improved oil control, variable-geometry turbochargers, optimized catalyst designs, and variable-valve timing. Lean NO_X catalysts are also considered here to be secondary technologies, not because NO_X control is an incidental benefit, but rather because it is not clear at this time that they will be part of 2004 model year technology packages. Modifications to fuel injection systems will also continue independently of new standards, though some further development with a focus on reducing NO_X emissions would be evaluated.

Several technological improvements are projected for complying with the 2004 model year emission standards. The fact that manufacturers have several years before implementation of the new standards virtually ensures that the technologies used to comply with the standards will develop significantly before reaching production. This ongoing development will lead to reduced costs in three ways. First, research will lead to enhanced effectiveness for individual technologies, allowing manufacturers to use simpler packages of emission control technologies than we would predict given the current state of development. Similarly, the continuing effort to improve the emission control technologies will include innovations that allow lower-cost production. Finally, manufacturers will focus research efforts on any drawbacks, such as increased fuel consumption or maintenance costs, in an effort to minimize or overcome any potential negative effects.

A combination of primary technology upgrades are anticipated for the 2004 model year. Achieving very low NO_X emissions will require basic research on reducing in-cylinder NO_X and HC while at least holding PM levels below 0.10 g/bhp-hr. Modifications to basic engine design features can be used to improve intake air characteristics and distribution during combustion. Manufacturers are also expected to utilize upgraded electronics and advanced fuel-injection techniques and hardware to modify various fuel injection parameters, including injection pressure, further rate shaping and some split injection. EPA also expects that many engines will incorporate cool EGR that is carefully tailored to an engine's different operating modes.

If not developed and implemented properly, EGR has the potential to increase operating costs, either by increasing fuel consumption or requiring additional maintenance to avoid accelerated engine or component wear. While it is possible to develop scenarios and estimate the impact on operating costs of current diesel EGR concepts, this is of minimal value due to the expected continuing development of these technologies. Nevertheless, EPA has assessed the potential for increased operating costs for EGR-related maintenance and for fuel economy. EPA understands that manufacturers will make a great effort to minimize any potential new maintenance burden for the end user, investing in research to design an engine acceptable to users. The cost to address the durability concern is therefore included both as a maintenance item and as a fixed cost. An additional maintenance cost is anticipated for EGR systems—EPA expects engine rebuilding will include preventive maintenance to clean or replace EGR components.

With respect to fuel economy, several of the secondary technologies described below may lead to cost savings, while EGR has the potential to incur a fuel economy penalty. As with potential new maintenance cost burdens, EPA believes manufacturers will focus their research efforts on overcoming any negative impact on fuel economy caused by EGR. An EGR cooler, which EPA expects to be commonly used, would alone mitigate much of the potential increase in fuel consumption caused by recirculating exhaust gases. In light of the potential fuel economy improvements from some technologies and the anticipated use of cooled EGR systems, it would not be appropriate to include a penalty for increased fuel consumption as part of the cost analysis at this time. EPA will reexamine this issue as part of the 1999 review analysis.

Meeting the new NO_X+NMHC standard will somewhat increase the challenge to control particulate emissions from diesel engines. Manufacturers might use a variety of technologies to maintain control of particulate emissions; however, EPA believes that the fuel system improvements described above will be sufficient to prevent any potential particulate-emission increase while meeting the target levels for NO_X and NMHC. In fact, manufacturers are attempting to lessen the cost of meeting current particulate emission standards over the next several years by decreasing their reliance on catalysts. This underscores EPA's belief that 2004 model year engines will be able to control particulate emissions without major technological innovation.

The costs of these new technologies for meeting the 2004 model year standards are itemized in the Regulatory Impact Analysis and summarized in Table 2. For light heavy-duty vehicles, the cost of a new 2004 model year engine is estimated to increase by $258; operating costs over a full life-cycle increase by about $7. For medium heavy duty vehicles the purchase price of a new engine is estimated to increase by $397, with life-cycle operating costs increasing $62. Similarly, for heavy heavy-duty engines, the initial purchase price is expected to increase by $467, while estimated additional life-cycle operating costs are $131.

For the long term, EPA has identified various factors that would cause cost impacts to decrease over time. First, the analysis incorporates the expectation that manufacturers will apply ongoing research to making emission controls more effective and less costly over time. This expectation is similar to manufacturers' stated goal of decreasing their reliance on catalysts to meet emission standards in the future. Research in the costs of manufacturing has consistently shown that as manufacturers gain experience in production, they are able to apply innovations to simplify machining and assembly operations, use lower cost materials, and reduce the number or

complexity of component parts.[30] The analysis incorporates the effects of this learning curve by projecting that the variable costs of producing the low-emitting engines decreases by 20 percent starting with the third year of production (2006 model year) and by reducing variable costs again by 20 percent starting with the sixth year of production. Finally, since fixed costs are assumed to be recovered over a five-year period, these costs are not included in the analysis after the first five model years. Table 2 lists the projected schedule of costs for each category of vehicle over time.

TABLE 2—PROJECTED DIESEL ENGINE COST AND PRICE INCREASES

[1995 dollars discounted to year of sale]

Vehicle class	Model year	Purchase price	Life-cycle operating cost
Light heavy-duty	2004	258	7
	2009 and later	109	7
Medium heavy-duty	2004	397	62
	2009 and later	136	62
Heavy heavy-duty	2004	467	131
	2009 and later	180	131

B. Aggregate Costs to Society

The above analysis develops per-vehicle cost estimates for each vehicle class. Using current data for the size and characteristics of the heavy-duty vehicle fleet and making projections for the future, these costs can be used to estimate the total cost to the nation for the new emission standards in any year. The result of this analysis is a projected total cost starting at $270 million in 2004. Per-vehicle costs savings over time reduce projected costs to a minimum value of $140 million in 2009, after which the growth in truck population leads to an increase in costs to $205 million in 2020. Total costs for these years are presented by vehicle class in Table 3. The calculated total costs represent a combined estimate of fixed costs as they are allocated over fleet sales, variable costs assessed at the point of sale, and operating costs as they are incurred in each calendar year.

TABLE 3—ESTIMATED ANNUAL COSTS FOR IMPROVED HEAVY-DUTY VEHICLES

[Millions of dollars]

Category	2004	2009	2020
Light heavy-duty	71	41	49
Medium heavy-duty	64	26	38
Heavy heavy-duty	107	56	93
Total	242	123	180

C. Cost-effectiveness

EPA has estimated the per-vehicle cost-effectiveness (i.e., the cost per ton of emission reduction) of the NO_X plus NMHC standard over the typical lifetime of heavy-duty diesel vehicles covered by today's rule. The RIA contains a more detailed discussion of the cost-effectiveness analyses. No significant comments were received on the cost-effectiveness analysis presented in the proposal and the methodology for estimating the cost-effectiveness remains the same as used in the proposal.

EPA has examined the cost-effectiveness by two different methodologies. The first methodology yields a nationwide cost-effectiveness in which the total cost of compliance is divided by the nationwide emission benefits. The second methodology yields a regional ozone strategy cost-effectiveness in which the total cost of compliance is divided by the emission benefits attributable to the regions that impact ozone levels in ozone nonattainment areas.[31]

In addition to the benefits of reducing ozone within and transported into urban ozone nonattainment areas, the NO_X reductions from the new engine standards are expected to have beneficial impacts with respect to crop damage, secondary particulate, acid deposition, eutrophication, visibility, and forests.[32] Due to the difficulty in accurately quantifying the monetary value of these societal benefits, the cost-effectiveness values presented do not assign any numerical value to these additional benefits. However, based on an analysis of existing studies that have estimated the value of such benefits in the past, the Agency believes that the actual monetary value of the multiple environmental and public health benefits produced by the large NO_X reductions under this action will likely be greater than the estimated compliance costs.[33]

As described above in the cost section, the cost of complying with the standards will vary by model year. Therefore, the cost-effectiveness will also vary from model year to model year. For comparison purposes, the discounted costs, emission reductions and cost-effectiveness of the standards are shown in Table 4 for the same model years discussed above in the cost section. The cost-effectiveness results contained in Table 4 present the range in cost-effectiveness resulting from the two cost-effectiveness scenarios described above.

[30] ''Learning Curves in Manufacturing,'' Linda Argote and Dennis Epple, Science, February 23, 1990, Vol. 247, pp. 920–924.

[31] The RIA contains a detailed description of areas included in the regional control strategy.

[32] For further discussion of these benefits, the reader is directed to Chapter 2 of the RIA.

[33] ''Benefits of Reducing Mobile Source NO_X Emissions,'' prepared by ICF Incorporated for Office of Mobile Sources, U.S. EPA, Draft Final, September 30, 1996.

TABLE 4—DISCOUNTED PER-VEHICLE COSTS, EMISSION REDUCTIONS AND COST-EFFECTIVENESS OF THE NO_X PLUS NMHC STANDARD

Vehicle class	Model year	Discounted lifecycle costs	Discounted lifetime reductions (tons)		Discounted cost-effectiveness ($/ton)
			NO_X	NMHC	
Light—Heavy-Duty Diesel Vehicles	2004	$265	0.242	0.003	$1,100–$1,200
	2009 and later	117			500
Medium—Heavy-Duty Diesel Vehicles	2004	459	1.002	0.014	500
	2009 and later	198			200
Heavy—Heavy-Duty Diesel Vehicles	2004	598	3.059	0.043	200
	2009 and later	311			100
All—Heavy-Duty Diesel Vehicles	2004	422	1.377	0.019	300
	2009 and later	202			100–200

VI. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, EPA has determined that this rule is a ''significant regulatory action'' because the standards and other regulatory provisions have an annual effect on the economy in excess of $100 million. A Regulatory Impact Analysis has been prepared and is available in the docket associated with this rulemaking. This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12866. Any written comments from OMB and any EPA response to OMB comments are in the public docket for this rule.

B. Compliance With Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis.

The Agency has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The Agency has also determined that the new emission standards and related provisions will not have a significant impact on a substantial number of small entities, since none of the engine manufacturers affected by these regulations is a small business entity (see Chapter 3 of the Final Regulatory Impact Analysis for the rule).

This action also contains provisions clarifying what would and would not be considered a prohibited act (tampering) under CAA Section 203 during the heavy-duty engine rebuilding processes. Also, the rule contains basic recordkeeping requirements for rebuilders which are consistent with current customary rebuilding practices. Small businesses are integral to the heavy-duty engine rebuilding industry as noted in comments provided by the Automotive Engine Rebuilders Association.[34] However, EPA does not believe that the requirements related to engine rebuilding will have a significant impact on a substantial number of these small entities for the following reasons. EPA is defining how a broad existing requirement (CAA Section 203) applies specifically to the process of rebuilding/remanufacturing engines, but EPA is not creating a new program. These requirements are consistent with current customary practices in this industry. During the development of the proposal, EPA consulted with the Engine Manufacturers Association, the Automotive Engine Rebuilders Association, and the Production Engine Rebuilders Association, associations which together represent a substantial portion of the engine rebuilding and related businesses. These organizations did not raise concerns that the proposal may have a significant impact on small businesses. Furthermore, organizations representing small rebuilders submitted only supportive comments during the public comment period for the rulemaking. Finally, an EPA contractor conducted an industry characterization which further supports that engine rebuilding practices are consistent with the requirements and would not be changed as a result of the requirements[35].

[34] EPA Docket A–95–27, II-D–41.

C. Compliance With Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0104.

EPA is finalizing requirements to collect certification results, durability, maintenance, and averaging, banking and trading information, and is formalizing recordkeeping procedures for engine rebuilding companies which are consistent with current industry practices. This information will be used to ensure compliance with and enforce the provisions in this rule. Section 208 (a) of the CAA requires that manufacturers provide information the Administrator may reasonably require to determine compliance with the regulations, therefore submission of the

[35] ''Industry Characterization: On-road Heavy-duty Diesel Engine Rebuilders'', ICF Incorporated, Contract number 68–C5–0010, Work assignment 102, January 3, 1997, Docket A–95–27.

information is mandatory. The confidentiality of any information submitted to EPA will be protected to the full extent provided in 40 CFR Part 2.

EPA estimates the average first year hours burden per response to be 4,670, the frequency of response to be annual, and the estimated number of likely respondents to be twenty. EPA estimates the aggregate first year hours burden to be 93,410. EPA estimates the annual first year cost to be $5,603,280, including the annualized capital and start-up costs. Subsequent year burdens are estimated to be one-tenth of the first year estimates due to the practice of engine family carry-over from model year-to-model year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. EPA is amending the table in 40 CFR Part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule.

D. Unfunded Mandates Reform Act

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

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the program would significantly or uniquely affect small governments. EPA has determined that this rule contains federal mandates that may result in expenditures of $100 million or more in any one year for the private sector. EPA believes that the program represents the least costly, most cost-effective approach to achieving the air quality goals of the rule. EPA has performed the required analyses. The reader is directed to the Regulatory Impact Analysis for further information regarding these analyses.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Reform Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. OMB has designated this a ''major rule'' as defined in 5 U.S.C. 804(2).

VII. Statutory Authority

Section 202(a)(3) authorizes EPA to establish emissions standards for new heavy-duty motor vehicle engines. See 42 U.S.C. 7521(a)(3). These standards are to reflect the greatest reduction achievable through the application of technology which the Administrator determines will be available, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology. This provision also establishes the lead time and stability requirements for these standards. Pursuant to Sections 202(a)(1) and 202(d), these emissions standards apply for the useful life period established by the Agency. See 42 U.S.C. 7521(a)(1), 7521(d). Other provisions of Title II of the Act, along with Section 301, are additional authority for the measures finalized in this action.

VIII. Judicial Review

Under section 307(b)(1) of the Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication in the **Federal Register**. Under section 307(b)(2) of the Act, the requirements which are the subject of today's Notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements. This rulemaking and any petitions for review are subject to the provisions of section 307(d) of the Clean Air Act.

IX. Copies of Rulemaking Documents

Copies of documents related to this rulemaking are available in the public docket for the rule and over the internet as described in the **ADDRESSES** section above.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 86

Administrative practice and procedure, Confidential business information, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: October 6, 1997.

Carol M. Browner,

Administrator.

APPENDIX TO THE PREAMBLE—TABLE OF CHANGES MADE TO PART 9 AND SUBPARTS A AND N OF PART 86

Section	Change	Reason
1. § 9.1	Revised to add OMB approval numbers.	New OMB approval numbers.
1. Authority	None.	
2. § 86.1	Revised to add document reference.	Updated ASTM methodology for significant digits.
3. § 86.098–3	Revised to include new abbreviations.	Add abbreviations for terms averaging, banking and trading and heavy-duty engines.
4. § 86.098–10	Revision of references	Revise references to averaging, banking, and trading programs.
5. § 86.098–11	Revision of references	Revise references to averaging, banking, and trading programs.
6. § 86.098–15	Add § 86.098–15	Incorporation of revisions to NO_X and particulate averaging, banking and trading programs.
7. § 86.098–23	Revise § 86.098–23	Incorporate changes due to new standards and ABT programs.
8. § 86.098–30	Revise § 86.098–30	Incorporate changes due to new ABT programs.
9. § 86.099–11	Revise § 86.099–11	Revise references to averaging, banking, and trading programs.
10. § 86.001–23	Revise § 86.001–23	Incorporate references to § 98.098–23.
11. § 86.001–30	Revise § 86.001–30	Incorporate references to § 98.098–30.
12. § 86.004–2	Add § 86.004–2	Incorporation of new useful life for heavy heavy-duty diesel engines.
13. § 86.004–11	Add § 86.004–11	Incorporation of new NO_X plus NMHC standards for diesel heavy-duty engines.
14. § 86.004–15	Add § 86.004–15	Incorporation of revisions to NO_X and particulate averaging, banking and trading program.
15. § 86.004–21	Add § 86.004–21	Incorporate changes due to new standards and ABT programs.
16. § 86.004–25	Add § 86.004–25	Incorporation of revisions to maintenance requirements.
17. § 86.004–28	Revise § 86.004–28	Incorporate changes in deterioration factors due to new standards and allow options to NMHC measurement for diesel engines.
18. § 86.004–30	Revise § 86.004–30	Incorporate changes due to new standards and ABT programs.
19. § 86.004–38	Add § 86.004–38	Incorporation of maintenance instruction requirements.
20. § 86.004–40	Add § 86.004–40	Incorporation of engine rebuild practices provisions.
21. § 86.1311–94	Revise Section 86.004–40(3)	Incorporate allowance for direct NMHC measurement using a GC for NGVs.
22. § 86.1344–94	Revise Section 86.1344–94(e)(22).	Incorporation of NMHC test data requirement.

For the reasons set out in the preamble, chapter I, title 40 is amended as follows:

Part 9 [Amended]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. Section 9.1 is amended by adding the new entries in numerical order under the indicated heading to the table to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * * * *	
Control of Air Pollution From New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures	
86.004.38	2060–0104
86.004.40	2060–0104
* * * * *	

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 86.1 the table in paragraph (b)(1) is amended by adding a new entry to the end of the table to read as follows:

§ 86.1 Reference materials.

* * * * *

(b) * * *

(1) * * *

Document No. and name	40 CFR part 86 reference
* * * * * * *	
ASTM E29–93a, Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications	86.098–15, 86.004–15

* * * * *

3. Section 86.098–3 is revised to read as follows:

§ 86.098–3 Abbreviations.

(a) The abbreviations in § 86.096–3 continue to apply. The abbreviations in this section apply beginning with the 1998 model year.

(b) The abbreviations of this section apply to this subpart, and also to subparts B, E, F, G, K, M, N, and P of this part, and have the following meanings:

T_D—Dispensed fuel temperature
ABT—Averaging, banking, and trading
HDE—Heavy-duty engine

4. Section 86.098–10 is amended by revising the first sentence in paragraphs (a)(1)(i)(C)(*2*), (a)(1)(i)(C)(*3*), (a)(1)(ii)(C)(*2*), (a)(1)(ii)(C)(*3*), (a)(1)(iii)(C)(*2*), (a)(1)(iv)(C)(*2*), (a)(1)(v)(C)(*2*), (a)(1)(vi)(C)(*2*) to read as follows:

§ 86.098–10 Emission standards for 1998 and later model year Otto-cycle heavy-duty engines and vehicles.

* * * * *

(a)(1) * * *

(i) * * *

(C) * * *

(*2*) A manufacturer may elect to include any or all of its gasoline-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

(*3*) A manufacturer may elect to include any or all of its liquified petroleum gas-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(ii) * * *

(C) * * *

(*2*) A manufacturer may elect to include any or all of its gasoline-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

(*3*) A manufacturer may elect to include any or all of its liquified petroleum gas-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(iii) * * *

(C) * * *

(*2*) A manufacturer may elect to include any or all of its methanol-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(iv) * * *

(C) * * *

(*2*) A manufacturer may elect to include any or all of its methanol-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(v) * * *

(C) * * *

(*2*) A manufacturer may elect to include any or all of its natural gas-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(vi) * * *

(C) * * *

(*2*) A manufacturer may elect to include any or all of its natural gas-fueled Otto-cycle HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

5. Section 86.098–11 is amended by revising the first sentence in paragraphs (a)(3)(ii) and (a)(4)(iii) introductory text to read as follows:

§ 86.098–11 Emission standards for 1998 and later model year diesel heavy-duty engines and vehicles.

(a) * * *

(3) * * *

(ii) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(4) * * *

(iii) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the particulate ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

6. A new § 86.098–15 is added to subpart A to read as follows:

§ 86.098–15 NO_X and particulate averaging, trading, and banking for heavy-duty engines.

Section 86.098–15 includes text that specifies requirements that differ from § 86.094–15. Where a paragraph in § 86.094–15 is identical and applicable to § 86.098–15, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–15.''

(a) through (b) [Reserved] For guidance see § 86.094–15.

(c)(1) For each participating engine family, NO_X and particulate emission credits (positive or negative) are to be calculated according to one of the following equations and rounded, in accordance with ASTM E29–93a, to the nearest one-tenth of a Megagram (MG). Consistent units are to be used throughout the equation.

(i) For determining credit need for all engine families and credit availability for engine families generating credits for averaging programs only:

$$\text{Emission credits} = (\text{Std} - \text{FEL}) \times (\text{CF}) \times (\text{UL}) \times (\text{Production}) \times (10^{-6})$$

(ii) For determining credit availability for engine families generating credits for trading or banking programs:

$$\text{Emission credits} = (\text{Std} - \text{FEL}) \times (\text{CF}) \times (\text{UL}) \times (\text{Production}) \times (10^{-6}) \times (\text{Discount})$$

(iii) For purposes of the equations in paragraphs (c)(1)(i) and (ii) of this section:

Std = the current and applicable heavy-duty engine NO_X or particulate emission standard in grams per brake horsepower hour or grams per Megajoule.

FEL = the NO_X or particulate family emission limit for the engine family in grams per brake horsepower hour or grams per Megajoule.

CF = a transient cycle conversion factor in BHP-hr/mi or MJ/mi, as given in paragraph (c)(2) of this section.

UL = the useful life, or alternative life as described in paragraph (f) of § 86.094–21, for the given engine family in miles.

Production = the number of engines produced for U.S. sales within the given engine family during the model year. Quarterly production projections are used for initial certification. Actual production is used for end-of-year compliance determination.

Discount = a one-time discount applied to all credits to be banked or traded within the model year generated. The discount applied here is 0.8. Banked credits traded in a subsequent model year will not be subject to an additional discount. Banked credits used in a subsequent model year's averaging program will not have the discount restored.

(2)(i) The transient cycle conversion factor is the total (integrated) cycle brake horsepower-hour or Megajoules, divided by the equivalent mileage of the applicable transient cycle. For Otto-cycle heavy-duty engines, the equivalent mileage is 6.3 miles. For

diesel heavy-duty engines, the equivalent mileage is 6.5 miles.

(ii) When more than one configuration is chosen by EPA to be tested in the certification of an engine family (as described in § 86.085–24), the conversion factor used is to be based upon a production weighted average value of the configurations in an engine family to calculate the conversion factor.

(d) through (i) [Reserved] For guidance see § 86.094–15.

(j) *Optional program for early banking.* Provisions set forth in paragraphs (a) through (i) of this section apply except as specifically stated otherwise in paragraph (j) of this section.

(1) To be eligible for the optional program described in paragraph (j) of this section, the following must apply:

(i) Credits are generated from diesel cycle heavy-duty engines.

(ii) During certification, the manufacturer shall declare its intent to include specific engine families in the program described in this paragraph (j). Separate declarations are required for each program and no engine families may be included in both programs in the same model year.

(2) *Credit generation and use.* (i) Credits shall only be generated by 1998 and later model year engine families.

(ii) Credits may only be used for 2004 and later model year heavy-duty diesel engines. When used with 2004 and later model year engines, NO_X credits may be used to meet the NO_X plus NMHC standard, except as otherwise provided in § 86.004–11(a)(1)(i)(D).

(iii) If a manufacturer chooses to use credits generated under paragraph (j) of this section prior to model year 2004, the averaging, trading, and banking of such credits shall be governed by the program provided in paragraphs (a) through (i) of this section and shall be subject to all discounting, credit life limits and all other provisions contained therein. In the case where the manufacturer can demonstrate that the credits were discounted under the program provided in paragraph (j) of this section, that discount may be accounted for in the calculation of credits described in paragraph (c) of this section.

(3) *Program flexibilities.* (i) NO_X and PM credits that are banked until model year 2004 under this paragraph (j) may be used in 2004 or any model year thereafter without being forfeited due to credit age. This supersedes the requirement in paragraph (f)(2)(i) of this section.

(ii) There are no regional category restraints for averaging, trading, and banking of credits generated under the program described in paragraph (j) of this section. This supersedes the regional category provisions described in the opening text of paragraphs (d) and (e) of this section.

(iii) *Credit discounting.* (A) For NO_X and PM credits generated under this paragraph (j) from engine families with NO_X certification levels greater than 3.5 grams per brake horsepower-hour for oxides of nitrogen, a Discount value of 0.9 shall be used in place of 0.8 in the credit availability equation in paragraph (c)(1) of this section.

(B) For NO_X and PM credits generated under this paragraph (j) from engine families with NOx certification levels less than or equal to 3.5 grams per brake horsepower-hour for oxides of nitrogen, a Discount value of 1.0 shall be used in place of 0.8 in the credit availability equation in paragraph (c)(1) of this section.

(iv) *Credit apportionment.* At the manufacturers option, credits generated under the provisions described in this section may be sold to or otherwise provided to another party for use in programs other than the averaging, trading and banking program described in this section.

(A) The manufacturer shall pre-identify two emission levels per engine family for the purposes of credit apportionment. One emission level shall be the FEL and the other shall be the level of the standard that the engine family is required to certify to under § 86.098–11. For each engine family, the manufacturer may report engine sales in two categories, ''ABT-only credits'' and ''nonmanufacturer-owned credits''.

(*1*) For engine sales reported as ''ABT-only credits'', the credits generated must be used solely in the ABT program described in this section.

(*2*) The engine manufacturer may declare a portion of engine sales ''nonmanufacturer-owned credits'' and this portion of the credits generated between the standard and the FEL, based on the calculation in paragraph (c)(1) of this section, would belong to another party. For ABT, the manufacturer may not generate any credits for the engine sales reported as ''nonmanufacturer-owned credits''. Engines reported as ''nonmanufacturer-owned credits'' shall comply with the FEL and the requirements of the ABT program in all other respects.

(B) Only manufacturer-owned credits reported as ''ABT-only credits'' shall be used in the averaging, trading, and banking provisions described in this section.

(C) Credits shall not be double-counted. Credits used in the ABT program may not be provided to an engine purchaser for use in another program.

(D) Manufacturers shall determine and state the number of engines sold as ''ABT-only credits'' and ''nonmanufacturer-owned credits'' in the end-of-model year reports required under § 86.098–23.

7. Section 86.098–23 is amended by revising paragraphs (a), (b)(1), (b)(3), (b)(4)(i), (b)(4)(ii), (c) through (e)(2), (f) through (l), the first sentence of (m)(1), paragraphs (m)(2)(i) and (m)(2)(iv) to read as follows:

§ 86.098–23 Required data.

* * * * *

(a) The manufacturer shall perform the tests required by the applicable test procedures and submit to the Administrator the information described in paragraphs (b) through (m) of this section, provided, however, that if requested by the manufacturer, the Administrator may waive any requirement of this section for testing of a vehicle (or engine) for which emission data are available or will be made available under the provisions of § 86.091–29.

(b) *Durability data.* (1)(i) The manufacturer shall submit exhaust emission durability data on such light-duty vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) The manufacturer shall submit exhaust emission deterioration factors for light-duty trucks and HDEs and all test data that are derived from the testing described under § 86.094–21(b)(5)(i)(A), as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.098–30 will meet each emission standard (or family emission limit, as appropriate) in § 86.094–9, § 86.098–10, § 86.098–11 or superseding emissions standards sections as appropriate, in actual use for the useful life applicable to that standard.

* * * * *

(3) For heavy-duty vehicles equipped with gasoline-fueled or methanol-fueled engines, the manufacturer shall submit evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.094–21(b)(4)(ii).

Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations, and the service accumulation effects of vibration, time, and vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.098–30 will meet the evaporative emission standards in §§ 86.096–10 and 86.098–11 or superseding emissions standards sections as applicable in actual use for the useful life of the engine. Furthermore, a statement that a description of the test procedure, as well as all data, analyses, and evaluations, is available to the Administrator upon request.

(4)(i) For heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs and equipped with gasoline-fueled or methanol-fueled engines, the manufacturer shall submit a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.098–10 or § 86.098–11 or superseding emissions standards sections as applicable as determined by the provisions of § 86.098–28. Furthermore, the manufacturer shall submit a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the requested statement is based, are available to the Administrator upon request.

(ii) For heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs and equipped with gasoline-fueled or methanol-fueled engines, the manufacturer shall submit a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.096–10 or § 86.098–11 or superseding emissions standards sections as applicable as determined by the provisions of § 86.098–28. Furthermore, the manufacturer shall submit a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the requested statement is based, are available to the Administrator upon request.

* * * * *

(c)(1) [Reserved] For guidance see § 86.095–23.

(c)(2) Certification engines. (i) The manufacturer shall submit emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if generated, and emission data generated for certification as required under § 86.098–26(c)(4). These data shall also include, where there is a combined standard (e.g., NMHC + NO_x), emissions data for the individual pollutants as well as for the pollutants when combined. In lieu of providing emission data on idle CO emissions or particulate emissions from methanol-fueled diesel-cycle certification engines, or on CO emissions from petroleum-fueled or methanol-fueled diesel certification engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable emission standards of § 86.094–11 or superseding emissions standards sections as applicable. In lieu of providing emission data on smoke emissions from methanol-fueled or petroleum-fueled diesel certification engines, the Administrator may, on the request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable emissions standards of § 86.098–11 or superseding emissions standards sections as applicable, except for engines with a particulate matter certification level exceeding 0.25 grams per brake horsepower-hour. In lieu of providing emissions data on smoke emissions from petroleum-fueled or methanol-fueled diesel engines when conducting Selective Enforcement Audit testing under 40 CFR part 86, subpart K, the Administrator may, on separate request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable smoke emissions standards of § 86.098–11 or superseding emissions standards sections as applicable, except for engines with a particulate matter certification level exceeding 0.25 grams per brake horsepower-hour.

(ii) For heavy-duty diesel engines, a manufacturer may submit hot-start data only, in accordance with subpart N of this part, when making application for certification. However, for confirmatory, Selective Enforcement Audit, and recall testing by the Agency, both the cold-start and hot-start test data, as specified in subpart N of this part, will be included in the official results.

(d) The manufacturer shall submit a statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.090–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.090–5(b), and that the data derived from such tests, are available to the Administrator upon request.

(e)(1) The manufacturer shall submit a statement that the test vehicles (or test engines) for which data are submitted to demonstrate compliance with the applicable standards (or family emission limits, as appropriate) of this subpart are in all material respects as described in the manufacturer's application for certification, that they have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification, and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicles (or test engine) were not as described in the application for certification or were not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards (or family emission limits, as appropriate). The provisions of § 86.098–30(b) shall then be followed.

(2) For evaporative and refueling emission durability, or light-duty truck or HDE exhaust emission durability, the manufacturer shall submit a statement of compliance with paragraph (b)(1)(ii),(b)(2), (b)(3) or (b)(4) of this section, as applicable.

* * * * *

(f) through (g) [Reserved] For guidance see § 86.095–23.

(h) Additionally, manufacturers participating in any of the emissions ABT programs under § 86.098–15 or superseding ABT sections for HDEs shall submit for each participating family the items listed in paragraphs (h)(1) through (3) of this section.

(1) *Application for certification.* (i) The application for certification will

include a statement that the engines for which certification is requested will not, to the best of the manufacturer's belief, when included in any of the ABT programs, cause the applicable emissions standard(s) to be exceeded.

(ii) The application for certification will also include identification of the section of this subpart under which the family is participating in ABT (i.e., § 86.098–15 or superseding ABT sections), the type (NOX, NO_X+NMHC, or particulate) and the projected number of credits generated/needed for this family, the applicable averaging set, the projected U.S. (49-state or 50 state, as applicable) production volumes, by quarter, NCPs in use on a similar family and the values required to calculate credits as given in the applicable ABT section. Manufacturers shall also submit how and where credit surpluses are to be dispersed and how and through what means credit deficits are to be met, as explained in the applicable ABT section. The application must project that each engine family will be in compliance with the applicable emission standards based on the engine mass emissions and credits from averaging, trading and banking.

(2) [Reserved]

(3) *End-of-year report.* The manufacturer shall submit end-of-year reports for each engine family participating in any of the ABT programs, as described in paragraphs (h)(3)(i) through (iv) of this section.

(i) These reports shall be submitted within 90 days of the end of the model year to: Director, Engine Programs and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

(ii) These reports shall indicate the engine family, the averaging set, the actual U.S. (49-state or 50-state, as applicable) production volume, the values required to calculate credits as given in the applicable ABT section, the resulting type and number of credits generated/required, and the NCPs in use on a similar NCP family. Manufacturers shall also submit how and where credit surpluses were dispersed (or are to be banked) and how and through what means credit deficits were met. Copies of contracts related to credit trading must also be included or supplied by the broker if applicable. The report shall also include a calculation of credit balances to show that net mass emissions balances are within those allowed by the emission standards (equal to or greater than a zero credit balance). Any credit discount factor described in the applicable ABT section must be included as required.

(iii) The production counts for end-of-year reports shall be based on the location of the first point of retail sale (e.g., customer, dealer, secondary manufacturer) by the manufacturer.

(iv) Errors discovered by EPA or the manufacturer in the end-of-year report, including changes in the production counts, may be corrected up to 180 days subsequent to submission of the end-of-year report. Errors discovered by EPA after 180 days shall be corrected if credits are reduced. Errors in the manufacturer's favor will not be corrected if discovered after the 180 day correction period allowed.

(i) Failure by a manufacturer participating in the ABT programs to submit any quarterly or end-of-year report (as applicable) in the specified time for all vehicles and engines that are part of an averaging set is a violation of section 203(a)(1) of the Clean Air Act (42 U.S.C. 7522(a)(1)) for each such vehicle and engine.

(j) Failure by a manufacturer generating credits for deposit only in the HDE banking programs to submit their end-of-year reports in the applicable specified time period (i.e., 90 days after the end of the model year) shall result in the credits not being available for use until such reports are received and reviewed by EPA. Use of projected credits pending EPA review will not be permitted in these circumstances.

(k) Engine families certified using NCPs are not required to meet the requirements outlined in paragraphs (f) through (j) of this section.

(l) [Reserved]. For guidance see § 86.095–23.

(m) * * *

(1) In the application for certification the projected sales volume of evaporative families certifying to the respective evaporative test procedure and accompanying standards as set forth or otherwise referenced in §§ 86.090–8, 86.090–9, 86.091–10 and 86.094–11 or as set forth or otherwise referenced in §§ 86.096–8, 86.096–9, 86.096–10 and 86.098–11 or as set forth or otherwise referenced in superseding emissions standards sections. * * *

(2) * * *

(i) These end-of-year reports shall be submitted within 90 days of the end of the model year to: For heavy-duty engines—Director, Engine Programs and Compliance Divisions (6403J), For vehicles—Director, Vehicle Compliance and Programs Division (6405J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

* * * * *

(iv) Failure by a manufacturer to submit the end-of-year report within the specified time may result in certificate(s) for the evaporative family(ies) being voided ab initio plus any applicable civil penalties for failure to submit the required information to the Agency.

* * * * *

8. Section 86.098–30 is amended by revising paragraphs (a)(4)(iv)(A) through (a)(12) to read as follows:

§ 86.098–30 Certification.

* * * * *

(a)(4)(iv)(A) through (a)(9) [Reserved]. For guidance see § 86.094–30.

(a)(10)(i) For diesel-cycle light-duty vehicle and diesel-cycle light-duty truck families which are included in a particulate averaging program, the manufacturer's production-weighted average of the particulate emission limits of all engine families in a participating class or classes shall not exceed the applicable diesel-cycle particulate standard, or the composite particulate standard defined in § 86.090–2 as appropriate, at the end of the model year, as determined in accordance with this part. The certificate shall be void ab initio for those vehicles causing the production-weighted FEL to exceed the particulate standard.

(ii) For all heavy-duty diesel-cycle engines which are included in the particulate ABT programs under §§ 86.094–15, 86.098–15, or superseding ABT sections, the provisions of paragraphs (a)(10)(ii) (A) through (C) of this section apply.

(A) All certificates issued are conditional upon the manufacturer complying with all applicable ABT provisions and the ABT related provisions of other applicable sections, both during and after the model year production.

(B) Failure to comply with all applicable ABT provisions will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be deemed void ab initio.

(C) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or excused.

(11)(i) For light-duty truck families which are included in a NO_X averaging program, the manufacturer's production-weighted average of the NO_X emission limits of all such engine families shall not exceed the applicable NO_X emission standard, or the composite NO_X emission standard defined in § 86.088–2, as appropriate, at the end of the model year, as determined in accordance with this

part. The certificate shall be void ab initio for those vehicles causing the production-weighted FEL to exceed the NO_X standard.

(ii) For all HDEs which are included in the NO_X or NO_X plus NMHC ABT programs under § 86.098–15 or superseding ABT sections, the provisions of paragraphs (a)(11)(ii) (A) through (C) of this section apply.

(A) All certificates issued are conditional upon the manufacturer complying with all applicable ABT provisions and the ABT related provisions of other applicable sections, both during and after the model year production.

(B) Failure to comply with all applicable ABT provisions will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be deemed void ab initio.

(C) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or excused.

(a)(12) [Reserved]. For guidance see § 86.094–30.

* * * * *

9. Section 86.099–11 is amended by revising the first sentence of paragraphs (a)(3)(ii) and (a)(4)(iii) introductory text to read as follows:

§ 86.099–11 Emission standards for 1999 and later model year diesel heavy-duty engines and vehicles.

(a) * * *

(3) * * *

(ii) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the NO_X or NO_X plus NMHC ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

(4)* * *

(iii) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the particulate ABT programs for HDEs, within the restrictions described in § 86.098–15 as applicable. * * *

* * * * *

10. Section 86.001–23 is amended by revising paragraphs (a) through (b)(1), (b)(3), (b)(4), (c), (d), (e)(1), (e)(2), and (f) through (m) to read as follows:

§ 86.001–23 Required data.

* * * * *

(a) through (b)(1) [Reserved]. For guidance see § 86.098–23.

* * * * *

(b)(3) and (b)(4) [Reserved]. For guidance see § 86.098–23.

(c)(1) [Reserved]. For guidance see § 86.095–23.

(c)(2) through (e)(1) [Reserved]. For guidance see § 86.098–23.

(e)(2) For evaporative and refueling emissions durability, or light-duty truck or HDE exhaust emissions durability, a statement of compliance with paragraph (b)(2) of this section or § 86.098–23 (b)(1)(ii), (b)(3), or (b)(4) as applicable.

* * * * *

(f) and (g) [Reserved]. For guidance see § 86.095–23.

(h) through (m) [Reserved]. For guidance see § 86.098–23.

11. Section 86.001–30 is amended by revising paragraphs (a)(4)(iv)(A) through (a)(12) to read as follows:

§ 86.001–30 Certification.

* * * * *

(a) * * *

(4) * * *

(a)(4)(iv)(A) through (a)(9) [Reserved]. For guidance see § 86.094–30.

(a)(10) and (a)(11) [Reserved]. For guidance see § 86.098–30.

(a)(12) [Reserved]. For guidance see § 86.094–30.

* * * * *

12. A new § 86.004–2 is added to subpart A to read as follows:

§ 86.004–2 Definitions.

The definitions of § 86.001–2 continue to apply to 2001 and later model year vehicles. The definitions listed in this section apply beginning with the 2004 model year.

Useful life means:

(1) For light-duty vehicles, and for light light-duty trucks not subject to the Tier 0 standards of § 86.094–9(a), intermediate useful life and/or full useful life. Intermediate useful life is a period of use of 5 years or 50,000 miles, whichever occurs first. Full useful life is a period of use of 10 years or 100,000 miles, whichever occurs first, except as otherwise noted in § 86.094–9. The useful life of evaporative and/or refueling emission control systems on the portion of these vehicles subject to the evaporative emission test requirements of § 86.130–96, and/or the refueling emission test requirements of § 86.151–98, is defined as a period of use of 10 years or 100,000 miles, whichever occurs first.

(2) For light light-duty trucks subject to the Tier 0 standards of § 86.094–9(a), and for heavy light-duty truck engine families, intermediate and/or full useful life. Intermediate useful life is a period of use of 5 years or 50,000 miles, whichever occurs first. Full useful life is a period of use of 11 years or 120,000 miles, whichever occurs first. The useful life of evaporative emission and/or refueling control systems on the portion of these vehicles subject to the evaporative emission test requirements of § 86.130–96, and/or the refueling emission test requirements of § 86.151–98, is also defined as a period of 11 years or 120,000 miles, whichever occurs first.

(3) For an Otto-cycle HDE family:

(i) For hydrocarbon and carbon monoxide standards, a period of use of 10 years or 110,000 miles, whichever first occurs.

(ii) For the oxides of nitrogen standard, a period of use of 10 years or 110,000 miles, whichever first occurs.

(iii) For the portion of evaporative emission control systems subject to the evaporative emission test requirements of § 86.1230–96, a period of use of 10 years or 110,000 miles, whichever first occurs.

(4) For a diesel HDE family:

(i) For light heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs.

(ii) For medium heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emission standards, a period of use of 10 years or 185,000 miles, whichever first occurs.

(iii) For heavy heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 435,000 miles, or 22,000 hours, whichever first occurs, except as provided in paragraphs (4)(iv) and (4)(v) of this definition.

(iv) The useful life limit of 22,000 hours in paragraph (4)(iii) of this definition is effective as a limit to the useful life only when an accurate hours meter is provided by the manufacturer with the engine and only when such hours meter can reasonably be expected to operate properly over the useful life of the engine.

(v) For an individual engine, if the useful life hours limit of 22,000 hours is reached before the engine reaches 10 years or 100,000 miles, the useful life shall become 10 years or 100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d).

(5) As an option for both light-duty trucks under certain conditions and HDE families, an alternative useful life period may be assigned by the Administrator under the provisions of § 86.094–21(f).

Warranty period, for purposes of HDE emissions defect warranty and emissions performance warranty, shall

be a period of 5 years/50,000 miles, whichever occurs first, for Otto-cycle HDEs and light heavy-duty diesel engines. For all other heavy-duty diesel engines the aforementioned period shall be 5 years/100,000 miles, whichever occurs first. However, in no case may this period be less than the basic mechanical warranty period that the manufacturer provides (with or without additional charge) to the purchaser of the engine. Extended warranties on select parts do not extend the emissions warranty requirements for the entire engine but only for those parts. In cases where responsibility for an extended warranty is shared between the owner and the manufacturer, the emissions warranty shall also be shared in the same manner as specified in the warranty agreement.

13. A new § 86.004–11 is added to subpart A to read as follows:

§ 86.004–11 Emission standards for 2004 and later model year diesel heavy-duty engines and vehicles.

(a)(1) Exhaust emissions from new 2004 and later model year diesel HDEs shall not exceed the following:

(i)(A) *Oxides of Nitrogen plus Non-methane Hydrocarbons (NO_X + NMHC) for engines fueled with either petroleum fuel, natural gas, or liquefied petroleum gas,* 2.4 grams per brake horsepower-hour (0.89 gram per megajoule), as measured under transient operating conditions.

(B) *Oxides of Nitrogen plus Non-methane Hydrocarbon Equivalent (NO_X + NMHCE) for engines fueled with methanol,* 2.4 grams per brake horsepower-hour (0.89 gram per megajoule), as measured under transient operating conditions.

(C) *Optional Standard.* Manufacturers may elect to certify to an Oxides of Nitrogen plus Non-methane Hydrocarbons (or equivalent for methanol-fueled engines) standard of 2.5 grams per brake horsepower-hour (0.93 gram per megajoule), as measured under transient operating conditions, provided that Non-methane Hydrocarbons (or equivalent for methanol-fueled engines) do not exceed 0.5 grams per brake horsepower-hour (0.19 gram per megajoule) NMHC (or NMHCE for methanol-fueled engines), as measured under transient operating conditions.

(D) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the emissions ABT programs for HDEs, within the restrictions described in § 86.004–15 or superseding applicable sections. If the manufacturer elects to include engine families in any of these programs, the NO_X plus NMHC (or NO_X plus NMHCE for methanol-fueled engines) FELs may not exceed 4.5 grams per brake horsepower-hour (1.7 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, banking, or trading programs. Additionally, families certified to the optional standard contained in paragraph (a)(1)(i)(C) of this section shall not exceed 0.50 grams per brake horsepower-hour (0.19 gram per megajoule) NMHC (or NMHCE for methanol-fueled engines) through the use of credits.

(E) No later than December 31, 1999, the Administrator shall review the emissions standards set forth in paragraph (a)(1)(i) of this section and determine whether these standards continue to be appropriate under the Act.

(ii) *Carbon monoxide.* (A) 15.5 grams per brake horsepower-hour (5.77 grams per megajoule), as measured under transient operating conditions.

(B) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas-, and liquefied petroleum gas-fueled diesel HDEs only).

(iii) *Particulate.* (A) For diesel engines to be used in urban buses, 0.05 gram per brake horsepower-hour (0.019 gram per megajoule) for certification testing and selective enforcement audit testing, and 0.07 gram per brake horsepower-hour (0.026 gram per megajoule) for in-use testing, as measured under transient operating conditions.

(B) For all other diesel engines, 0.10 gram per brake horsepower-hour (0.037 gram per megajoule), as measured under transient operating conditions.

(C) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the particulate ABT programs for HDEs, within the restrictions described in § 86.004–15 or superseding applicable sections. If the manufacturer elects to include engine families in any of these programs, the particulate FEL may not exceed 0.25 gram per brake horsepower-hour (0.093 gram per megajoule).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(2) of appendix I to this part, and measured and calculated in accordance with the procedures set forth in subpart N or P of this part, except as noted in § 86.098–23(c)(2) or superceding sections.

(b)(1) The opacity of smoke emission from new 2004 and later model year diesel HDEs shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in subpart I of this part and measured and calculated in accordance with those procedures.

(3) Evaporative emissions (total of non-oxygenated hydrocarbons plus methanol) from heavy-duty vehicles equipped with methanol-fueled diesel engines shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(1) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(2) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.5 grams per test.

(B) Running loss test: 0.05 grams per mile.

(C) Fuel dispensing spitback test: 1.0 gram per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(1) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(2) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.5 grams per test.

(B) Running loss test: 0.05 grams per mile.

(iii)(A) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs, the standards set forth in paragraph (b)(3) of this section refer to a composite sample of evaporative emissions collected under the conditions and measured in accordance with the procedures set forth in subpart M of this part. For certification vehicles only, manufacturers may conduct testing to quantify a level of nonfuel background emissions for an individual test vehicle. Such a demonstration must include a description of the source(s) of emissions and an estimated decay rate. The demonstrated level of nonfuel background emissions may be subtracted from emission test results from certification vehicles if approved in advance by the Administrator.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs., the standards set forth in paragraph

(b)(3)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(iv) All fuel vapor generated during in-use operations shall be routed exclusively to the evaporative control system (e.g., either canister or engine purge). The only exception to this requirement shall be for emergencies.

(4) Evaporative emissions from 2004 and later model year heavy-duty vehicles equipped with natural gas-fueled or liquefied petroleum gas-fueled HDEs shall not exceed the following standards. The standards apply equally to certification and in-use vehicles.

(i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 3.0 grams per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds for the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 4.0 grams per test.

(iii)(A) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(4) of this section refer to a composite sample of evaporative emissions collected under the conditions set forth in subpart M of this part and measured in accordance with those procedures.

(B) For vehicles with a Gross Vehicle Weight Rating greater than 26,000 pounds, the standards set forth in paragraphs (b)(3)(ii) and (b)(4)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.091–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 2004 or later model year methanol-, natural gas-, or liquefied petroleum gas-fueled diesel, or any naturally-aspirated diesel HDE. For petroleum-fueled engines only, this provision does not apply to engines using turbochargers, pumps, blowers, or superchargers for air induction.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in subpart I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c), and (d) of this section.

14. A new § 86.004–15 is added to subpart A to read as follows:

§ 86.004–15 NO_X and particulate averaging, trading, and banking for heavy-duty engines.

(a)(1) Heavy-duty engines eligible for NO_X, NO_X plus NMHC, and particulate averaging, trading and banking programs are described in the applicable emission standards sections in this subpart. All heavy-duty engine families which include any engines labeled for use in clean-fuel vehicles as specified in 40 CFR part 88 are not eligible for these programs. Participation in these programs is voluntary.

(2)(i) Engine families with FELs exceeding the applicable standard shall obtain emission credits in a mass amount sufficient to address the shortfall. Credits may be obtained from averaging, trading, or banking, within the averaging set restrictions described in this section.

(ii) Engine families with FELs below the applicable standard will have emission credits available to average, trade, bank or a combination thereof. Credits may not be used for averaging or trading to offset emissions that exceed an FEL. Credits may not be used to remedy an in-use nonconformity determined by a Selective Enforcement Audit or by recall testing. However, credits may be used to allow subsequent production of engines for the family in question if the manufacturer elects to recertify to a higher FEL.

(iii) Credits scheduled to expire in the earliest model year shall be used, prior to using other available credits, to offset emissions of engine families with FELs exceeding the applicable standard.

(b) Participation in the NO_X, NO_X plus NMHC, and/or particulate averaging, trading, and banking programs shall be done as follows.

(1) During certification, the manufacturer shall:

(i) Declare its intent to include specific engine families in the averaging, trading and/or banking programs. Separate declarations are required for each program and for each pollutant (i.e., NO_X, NO_X plus NMHC, and particulate).

(ii) Declare an FEL for each engine family participating in one or more of these three programs.

(A) The FEL must be to the same level of significant digits as the emission standard (one-tenth of a gram per brake horsepower-hour for NO_X, NO_X plus NMHC, emissions and one-hundredth of a gram per brake horsepower-hour for particulate emissions).

(B) In no case may the FEL exceed the upper limit prescribed in the section concerning the applicable heavy-duty engine NO_X, NO_X plus NMHC, and particulate emission standards.

(iii) Calculate the projected emission credits (positive or negative) based on quarterly production projections for each participating family and for each pollutant, using the applicable equation in paragraph (c) of this section and the applicable factors for the specific engine family.

(iv)(A) Determine and state the source of the needed credits according to quarterly projected production for engine families requiring credits for certification.

(B) State where the quarterly projected credits will be applied for engine families generating credits.

(C) Credits may be obtained from or applied to only engine families within the same averaging set as described in paragraph (d) or (e) of this section. Credits available for averaging, trading, or banking as defined in § 86.090–2, may be applied exclusively to a given engine family, or reserved as defined in § 86.091–2.

(2) Based on this information each manufacturer's certification application must demonstrate:

(i) That at the end of model year production, each engine family has a net emissions credit balance of zero or more using the methodology in paragraph (c) of this section with any credits obtained from averaging, trading or banking.

(ii) The source of the credits to be used to comply with the emission standard if the FEL exceeds the standard, or where credits will be applied if the FEL is less than the emission standard. In cases where credits are being obtained, each engine family involved must state specifically the source (manufacturer/engine family) of the credits being used. In cases where credits are being generated/supplied, each engine family involved must state specifically the designated use (manufacturer/engine family or reserved) of the credits involved. All such reports shall include all credits involved in averaging, trading or banking.

(3) During the model year manufacturers must:

(i) Monitor projected versus actual production to be certain that compliance with the emission standards is achieved at the end of the model year.

(ii) Provide the end-of-model year reports required under § 86.001–23.

(iii) For manufacturers participating in emission credit trading, maintain the quarterly records required under § 86.091–7(c)(8).

(4) Projected credits based on information supplied in the certification

application may be used to obtain a certificate of conformity. However, any such credits may be revoked based on review of end-of-model year reports, follow-up audits, and any other compliance measures deemed appropriate by the Administrator.

(5) Compliance under averaging, banking, and trading will be determined at the end of the model year. Engine families without an adequate amount of NO_X, NO_X plus NMHC, and/or particulate emission credits will violate the conditions of the certificate of conformity. The certificates of conformity may be voided ab initio for engine families exceeding the emission standard.

(6) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year report previously submitted to EPA under this section, the manufacturer's credits and credit calculations will be recalculated. Erroneous positive credits will be void. Erroneous negative balances may be adjusted by EPA for retroactive use.

(i) If EPA review of a manufacturer's end-of-year report indicates a credit shortfall, the manufacturer will be permitted to purchase the necessary credits to bring the credit balance for that engine family to zero, using the discount specified in paragraph (c)(1) of this section on the ratio of credits purchased for every credit needed to bring the balance to zero. If sufficient credits are not available to bring the credit balance for the family in question to zero, EPA may void the certificate for that engine family ab initio.

(ii) If within 180 days of receipt of the manufacturer's end-of-year report, EPA review determines a reporting error in the manufacturer's favor (i.e., resulting in a positive credit balance) or if the manufacturer discovers such an error within 180 days of EPA receipt of the end-of-year report, the credits will be restored for use by the manufacturer.

(c)(1) For each participating engine family, NO_X, NO_X plus NMHC, and particulate emission credits (positive or negative) are to be calculated according to one of the following equations and rounded, in accordance with ASTM E29–93a, to the nearest one-tenth of a Megagram (Mg). Consistent units are to be used throughout the equation.

(i) For determining credit need for all engine families and credit availability for engine families generating credits for averaging programs only:

$$\text{Emission credits} = (\text{Std} - \text{FEL}) \times (\text{CF}) \times (\text{UL}) \times (\text{Production}) \times (10^{-6})$$

(ii) For determining credit availability for engine families generating credits for trading or banking programs:

$$\text{Emission credits} = (\text{Std} - \text{FEL}) \times (\text{CF}) \times (\text{UL}) \times (\text{Production}) \times (10^{-6}) \times (\text{Discount})$$

(iii) For purposes of the equations in paragraphs (c)(1) (i) and (ii) of this section:

Std = the current and applicable heavy-duty engine NO_X, NO_X plus NMHC, or particulate emission standard in grams per brake horsepower hour or grams per Megajoule.

FEL = the NO_X, NO_X plus NMHC, or particulate family emission limit for the engine family in grams per brake horsepower hour or grams per Megajoule.

CF = a transient cycle conversion factor in BHP-hr/mi or MJ/mi, as given in paragraph (c)(2) of this section.

UL = the useful life described in § 86.004–2, or alternative life as described in paragraph (f) of § 86.004–21, for the given engine family in miles.

Production = the number of engines produced for U.S. sales within the given engine family during the model year. Quarterly production projections are used for initial certification. Actual production is used for end-of-year compliance determination.

Discount = a one-time discount applied to all credits to be banked or traded within the model year generated. Except as otherwise allowed in paragraph (k) of this section, the discount applied here is 0.9 for diesel-cycle engines. The discount applied here is 0.8 for all Otto-cycle engines. Banked credits traded in a subsequent model year will not be subject to an additional discount. Banked credits used in a subsequent model year's averaging program will not have the discount restored.

(2)(i) The transient cycle conversion factor is the total (integrated) cycle brake horsepower-hour or Megajoules, divided by the equivalent mileage of the applicable transient cycle. For Otto-cycle heavy-duty engines, the equivalent mileage is 6.3 miles. For diesel heavy-duty engines, the equivalent mileage is 6.5 miles.

(ii) When more than one configuration is chosen by EPA to be tested in the certification of an engine family (as described in § 86.085–24), the conversion factor used is to be based upon a production weighted average value of the configurations in an engine family to calculate the conversion factor.

(d) *Averaging sets for NO_X and for NO_X plus NMHC emission credits.* The averaging and trading of NO_X emission credits for Otto-cycle engines and NO_X plus NMHC emission credits for diesel-cycle engines will only be allowed between heavy-duty engine families in the same averaging set. The averaging sets for the averaging and trading of NO_X and NO_X plus NMHC emission credits for heavy-duty engines are defined as follows:

(1) For NO_X credits from Otto-cycle heavy-duty engines:

(i) Otto-cycle heavy-duty engines constitute an averaging set. Averaging and trading among all Otto-cycle heavy-duty engine families is allowed. There are no subclass restrictions.

(ii) Gasoline-fueled heavy-duty vehicles certified under the provisions of § 86.085–1(b) may not average or trade with gasoline-fueled heavy-duty Otto-cycle engines, but may average or trade credits with light-duty trucks.

(iii) The averaging and trading of NO_X emission credits will only be allowed between heavy-duty engine families in the same regional category. Otto-cycle engines produced for sale in California constitute a separate regional category than engines produced for sale in the other 49 states. Banking and trading are not applicable to engines sold in California.

(2) For NO_X plus NMHC credits from diesel-cycle heavy-duty engines:

(i) Each of the three primary intended service classes for heavy-duty diesel engines, as defined in § 86.004–2, constitute an averaging set. Averaging and trading among all diesel-cycle engine families within the same primary service class is allowed.

(ii) Urban buses are treated as members of the primary intended service class where they otherwise would fall.

(e) *Averaging sets for particulate emission credits.* The averaging and trading of particulate emission credits will only be allowed between diesel cycle heavy-duty engine families in the same averaging set. The averaging sets for the averaging and trading of particulate emission credits for diesel cycle heavy-duty engines are defined as follows:

(1) Engines intended for use in urban buses constitute a separate averaging set from all other heavy-duty engines. Averaging and trading between diesel cycle bus engine families is allowed.

(2) For heavy-duty engines, exclusive of urban bus engines, each of the three primary intended service classes for heavy-duty diesel cycle engines, as defined in § 86.004–2, constitute an averaging set. Averaging and trading between diesel-cycle engine families within the same primary service class is allowed.

(3) Otto cycle engines may not participate in particulate averaging, trading, or banking.

(f) *Banking of NO_X, NO_X plus NMHC, and particulate emission credits.* (1) *Credit deposits.* (i) NO_X, NO_X plus NMHC, and particulate emission credits may be banked from engine families produced in any model year.

(ii) Manufacturers may bank credits only after the end of the model year and after actual credits have been reported to EPA in the end-of-year report. During the model year and before submittal of the end-of-year report, credits originally designated in the certification process for banking will be considered reserved and may be redesignated for trading or averaging.

(2) *Credit withdrawals.* (i) After being generated, banked NO_X credits shall be available for use within three model years following the model year in which they were generated. NO_X credits from Otto-cycle HDE families not used within the period specified above shall be forfeited. NO_X plus NMHC and particulate credits from diesel-cycle HDE families do not expire.

(ii) Manufacturers withdrawing banked NO_X, NO_X plus NMHC, and/or particulate credits shall indicate so during certification and in their credit reports, as described in § 86.091–23.

(3) *Use of banked emission credits.* The use of banked credits shall be within the averaging set and other restrictions described in paragraphs (d) and (e) of this section, and only for the following purposes:

(i) Banked credits may be used in averaging, or in trading, or in any combination thereof, during the certification period. Credits declared for banking from the previous model year but not reported to EPA may also be used. However, if EPA finds that the reported credits can not be proven, they will be revoked and unavailable for use.

(ii) Banked credits may not be used for NO_X, NO_X plus NMHC, or particulate averaging and trading to offset emissions that exceed an FEL. Banked credits may not be used to remedy an in-use nonconformity determined by a Selective Enforcement Audit or by recall testing. However, banked credits may be used for subsequent production of the engine family if the manufacturer elects to recertify to a higher FEL.

(iii) Banked NO_X credits from 2003 and prior may be used in place of NO_X plus NMHC credits after 2003 provided that they are used in the correct averaging set and the NO_X credits have not expired.

(g)(1) For the purposes of paragraph (g) of this section, the following paragraphs assume NO_X, NO_X plus NMHC, and particulate nonconformance penalties (NCPs) will be available for the 2004 and later model year HDEs.

(2) Engine families using NO_X, NO_X plus NMHC, and/or particulate NCPs but not involved in averaging:

(i) May not generate NO_X, NO_X plus NMHC, or particulate credits for banking and trading.

(ii) May not use NO_X, NO_X plus NMHC, or particulate credits from banking and trading.

(3) If a manufacturer has any engine family to which application of NCPs and banking and trading credits is desired, that family must be separated into two distinct families. One family, whose FEL equals the standard, must use NCPs only while the other, whose FEL does not equal the standard, must use credits only.

(4) If a manufacturer has any engine family in a given averaging set which is using NO_X, NO_X plus NMHC, and/or particulate NCPs, none of that manufacturer's engine families in that averaging set may generate credits for banking and trading.

(h) In the event of a negative credit balance in a trading situation, both the buyer and the seller would be liable.

(i) Certification fuel used for credit generation must be of a type that is both available in use and expected to be used by the engine purchaser. Therefore, upon request by the Administrator, the engine manufacturer must provide information acceptable to the Administrator that the designated fuel is readily available commercially and would be used in customer service.

(j) *Credit apportionment.* At the manufacturers option, credits generated from diesel-cycle heavy-duty engines under the provisions described in this section may be sold to or otherwise provided to the another party for use in programs other than the averaging, trading and banking program described in this section.

(1) The manufacturer shall pre-identify two emission levels per engine family for the purposes of credit apportionment. One emission level shall be the FEL and the other shall be the level of the standard that the engine family is required to certify to under § 86.004–11. For each engine family, the manufacturer may report engine sales in two categories, ''ABT-only credits'' and ''nonmanufacturer-owned credits''.

(i) For engine sales reported as ''ABT-only credits'', the credits generated must be used solely in the ABT program described in this section.

(ii) The engine manufacturer may declare a portion of engine sales ''nonmanufacturer-owned credits'' and this portion of the credits generated between the standard and the FEL, based on the calculation in (c)(1) of this section, would belong to the engine purchaser. For ABT, the manufacturer may not generate any credits for the engine sales reported as ''nonmanufacturer-owned credits''. Engines reported as ''nonmanufacturer-owned credits'' shall comply with the FEL and the requirements of the ABT program in all other respects.

(2) Only manufacturer-owned credits reported as ''ABT-only credits'' shall be used in the averaging, trading, and banking provisions described in this section.

(3) Credits shall not be double-counted. Credits used in the ABT program may not be provided to an engine purchaser for use in another program.

(4) Manufacturers shall determine and state the number of engines sold as ''ABT-only credits'' and ''nonmanufacturer-owned credits'' in the end-of-model year reports required under § 86.001–23.

(k) *Additional Flexibility*. If a diesel-cycle engine family meets the conditions of either paragraph (k)(1) or (2) of this section, a Discount of 1.0 may be used in the trading and banking calculation, for both NO_X plus NMHC and for particulate, described in paragraph (c)(1) of this section.

(1) The engine family certifies with a certification level of 1.9 g/bhp-hr NO_X plus NMHC or lower for all diesel-cycle engine families.

(2) All of the following must apply to the engine family:

(i) Diesel-cycle engines only;

(ii) 2004, 2005, and 2006 model years only;

(iii) Must be an engine family using carry-over certification data from prior to model year 2004 where the NO_X plus the HC certification level prior to model year 2004 is below the NO_X plus NMHC or NO_X plus NMHCE standard set forth in § 86.004–11. Under this option, the NO_X credits generated from this engine family prior to model year 2004 may be used as NO_X plus NMHC credits.

15. A new § 86.004–21 is added to subpart A to read as follows:

§ 86.004–21 Application for certification.

Section 86.004–21 includes text that specifies requirements that differ from § 86.094–21 or § 86.096–21. Where a paragraph in § 86.094–21 or § 86.096–21 is identical and applicable to § 86.004–21, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–21.'' or ''[Reserved]. For guidance see § 86.096–21.''.

(a) through (b)(3) [Reserved]. For guidance see § 86.094–21.

(b)(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission and/or refueling emission deterioration factors, as appropriate, required to be determined and supplied in § 86.001–23(b)(2).

(b)(4)(ii) through (b)(5)(iv) [Reserved]. For guidance see § 86.094–21.

(b)(5)(v) For light-duty vehicles and applicable light-duty trucks with non-integrated refueling emission control systems, the number of continuous UDDS cycles, determined from the fuel economy on the UDDS applicable to the test vehicle of that evaporative/refueling emission family-emission control system combination, required to use a volume of fuel equal to 85% of fuel tank volume.

(6) *Participation in averaging programs*—(i) *Particulate averaging.* (A) If the manufacturer elects to participate in the particulate averaging program for diesel light-duty vehicles and/or diesel light-duty trucks or the particulate averaging program for heavy-duty diesel engines, the application must list the family particulate emission limit and the projected U.S. production volume of the family for the model year.

(B) The manufacturer shall choose the level of the family particulate emission limits, accurate to hundredth of a gram per mile or hundredth of a gram per brake horsepowerhour for HDEs.

(C) The manufacturer may at any time during production elect to change the level of any family particulate emission limit(s) by submitting the new limit(s) to the Administrator and by demonstrating compliance with the limit(s) as described in §§ 86.090–2 and 86.094–28(b)(5)(i).

(ii) *NO_X and NO_X plus NMHC averaging.* (A) If the manufacturer elects to participate in the NO_X averaging program for light-duty trucks or otto-cycle HDEs or the NO_X plus NMHC averaging program for diesel-cycle HDEs, the application must list the family emission limit and the projected U.S. production volume of the family for the model year.

(B) The manufacturer shall choose the level of the family emission limits, accurate to one-tenth of a gram per mile or to one-tenth of a gram per brake horsepower-hour for HDEs.

(C) The manufacturer may at any time during production elect to change the level of any family emission limit(s) by submitting the new limits to the Administrator and by demonstrating compliance with the limit(s) as described in §§ 86.088–2 and 86.094–28(b)(5)(ii).

(b)(7) and (b)(8) [Reserved]. For guidance see § 86.094–21.

(b)(9) For each light-duty vehicle, light-duty truck, evaporative/refueling emission family or heavy-duty vehicle evaporative emission family, a description of any unique procedures required to perform evaporative and/or refueling emission tests, as applicable, (including canister working capacity, canister bed volume, and fuel temperature profile for the running loss test) for all vehicles in that evaporative and/or evaporative/refueling emission family, and a description of the method used to develop those unique procedures.

(10) For each light-duty vehicle or applicable light-duty truck evaporative/refueling emission family, or each heavy-duty vehicle evaporative emission family:

(i) Canister working capacity, according to the procedures specified in § 86.132–96(h)(1)(iv);

(ii) Canister bed volume; and

(iii) Fuel temperature profile for the running loss test, according to the procedures specified in § 86.129–94(d).

(c) through (j) [Reserved]. For guidance see § 86.094–21.

(k) and (l) [Reserved]. For guidance see § 86.096–21.

16. A new § 86.004–25 is added to subpart A to read as follows:

§ 86.004–25 Maintenance.

Section 86.004–25 includes text that specifies requirements that differ from § 86.094–25 or § 86.098–25. Where a paragraph in § 86.094–25 or § 86.098–25 is identical and applicable to § 86.004–25, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–25.'' or ''[Reserved]. For guidance see § 86.098–25.''.

(a)(1) Applicability. This section applies to light-duty vehicles, light-duty trucks, and HDEs.

(2) Maintenance performed on vehicles, engines, subsystems, or components used to determine exhaust, evaporative or refueling emission deterioration factors, as appropriate, is classified as either emission-related or non-emission-related and each of these can be classified as either scheduled or unscheduled. Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(b) Introductory text through (b)(3)(ii) [Reserved]. For guidance see § 86.094–25.

(b)(3)(iii) For otto-cycle heavy-duty engines, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(3)(iii) (A) through (E) of this section shall occur at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(A) Positive crankcase ventilation valve.

(B) Emission-related hoses and tubes.

(C) Ignition wires.

(D) Idle mixture.

(E) Exhaust gas recirculation system related filters and coolers.

(iv) For otto-cycle light-duty vehicles, light-duty trucks and otto-cycle heavy-duty engines, the adjustment, cleaning, repair, or replacement of the oxygen sensor shall occur at 80,000 miles (or 2,400 hours) of use and at 80,000-mile (or 2,400-hour) intervals thereafter.

(v) For otto-cycle heavy-duty engines, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(3)(v) (A) through (H) of this section shall occur at 100,000 miles (or 3,000 hours) of use and at 100,000-mile (or 3,000-hour) intervals thereafter.

(A) Catalytic converter.

(B) Air injection system components.

(C) Fuel injectors.

(D) Electronic engine control unit and its associated sensors (except oxygen sensor) and actuators.

(E) Evaporative emission canister.

(F) Turbochargers.

(G) Carburetors.

(H) Exhaust gas recirculation system (including all related control valves and tubing) except as otherwise provided in paragraph (b)(3)(iii)(E) of this section.

(b)(3)(vi)(A) through (b)(3)(vi)(D) [Reserved]. For guidance see § 86.094–25.

(b)(3)(vi)(E) through (b)(3)(vi)(J) [Reserved]. For guidance see § 86.098–25.

(4) For diesel-cycle light-duty vehicles, light-duty trucks, and HDEs, emission-related maintenance in addition to or at shorter intervals than that listed in paragraphs (b)(4) (i) through (iv) of this section will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section.

(i) For diesel-cycle heavy-duty engines, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(4)(i) (A) through (C) of this section shall occur at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(A) Exhaust gas recirculation system related filters and coolers.

(B) Positive crankcase ventilation valve.

(C) Fuel injector tips (cleaning only).

(ii) For diesel-cycle light-duty vehicles and light-duty trucks, the adjustment, cleaning, repair, or

replacement of the positive crankcase ventilation valve shall occur at 50,000 miles of use and at 50,000-mile intervals thereafter.

(iii) The adjustment, cleaning, repair, or replacement of items listed in paragraphs (b)(4)(iii) (A) through (G) of this section shall occur at 100,000 miles (or 3,000 hours) of use and at 100,000-mile (or 3,000-hour) intervals thereafter for light heavy-duty diesel engines, or, at 150,000 miles (or 4,500 hours) intervals thereafter for medium and heavy heavy-duty diesel engines.

(A) Fuel injectors.

(B) Turbocharger.

(C) Electronic engine control unit and its associated sensors and actuators.

(D) Particulate trap or trap-oxidizer system (including related components).

(E) Exhaust gas recirculation system (including all related control valves and tubing) except as otherwise provided in paragraph (b)(4)(i)(A) of this section.

(F) Catalytic converter.

(G) Any other add-on emissions-related component (i.e., a component whose sole or primary purpose is to reduce emissions or whose failure will significantly degrade emissions control and whose function is not integral to the design and performance of the engine.)

(iv) For disel-cycle light-duty vehicles and light-duty trucks, the adjustment, cleaning, repair, or replacement shall occur at 100,000 miles of use and at 100,000-mile intervals thereafter of the items listed in paragraphs (b)(4)(iv) (A) through (G) of this section.

(A) Fuel injectors.

(B) Turbocharger.

(C) Electronic engine control unit and its associated sensors and actuators.

(D) Particulate trap or trap-oxidizer system (including related components).

(E) Exhaust gas recirculation system including all related filters and control valves.

(F) Catalytic converter.

(G) Superchargers.

(5) [Reserved]

(6)(i) The components listed in paragraphs (b)(6)(i) (A) through (H) of this section are currently defined as critical emission-related components.

(A) Catalytic converter.

(B) Air injection system components.

(C) Electronic engine control unit and its associated sensors (including oxygen sensor if installed) and actuators.

(D) Exhaust gas recirculation system (including all related filters, coolers, control valves, and tubing).

(E) Positive crankcase ventilation valve.

(F) Evaporative and refueling emission control system components (excluding canister air filter).

(G) Particulate trap or trap-oxidizer system.

(H) Any other add-on emissions-related component (i.e., a component whose sole or primary purpose is to reduce emissions or whose failure will significantly degrade emissions control and whose function is not integral to the design and performance of the engine.)

(ii) All critical emission-related scheduled maintenance must have a reasonable likelihood of being performed in-use. The manufacturer shall be required to show the reasonable likelihood of such maintenance being performed in-use, and such showing shall be made prior to the performance of the maintenance on the durability data vehicle. Critical emission-related scheduled maintenance items which satisfy one of the conditions defined in paragraphs (b)(6)(ii) (A) through (F) of this section will be accepted as having a reasonable likelihood of the maintenance item being performed in-use.

(A) Data are presented which establish for the Administrator a connection between emissions and vehicle performance such that as emissions increase due to lack of maintenance, vehicle performance will simultaneously deteriorate to a point unacceptable for typical driving.

(B) Survey data are submitted which adequately demonstrate to the Administrator that, at an 80 percent confidence level, 80 percent of such engines already have this critical maintenance item performed in-use at the recommended interval(s).

(C) A clearly displayed visible signal system approved by the Administrator is installed to alert the vehicle driver that maintenance is due. A signal bearing the message ''maintenance needed'' or ''check engine'', or a similar message approved by the Administrator, shall be actuated at the appropriate mileage point or by component failure. This signal must be continuous while the engine is in operation and not be easily eliminated without performance of the required maintenance. Resetting the signal shall be a required step in the maintenance operation. The method for resetting the signal system shall be approved by the Administrator. For HDEs, the system must not be designed to deactivate upon the end of the useful life of the engine or thereafter.

(D) A manufacturer may desire to demonstrate through a survey that a critical maintenance item is likely to be performed without a visible signal on a maintenance item for which there is no prior in-use experience without the signal. To that end, the manufacturer may in a given model year market up to 200 randomly selected vehicles per critical emission-related maintenance item without such visible signals, and monitor the performance of the critical maintenance item by the owners to show compliance with paragraph (b)(6)(ii)(B) of this section. This option is restricted to two consecutive model years and may not be repeated until any previous survey has been completed. If the critical maintenance involves more than one engine family, the sample will be sales weighted to ensure that it is representative of all the families in question.

(E) The manufacturer provides the maintenance free of charge, and clearly informs the customer that the maintenance is free in the instructions provided under § 86.087–38.

(F) Any other method which the Administrator approves as establishing a reasonable likelihood that the critical maintenance will be performed in-use.

(iii) Visible signal systems used under paragraph (b)(6)(ii)(C) of this section are considered an element of design of the emission control system. Therefore, disabling, resetting, or otherwise rendering such signals inoperative without also performing the indicated maintenance procedure is a prohibited act under section 203(a)(3) of the Clean Air Act (42 U.S.C. 7522(a)(3)).

(b)(7) through (h) [Reserved]. For guidance see § 86.094–25.

17. Section 86.004–28 of Subpart A is amended by revising paragraphs (c) and (d) to read as follows:

§ 86.004–28 Compliance with emission standards.

* * * * *

(c)(1) Paragraph (c) of this section applies to heavy-duty engines.

(2) The applicable exhaust emission standards (or family emission limits, as appropriate) for Otto-cycle engines and for diesel-cycle engines apply to the emissions of engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of service on the engine, deterioration factors will be used in combination with emission data engine test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (c)(4) of this section describes the procedure for determining compliance of an engine with emission standards (or family emission limits, as appropriate), based on deterioration factors supplied by the manufacturer. Deterioration factors shall be established using applicable emissions test procedures. NO_X plus NMHC deterioration factors shall be established based on the sum of the pollutants. When establishing deterioration factors for NO_X plus NMHC, a negative deterioration (emissions decrease from

the official exhaust emissions test result) for one pollutant may not offset deterioration of the other pollutant. Where negative deterioration occurs for NO_X and/or NMHC, the official exhaust emission test result shall be used for purposes of determining the NO_X plus NMHC deterioration factor.

(ii) Separate exhaust emission deterioration factors, determined from tests of engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. For Otto-cycle engines, separate factors shall be established for transient NMHC (NMHCE), CO, NO_X, NO_X plus NMHC, and idle CO, for those engines utilizing aftertreatment technology (e.g., catalytic converters). For diesel-cycle engines, separate factors shall be established for transient NMHC (NMHCE), CO, NO_X, NO_X plus NMHC and exhaust particulate. For diesel-cycle smoke testing, separate factors shall also be established for the acceleration mode (designated as ''A''), the lugging mode (designated as ''B''), and peak opacity (designated as ''C'').

(iii)(A) Paragraphs (c)(4)(iii)(A) (*1*) and (*2*) of this section apply to Otto-cycle HDEs.

(*1*) Otto-cycle HDEs not utilizing aftertreatment technology (e.g., catalytic converters). For transient NMHC (NMHCE), CO, NO_X, the official exhaust emission results for each emission data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) Otto-cycle HDEs utilizing aftertreatment technology (e.g., catalytic converters). For transient NMHC (NMHCE), CO, NO_X, and for idle CO, the official exhaust emission results for each emission data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) Paragraph (c)(4)(iii)(B) of this section applies to diesel-cycle HDEs.

(*1*) Diesel-cycle HDEs not utilizing aftertreatment technology (e.g., particulate traps). For transient NMHC (NMHCE), CO, NO_X, NO_X plus NMHC, and exhaust particulate, the official exhaust emission results for each emission data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(*2*) Diesel-cycle HDEs utilizing aftertreatment technology (e.g., particulate traps). For transient NMHC (NMHCE), CO, NO_X, NO_X plus NMHC, and exhaust particulate, the official exhaust emission results for each emission data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(*3*) Diesel-cycle HDEs only. For acceleration smoke (''A''), lugging smoke (''B''), and peak smoke (''C''), the official exhaust emission results for each emission data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family emission limits, as appropriate) shall be the adjusted emission values of paragraph (c)(4)(iii) of this section, rounded to the same number of significant figures as contained in the applicable standard in accordance with ASTM E 29–93a (as referenced in § 86.094–28 (a)(4)(i)(B)(2)(ii)), for each emission data engine.

(*5*) and (*6*) [Reserved].

(*7*) Every test engine of an engine family must comply with all applicable standards (or family emission limits, as appropriate), as determined in paragraph (c)(4)(iv) of this section, before any engine in that family will be certified.

(*8*) For the purposes of setting an NMHC plus NO_x certification level or FEL for a diesel-fueled engine family, the manufacturer may use one of the following options for the determination of NMHC for an engine family. The manufacturer must declare which option is used in its application for certification of that engine family.

(i) THC may be used in lieu of NMHC for the standards set forth in § 86.004–11.

(ii) The manufacturer may choose its own method to analyze methane with prior approval of the Administrator.

(iii) The manufacturer may assume that two percent of the measured THC is methane (NMHC = 0.98 × THC).

(d)(1) Paragraph (d) of this section applies to heavy-duty vehicles equipped with gasoline-fueled or methanol-fueled engines.

(2) The applicable evaporative emission standards in this subpart apply to the emissions of vehicles for their useful life.

(3)(i) For vehicles with a GVWR of up to 26,000 pounds, because it is expected that emission control efficiency will change during the useful life of the vehicle, an evaporative emission deterioration factor shall be determined from the testing described in § 86.098–23(b)(3) for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission control system deterioration during the useful life of the vehicle (minimum 50,000 miles). The factor shall be established to a minimum of two places to the right of the decimal.

(ii) For vehicles with a GVWR of greater than 26,000 pounds, because it is expected that emission control efficiency will change during the useful life of the vehicle, each manufacturer's statement as required in § 86.098–23(b)(4)(ii) shall include, in accordance with good engineering practice, consideration of control system deterioration.

(4) The evaporative emission test results, if any, shall be adjusted by the addition of the appropriate deterioration factor, provided that if the deterioration factor as computed in paragraph (d)(3) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(5) The emission level to compare with the standard shall be the adjusted emission level of paragraph (d)(4) of this section. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–93a (as referenced in § 86.094–28 (a)(4)(i)(B)(2)(ii)), to two significant figures. The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (d)(5) of this section, before any vehicle in that family may be certified.

* * * * *

18. Section 86.004–30 is amended by revising paragraphs (a)(3), (a)(4)(i), (a)(4)(ii), and (a)(4)(iv)(A) through (a)(12) to read as follows:

§ 86.004–30 Certification.

* * * * *

(a)(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled and methanol-fueled light-duty vehicles and light-duty trucks, and petroleum-fueled diesel cycle light-duty vehicles and light-duty trucks not certified under § 86.098–

28(g), one such certificate will be issued for each engine family-evaporative/refueling emission family combination. Each certificate will certify compliance with no more than one set of in-use and certification standards (or family emission limits, as appropriate).

(ii) For gasoline-fueled and methanol fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.098–23(b)(4) (i) and (ii).

(iii) For diesel light-duty vehicles and light-duty trucks, or diesel HDEs, included in the applicable particulate averaging program, the manufacturer may at any time during production elect to change the level of any family particulate emission limit by demonstrating compliance with the new limit as described in § 86.094–28(a)(6), § 86.094–28(b)(5)(i), or § 86.004–28(c)(5)(i). New certificates issued under this paragraph will be applicable only for vehicles (or engines) produced subsequent to the date of issuance.

(iv) For light-duty trucks or HDEs included in the applicable NO_X averaging program, the manufacturer may at any time during production elect to change the level of any family NO_X emission limit by demonstrating compliance with the new limit as described in § 86.094–28(b)(5)(ii) or § 86.004–28(c)(5)(ii). New certificates issued under this paragraph will be applicable only for vehicles (or engines) produced subsequent to the day of issue.

(4)(i) For exempt light-duty vehicles and light-duty trucks under the provisions of § 86.094–8(j) or § 86.094–9(j), an adjustment or modification performed in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act (42 U.S.C. 7522(a)(3)).

(ii) A violation of section 203(a)(1) of the Clean Air Act (42 U.S.C. 7522(a)(1)) occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in paragraph (a)(4)(ii) of this section.

(A) When a light-duty vehicle or light-duty truck is exempted from meeting high-altitude requirements as provided in § 86.090–8(h) or § 86.094–9(h):

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle or light-duty truck is exempted from meeting low-altitude requirements as provided in § 86.094–8(i) or § 86.094–9(i):

(*1*) At a designated low-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(a)(4)(iv)(A) through (a)(9) [Reserved]. For guidance see § 86.094–30.

(10)(i) For diesel-cycle light-duty vehicle and diesel-cycle light-duty truck families which are included in a particulate averaging program, the manufacturer's production-weighted average of the particulate emission limits of all engine families in a participating class or classes shall not exceed the applicable diesel-cycle particulate standard, or the composite particulate standard defined in § 86.090–2 as appropriate, at the end of the model year, as determined in accordance with this part. The certificate shall be void ab initio for those vehicles causing the production-weighted FEL to exceed the particulate standard.

(ii) For all heavy-duty diesel-cycle engines which are included in the particulate ABT programs under § 86.098–15 or superseding ABT sections as applicable, the provisions of paragraphs (a)(10)(ii) (A) through (C) of this section apply.

(A) All certificates issued are conditional upon the manufacturer complying with the provisions of § 86.098–15 or superseding ABT sections as applicable and the ABT related provisions of other applicable sections, both during and after the model year production.

(B) Failure to comply with all provisions of § 86.098–15 or superseding ABT sections as applicable will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be deemed void ab initio.

(C) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or excused.

(11)(i) For light-duty truck families which are included in a NO_X averaging program, the manufacturer's production-weighted average of the NO_X emission limits of all such engine families shall not exceed the applicable NO_X emission standard, or the composite NO_X emission standard defined in § 86.088–2, as appropriate, at the end of the model year, as determined in accordance with this part. The certificate shall be void ab initio for those vehicles causing the production-weighted FEL to exceed the NO_X standard.

(ii) For all HDEs which are included in the NO_X plus NMHC ABT programs contained in § 86.098–15, or superseding ABT sections as applicable, the provisions of paragraphs (a)(11)(ii) (A) through (C) of this section apply.

(A) All certificates issued are conditional upon the manufacturer complying with the provisions of § 86.098–15 or superseding ABT sections as applicable and the ABT related provisions of other applicable sections, both during and after the model year production.

(B) Failure to comply with all provisions of § 86.098–15 or superseding ABT sections as applicable will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be deemed void ab initio.

(C) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or excused.

(a)(12) [Reserved]. For guidance see § 86.094–30.

* * * * *

19. A new § 86.004–38 is added to subpart A to read as follows:

§ 86.004–38 Maintenance instructions.

Section 86.004–38 includes text that specifies requirements that differ from § 86.094–38. Where a paragraph in § 86.094–38 is identical and applicable to § 86.004–38 this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–38.''.

(a) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor vehicle (or motor vehicle engine) subject to the standards prescribed in § 86.099–8, § 86.004–9, § 86.004–10, or § 86.004–11, as applicable, written instructions for the proper maintenance and use of the vehicle (or engine), by the purchaser consistent with the provisions of

§ 86.004–25, which establishes what scheduled maintenance the Administrator approves as being reasonable and necessary.

(1) The maintenance instructions required by this section shall be in clear, and to the extent practicable, nontechnical language.

(2) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(b) Instructions provided to purchasers under paragraph (a) of this section shall specify the performance of all scheduled maintenance performed by the manufacturer on certification durability vehicles and, in cases where the manufacturer performs less maintenance on certification durability vehicles than the allowed limit, may specify the performance of any scheduled maintenance allowed under § 86.004–25.

(c) Scheduled emission-related maintenance in addition to that performed under § 86.004–25(b) may only be recommended to offset the effects of abnormal in-use operating conditions, except as provided in paragraph (d) of this section. The manufacturer shall be required to demonstrate, subject to the approval of the Administrator, that such maintenance is reasonable and technologically necessary to assure the proper functioning of the emission control system. Such additional recommended maintenance shall be clearly differentiated, in a form approved by the Administrator, from that approved under § 86.004–25(b).

(d) Inspections of emission-related parts or systems with instructions to replace, repair, clean, or adjust the parts or systems if necessary, are not considered to be items of scheduled maintenance which insure the proper functioning of the emission control system. Such inspections, and any recommended maintenance beyond that approved by the Administrator as reasonable and necessary under paragraphs (a), (b), and (c) of this section, may be included in the written instructions furnished to vehicle owners under paragraph (a) of this section: Provided, That such instructions clearly state, in a form approved by the Administrator, that the owner need not perform such inspections or recommended maintenance in order to maintain the emissions defect and emissions performance warranty or manufacturer recall liability.

(e) The manufacturer may choose to include in such instructions an explanation of any distinction between the useful life specified on the label, and the emissions defect and emissions performance warranty period. The explanation must clearly state that the useful life period specified on the label represents the average period of use up to retirement or rebuild for the engine family represented by the engine used in the vehicle. An explanation of how the actual useful lives of engines used in various applications are expected to differ from the average useful life may be included. The explanation(s) shall be in clear, non-technical language that is understandable to the ultimate purchaser.

(f) If approved by the Administrator, the instructions provided to purchasers under paragraph (a) of this section shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above 4,000 feet, or at elevations of 4,000 feet or less.

(g) [Reserved]. For guidance see § 86.094–38.

(h) The manufacturer shall furnish or cause to be furnished to the purchaser of each new motor engine subject to the standards prescribed in § 86.004–10 or § 86.004–11, as applicable, the following:

(1) Instructions for all maintenance needed after the end of the useful life of the engine for critical emissions-related components as provided in § 86.004–25(b), including recommended practices for diagnosis, cleaning, adjustment, repair, and replacement of the component (or a statement that such component is maintenance free for the life of the engine) and instructions for accessing and responding to any emissions-related diagnostic codes that may be stored in on-board monitoring systems;

(2) A copy of the engine rebuild provisions contained in § 86.004–40.

20. A new § 86.004–40 is added to subpart A to read as follows:

§ 86.004–40 Heavy-duty engine rebuilding practices.

The provisions of this section are applicable to engines subject to the standards prescribed in § 86.004–10 or § 86.004–11 and are applicable to the process of engine rebuilding (or rebuilding a portion of an engine or engine system). The process of engine rebuilding generally includes disassembly, replacement of multiple parts due to wear, and reassembly, and also may include the removal of the engine from the vehicle and other acts associated with rebuilding an engine. Any deviation from the provisions contained in this section is a prohibited act under section 203(a)(3) of the Clean Air Act (42 U.S.C. 7522(a)(3)).

(a) When rebuilding an engine, portions of an engine, or an engine system, there must be a reasonable technical basis for knowing that the resultant engine is equivalent, from an emissions standpoint, to a certified configuration (i.e., tolerances, calibrations, specifications) and the model year(s) of the resulting engine configuration must be identified. A reasonable basis would exist if:

(1) Parts installed, whether the parts are new, used, or rebuilt, are such that a person familiar with the design and function of motor vehicle engines would reasonably believe that the parts perform the same function with respect to emissions control as the original parts; and

(2) Any parameter adjustment or design element change is made only:

(i) In accordance with the original engine manufacturer's instructions; or

(ii) Where data or other reasonable technical basis exists that such parameter adjustment or design element change, when performed on the engine or similar engines, is not expected to adversely affect in-use emissions.

(b) When an engine is being rebuilt and remains installed or is reinstalled in the same vehicle, it must be rebuilt to a configuration of the same or later model year as the original engine. When an engine is being replaced, the replacement engine must be an engine of (or rebuilt to) a configuration of the same or later model year as the original engine.

(c) At time of rebuild, emissions-related codes or signals from on-board monitoring systems may not be erased or reset without diagnosing and responding appropriately to the diagnostic codes, regardless of whether the systems are installed to satisfy requirements in § 86.004–25 or for other reasons and regardless of form or interface. Diagnostic systems must be free of all such codes when the rebuilt engine is returned to service. Such signals may not be rendered inoperative during the rebuilding process.

(d) When conducting a rebuild without removing the engine from the vehicle, or during the installation of a rebuilt engine, all critical emissions-related components listed in § 86.004–25(b) not otherwise addressed by paragraphs (a) through (c) of this section must be checked and cleaned, adjusted, repaired, or replaced as necessary, following manufacturer recommended practices.

(e) Records shall be kept by parties conducting activities included in paragraphs (a) through (d) of this section. The records shall include at minimum the mileage and/or hours at time of rebuild, a listing of work performed on the engine and emissions-related control components including a listing of parts and components used, engine parameter adjustments, emissions-related codes or signals responded to and reset, and work performed under paragraph (d) of this section.

(1) Parties may keep records in whatever format or system they choose as long as the records are understandable to an EPA enforcement officer or can be otherwise provided to an EPA enforcement officer in an understandable format when requested.

(2) Parties are not required to keep records of information that is not reasonably available through normal business practices including information on activities not conducted by themselves or information that they cannot reasonably access.

(3) Parties may keep records of their rebuilding practices for an engine family rather than on each individual engine rebuilt in cases where those rebuild practices are followed routinely.

(4) Records must be kept for a minimum of two years after the engine is rebuilt.

21. Section 86.1311–94 is amended by revising paragraph (b)(3) to read as follows:

§ 86.1311–94 Exhaust gas analytical system; CVS bag sample.

* * * * *

(b) * * *

(3)(i) Using a methane analyzer consisting of a gas chromatograph combined with a FID, the measurement of methane shall be done in accordance with SAE Recommended Practice J1151, ''Methane Measurement Using Gas Chromatography.'' (Incorporated by reference pursuant to § 86.1(b)(2).)

(ii) For natural gas vehicles, the manufacturer has the option of using gas chromatography to measure NMHC through direct quantitation of individual hydrocarbon species. The manufacturer shall conform to standard industry practices and use good engineering judgement.

* * * * *

22. Section 86.1344–94 is amended by revising paragraph (e)(22) to read as follows:

§ 86.1344–94 Required information.

* * * * *

(e) * * *

(22) Brake specific emissions (g/BHP–hr) for HC, CO, NO_X, and, if applicable NMHC, NMHCE, THCE, CH_3OH, and HCHO for each test phase (cold and hot).

* * * * *

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Part III

Department of Housing and Urban Development

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4287–N–01]

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document provides revised designations of ''Difficult Development Areas'' for purposes of the Low-Income Housing Tax Credit (''LIHTC'') under section 42 of the Internal Revenue Code of 1986, and describes the methodology used by the United States Department of Housing and Urban Development (''HUD''). The new Difficult Development Areas are based on FY 1997 Fair Market Rents (''FMRs''), FY 1997 income limits and 1990 census population counts as explained below. The corrected designations of ''Qualified Census Tracts'' under section 42 of the Internal Revenue Code published May 1, 1995 (60 FR 21246) remain in effect.

FOR FURTHER INFORMATION CONTACT: With questions on how areas are designated and on geographic definitions, Kurt G. Usowski, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0426, e-mail Kurt__G.__Usowski@hud.gov. With specific legal questions pertaining to section 42 and this notice, Chris Wilson, Attorney, Office of the Chief Counsel, Pass Throughs and Special Industries Branch 5, Internal Revenue Service, 1111 Constitution Ave, NW, Washington, DC 20244, telephone (202) 622–3040, fax (202) 622–4779; or Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–3260, e-mail H.__JERRY__GROSS@hud.gov. A telecommunications device for deaf persons (TTY) is available at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUDUSER at (800) 245–2691 for a small fee to cover duplication and mailing costs.

COPIES AVAILABLE ELECTRONICALLY: This notice is available electronically on the Internet (World Wide Web) at http://www.huduser.org/ under the heading ''Data Available from HUD.''

SUPPLEMENTARY INFORMATION:

Background

The U.S. Treasury Department and the Internal Revenue Service thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the ''Code''), including the Low-Income Housing Tax Credit (''LIHTC'') found at section 42 of the Code, as enacted by the Tax Reform Act of 1986 (Pub. L. 99–514), as amended by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647), as amended by the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), as amended by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), as amended by the Tax Extension Act of 1991 (Pub. L. 102–227), and as amended and made permanent by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). The Secretary of HUD is required to designate Difficult Development Areas by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Difficult Development Areas for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the ''credit ceiling'') is limited by population. Each state is allocated credit based on $1.25 per resident. Also, states may carry forward unused or returned credit for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit.

The credit allocated to a building is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: Either 20 percent of units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the Area Median Gross Income (''AMGI''), or 40 percent of units must be rent restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term *rent-restricted* means that gross rent, including an allowance for utilities, cannot exceed 30 percent of the tenant's imputed income limitation (i.e., 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the ''qualified basis'' for new construction or substantial rehabilitation expenditures that are not federally subsidized (i.e., financed with tax-exempt bonds or below-market federal loans), or (2) 30 percent of the qualified basis for the acquisition of existing projects or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6 percent maximum marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also deduct the losses from the project.

The qualified basis represents the product of the ''applicable fraction'' of the building and the ''eligible basis'' of the building. The applicable fraction is based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of buildings located in designated Qualified Census Tracts or designated Difficult Development Areas,

eligible basis can be increased up to 130 percent of what it would otherwise be. This means that the available credit also can be increased by up to 30 percent. For example, if the 70 percent credit is available, it effectively could be increased up to 91 percent.

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income less than 60 percent of the AMGI. There is a limit on the amount of Qualified Census Tracts in any Metropolitan Statistical Area (''MSA'') or Primary Metropolitan Statistical Area (''PMSA'') that may be designated to receive an increase in eligible basis: All of the designated census tracts within a given MSA/PMSA may not together contain more than 20 percent of the total population of the MSA/PMSA. For purposes of HUD designations of Qualified Census Tracts, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area. This Notice does not redesignate Qualified Census Tracts. The corrected designation of Qualified Census Tracts published May 1, 1995, at 60 FR 21246 remains in effect. Qualified Census Tracts will not be redesignated until data from the 2000 census become available.

Section 42 defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. Again, limits apply. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20 percent of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all non-metropolitan counties.

Explanation of HUD Designation Methodology

A. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 1990 Census data and the MSA/PMSA definitions as published by the Office of Management and Budget (''OMB'') in OMB Bulletin No. 96–08 on June 28, 1996, *with the exceptions described in section C., below.* The basis for these comparisons was the fiscal year (''FY'') 1997 HUD income limits for Very Low Income households (''VLILs'') and Fair Market Rents (''FMRs'') used for the section 8 Housing Assistance Payments Program. The procedure used in making these calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 1997 two-bedroom FMR and the FY 1997 four-person VLIL. The numerator of the ratio was the area's FY 1997 FMR. The denominator of the ratio was the monthly LIHTC income-based rent limit calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where 120 percent of the VLIL was rounded to the nearest $50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent of AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for MSAs/PMSAs and for non-metropolitan counties.

3. The Difficult Development Areas are those with the highest ratios cumulative to 20 percent of the 1990 population of all metropolitan areas and of all non-metropolitan counties.

B. Application of Population Caps to Difficult Development Area Determinations

In identifying Difficult Development Areas, HUD applied various caps, or limitations, as noted above. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all metropolitan areas and the cumulative population of nonmetropolitan Difficult Development Areas cannot exceed 20 percent of the cumulative population of all nonmetropolitan counties.

In applying these caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains the procedure. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio as described above was identical (to three decimal places) to the last area selected, and its inclusion resulted in only a minor overrun of the cap. Thus for both the designated metropolitan and nonmetropolitan Difficult Development Areas there are minimal overruns of the caps. HUD believes the designation of these additional areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to determine whether the 20 percent cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting *small* variances above the 20 percent limit.

C. Exceptions to OMB Definitions of MSAs/PMSAs and Other Geographic Matters

As stated in OMB Bulletin 96–08 defining metropolitan areas: ''OMB establishes and maintains the definitions of the (Metropolitan Areas) MAs solely for statistical purposes * * * OMB does not take into account or attempt to anticipate any nonstatistical uses that may be made of the definitions * * * We recognize that some legislation specifies the use of metropolitan areas for programmatic purposes, including allocating Federal funds.''

HUD makes exceptions to OMB definitions in calculating FMRs by deleting counties from metropolitan areas whose OMB definitions are determined by HUD to be larger than their housing market areas. In addition, HUD is required by statute to calculate a separate FMR and VLIL for Westchester County, New York, which OMB includes as part of the New York, NY PMSA. The following counties are assigned their own FMRs and VLILs and evaluated as if they were separate metropolitan areas for purposes of designating Difficult Development Areas.

Metropolitan Area and Counties Deleted

Atlanta, GA: Carrol, Pickens, and Walton Counties.
Chicago, IL: DeKalb, Grundy, and Kendall Counties.
Cincinnati-Hamilton, OH–KY–IN: Brown County, Ohio; Gallatin, Grant, and Pendleton Counties, Kentucky; and Ohio County, Indiana.
Dallas, TX: Henderson County.
Flagstaff, AZ–UT: Kane County, Utah.
New York, NY: Westchester County.
New Orleans, LA: St. James Parish.
Washington, DC–MD–VA–WV: Clarke, Culpeper, King George, and Warren Counties, Virginia; and Berkely and Jefferson Counties, West Virginia.

Affected MSAs/PMSAs are assigned the indicator ''(part)'' in the list of

Metropolitan Difficult Development Areas. Any of the excluded counties designated as difficult development areas separately from their metropolitan areas are designated by the county name.

Finally, in the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) OMB defines MSAs/PMSAs according to county subdivisions or Minor Civil Divisions (''MCDs'') rather than county boundaries. Thus, when a New England county is designated as a Nonmetropolitan Difficult Development Area, only that part of the county (the group of MCDs) not included in any MSA/PMSA is the Nonmetropolitan Difficult Development Area. Affected counties are assigned the indicator ''(part)'' in the list of Nonmetropolitan Difficult Development Areas.

For the convenience of readers of this Notice, the geographic definitions of designated Metropolitan Difficult Development Areas and the MCDs included in Nonmetropolitan Difficult Development Areas in the New England states are included in the list of Difficult Development Areas.

Future Designations

Difficult Development Areas are designated annually as updated income and FMR data become available. Qualified Census Tracts will not be redesignated until data from the 2000 census become available.

Effective Date

The list of Difficult Development Areas is effective for allocations of credit made after December 31, 1997. In the case of a building described in Internal Revenue Code section 42(h)(4)(B), the list is effective if the bonds are issued and the building is placed in service after December 31, 1997. The corrected designations of Qualified Census Tracts published May 1, 1995, at 60 FR 21246 remain in effect.

Interpretive Examples for Effective Date

For the convenience of readers of this Notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose Difficult Development Area status with respect to projects described in Internal Revenue Code section 42(h)(4)(B).

(Case A) Project ''A'' is located in a newly-designated 1998 Difficult Development Area. Bonds are issued for Project ''A'' on November 1, 1997, but Project ''A'' is placed in service March 1, 1998. Project ''A'' IS NOT eligible for the increase in basis otherwise accorded a project in this location because the bonds were issued BEFORE December 31, 1997.

(Case B) Project ''B'' is located in a newly-designated 1998 Difficult Development Area. Project ''B'' is placed in service November 15, 1997. The bonds which will support the permanent financing of Project ''B'' are issued January 15, 1998. Project ''B'' IS NOT eligible for the increase in basis otherwise accorded a project in this location because the project was placed in service BEFORE December 31, 1997.

(Case C) Project ''C'' is located in an area which is a Difficult Development Area in 1998, but IS NOT a Difficult Development Area in 1999. Bonds are issued for Project ''C'' on October 30, 1998, but Project ''C'' is not placed in service until March 30, 1999. Project ''C'' is eligible for the increase in basis available to projects located in 1998 Difficult Development Areas because both events (bonds issued and project placed in service) have occurred AFTER December 31, 1997.

Other Matters

Environmental Impact

In accordance with 40 CFR 1508.4 of the CEQ regulations and 24 CFR 50.20 of the HUD regulations, the policies and actions in this notice are determined not to have the potential of having a significant impact on the quality of human environment and therefore further environmental review under the National Environmental Policy Act is not necessary.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of ''Difficult Development Areas'' for use by political subdivisions of the States in allocating the LIHTC, as required by section 42 of the Code, as amended. This notice places no new requirements on the States, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have any substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the order. The notice merely designates ''Difficult Development Areas'' for the use by political subdivisions of the States in allocating the LIHTC, as required under section 42 of the Internal Revenue Code, as amended. The notice also details the technical methodology used in making such designations.

Dated: October 14, 1997.

Andrew M. Cuomo,

Secretary.

BILLING CODE 4210–32–P

1998 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
AZ	FLAGSTAFF, AZ (part) Coconino County, AZ	YUMA, AZ Yuma County		
CA	BAKERSFIELD, CA Kern County MERCED, CA Merced County SANTA BARBARA-SANTA MARIA-LOMPOC, CA Santa Barbara County	CHICO-PARADISE, CA Butte County SALINAS, CA Monterey County SANTA CRUZ-WATSONVILLE, CA Santa Cruz County	FRESNO, CA Fresno County Madera County SAN FRANCISCO, CA San Francisco County Marin County San Mateo County SANTA ROSA, CA Sonoma County	LOS ANGELES-LONG BEACH, CA Los Angeles County SAN LUIS OBISPO-ATASCADERO-PASO ROBLES, CA San Luis Obispo County STOCKTON-LODI, CA San Joaquin County
CT	NEW HAVEN-MERIDEN, CT Bethany town Killingworth town Branford town Meriden city Cheshire town New Haven city Clinton town North Branford town East Haven town North Haven town Guilford town Orange town Hamden town Wallingford town Madison town West Haven city Woodbridge town			
DE	DOVER, DE Kent County			
FL	DAYTONA BEACH, FL Flagler County Volusia County MIAMI, FL Dade County SARASOTA-BRADENTON, FL Manatee County Sarasota County	FORT LAUDERDALE, FL Broward County OCALA, FL Marion County	FORT MYERS-CAPE CORAL, FL Lee County ORLANDO, FL Lake County Osceola County Orange County Seminole County	FORT PIERCE-PORT LUCIE, FL Martin County St. Lucie County PUNTA GORDA, FL Charlotte County
HI	HONOLULU, HI Honolulu County			
MA	BARNSTABLE-YARMOUTH, MA Barnstable city Harwich town Brewster town Mashpee town Chatham town Orleans town Dennis town Sandwich town Eastham town Yarmouth town			

1998 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas (cont.)

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
NJ	ATLANTIC-CAPE MAY, NJ Atlantic County Cape May County	JERSEY CITY, NJ Hudson County	MONMOUTH-OCEAN, NJ Monmouth County Ocean County	VINELAND-MILLVILLE-BRIDGETON, NJ Cumberland County
NY	DUTCHESS COUNTY, NY Duchess County WESTCHESTER COUNTY, NY Westchester County	NASSAU-SUFFOLK, NY Nassau County Suffolk County	NEW YORK, NY (part) Bronx County Queens County Kings County Richmond County New York County Rockland County Putnam County	NEWBURGH, NY-PA Pike County, PA Orange County, NY
OR	EUGENE-SPRINGFIELD, OR Lane County	MEDFORD-ASHLAND, OR Jackson County		
PA	STATE COLLEGE, PA Centre County			
PR	AGUADILLA, PR Aguada Municipio Aguadilla Municipio Moca Municipio	CAGUAS, PR Caguas Municipio Gurabo Municipio Cayey Municipio San Lorenzo Mun. Cidra Municipio	MAYAGUEZ, PR Anasco Municipio Mayaguez Municipio Cabo Rojo Mun. Sabana Grande Mu. Hormigueros Mun. San German Mun.	SAN JUAN-BAYAMON, PR Aguas Buenas Mu. Corozal Municipio Barceloneta Mun. Dorado Municipio Bayamon Mun. Fajardo Municipio Canovanas Mun. Florida Municipio Carolina Municipio Guaynabo Municipio San Juan Mun. Humacao Municipio Toa Alta Municipio Juncos Municipio Toa Baja Mun. Las Piedras Mun. Trujillo Alto Mun. Loiza Municipio Vega Alta Mun. Luquillo Municipio Vega Baja Mun. Manati Municipio Yabucoa Municipio Morovis Municipio Catano Municipio Naguabo Municipio Ceiba Municipio Naranjito Municipio Comerio Municipio Rio Grande Mun.
SC	MYRTLE BEACH, SC Horry County			

1998 Internal Revenue Code Section 42(d)(5)(C) Metropolitan Difficult Development Areas (cont.)

STATE	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components	METROPOLITAN AREA and Components
TX	BROWNSVILLE-HARLINGEN-SAN BENITO, TX Cameron County	EL PASO, TX El Paso County	LAREDO, TX Webb County	
WA	BELLINGHAM, WA Whatcom County	RICHLAND-KENNEWICK-PASCO, WA Benton County Franklin County	YAKIMA, WA Yakima County	

1998 Internal Revenue Code Section 42(d)(5)(C) Nonmetropolitan Difficult Development Areas

STATE	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT
PI	PACIFIC ISLANDS			
PR	All			
VI	St. Croix	St. Johns/St. Thomas		
AK	BETHEL CENSUS AREA	DILLINGHAM CENSUS AREA	FAIRBANKS NORTH STAR BOROUGH	HAINES BOROUGH
	JUNEAU BOROUGH	KETCHIKAN GATEWAY BOROUGH	KODIAK ISLAND BOROUGH	LAKE AND PENINSULA BOROUGH
	MATANUSKA-SUSITNA BOROUGH	NOME CENSUS AREA	NORTH SLOPE BOROUGH	NORTHWEST ARCTIC BOROUGH
	PRINCE OF WALES-OUTER KETCHIKAN CENSUS AREA	SITKA BOROUGH	WADE HAMPTON CENSUS AREA	YUKON-KOYUKUK CENSUS AREA
AR	BAXTER COUNTY	DREW COUNTY		
AZ	APACHE COUNTY	COCHISE COUNTY	GILA COUNTY	GRAHAM COUNTY
	LA PAZ COUNTY	NAVAJO COUNTY	SANTA CRUZ COUNTY	YAVAPAI COUNTY
CA	ALPINE COUNTY	AMADOR COUNTY	CALAVERAS COUNTY	COLUSA COUNTY
	DEL NORTE COUNTY	GLENN COUNTY	HUMBOLDT COUNTY	IMPERIAL COUNTY
	INYO COUNTY	KINGS COUNTY	LAKE COUNTY	MARIPOSA COUNTY
	MENDOCINO COUNTY	MODOC COUNTY	MONO COUNTY	NEVADA COUNTY
	PLUMAS COUNTY	SAN BENITO COUNTY	SIERRA COUNTY	SISKIYOU COUNTY
	TEHAMA COUNTY	TRINITY COUNTY	TUOLUMNE COUNTY	
CO	ARCHULETA COUNTY	GARFIELD COUNTY	LA PLATA COUNTY	PARK COUNTY
	PITKIN COUNTY	SAN MIGUEL COUNTY	SUMMIT COUNTY	
CT	LITCHFIELD COUNTY (part) Canaan town Colebrook town Cornwall town Goshen town Kent town Litchfield town Morris town Norfolk town North Canaan town Salisbury town Sharon town Torrington town Warren town	MIDDLESEX COUNTY (part) Chester town Deep River town Essex town Westbrook town		
DE	SUSSEX COUNTY	BRADFORD COUNTY	CALHOUN COUNTY	CITRUS COUNTY
FL	BAKER COUNTY	COLUMBIA COUNTY	DESOTO COUNTY	DIXIE COUNTY
	FRANKLIN COUNTY	GILCHRIST COUNTY	GLADES COUNTY	GULF COUNTY
	HAMILTON COUNTY	HARDEE COUNTY	HENDRY COUNTY	HIGHLANDS COUNTY
	HOLMES COUNTY	INDIAN RIVER COUNTY	JACKSON COUNTY	JEFFERSON COUNTY
	LAFAYETTE COUNTY	LEVY COUNTY	LIBERTY COUNTY	MADISON COUNTY
	MONROE COUNTY	OKEECHOBEE COUNTY	PUTNAM COUNTY	SUMTER COUNTY
	SUWANNEE COUNTY	TAYLOR COUNTY	UNION COUNTY	WAKULLA COUNTY
	WALTON COUNTY	WASHINGTON COUNTY		

1998 Internal Revenue Code Section 42(d)(5)(C) Nonmetropolitan Difficult Develeopment Areas (cont.)

STATE	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT
GA	BUTTS COUNTY	DAWSON COUNTY	LIBERTY COUNTY	
HI	HAWAII COUNTY	KAUAI COUNTY	MAUI COUNTY	
ID	BONNER COUNTY	KOOTENAI COUNTY		
KS	RILEY COUNTY			
KY	HARLAN COUNTY	KNOX COUNTY	LAUREL COUNTY	
LA	ALLEN PARISH	AVOYELLES PARISH	CALDWELL PARISH	CATAHOULA PARISH
	CLAIBORNE PARISH	CONCORDIA PARISH	DE SOTO PARISH	EAST CARROLL PARISH
	EVANGELINE PARISH	FRANKLIN PARISH	GRANT PARISH	JEFFERSON DAVIS PARISH
	MADISON PARISH	MOREHOUSE PARISH	NATCHITOCHES PARISH	POINTE COUPEE PARISH
	RED RIVER PARISH	RICHLAND PARISH	SABINE PARISH	ST. HELENA PARISH
	ST. MARY PARISH	TANGIPAHOA PARISH	TENSAS PARISH	VERNON PARISH
	WASHINGTON PARISH	WEST CARROLL PARISH	WEST FELICIANA PARISH	
MA	BARNSTABLE COUNTY (part) Bourne town Falmouth town Provincetown town Truro town Wellfleet town	DUKES COUNTY	FRANKLIN COUNTY (part) Ashfield town Bernardston town Buckland town Charlemont town Colrain town Conway town Deerfield town Erving town Gill town Greenfield town Hawley town Heath town Leverett town Leyden town Monroe town Montague town New Salem town Northfield town Orange town Rowe town Shelburne town Shutesbury town Warwick town Wendell town Whately town	HAMPDEN COUNTY (part) Blandford town Brimfield town Chester town Granville town Tolland town Wales town
	HAMPSHIRE COUNTY (part) Chesterfield town Cummington town Goshen town Middlefield town Pelham town Plainfield town Westhampton town Worthington town	NANTUCKET COUNTY	WORCESTER COUNTY (part) Athol town Hardwick town Hubbardston town Petersham town New Braintree town Phillipston town Royalston town Warren town	

1998 Internal Revenue Code Section 42(d)(5)(C) Nonmetropolitan Difficult Develeopment Areas (cont.)

STATE	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT
ME	ANDROSCOGGIN COUNTY (part) Durham town Leeds town Livermore town Livermore Falls town Minot town	AROOSTOOK COUNTY	CUMBERLAND COUNTY (part) Baldwin town Bridgton town Brunswick town Harpswell town Harrison town Naples town New Gloucester town Pownal town Sebago town	FRANKLIN COUNTY
	HANCOCK COUNTY	KNOX COUNTY	LINCOLN COUNTY	OXFORD COUNTY
	PENOBSCOT COUNTY (part) Alton town Argyle unorg. Bradford town Bradley town Burlington town Carmel town Carroll plantation Charleston town Chester town Clifton town Corinna town Corinth town Dexter town Dixmont town Drew plantation East Central Penobscot unorg. East Millinocket town Edinburg town Enfield town Etna town Exeter town Garland town Greenbush town Greenfield town Howland town Hudson town Kingman unorg. Lagrange town Lakeville town Lee town Levant town Lincoln town Lowell town Mattawamkeag town Maxfield town Medway town Millinocket town Mount Chase town Newburgh town Newport town North Penobscot unorg. Passadumkeag town Patten town Plymouth town Prentiss plantation (unorg.) Seboeis plantation Springfield town Stacyville town Stetson town Twombly unorg. Webster plantation Whitney unorg. Winn town Woodville town	WALDO COUNTY (part) Belfast city Belmont town Brooks town Burnham town Frankfort town Freedom town Islesboro town Jackson town Knox town Liberty town Lincolnville town Monroe town Montville town Morrill town Northport town Palermo town Prospect town Searsmont town Searsport town Stockton Springs town Swanville town Thorndike town Troy town Unity town Waldo town	YORK COUNTY (part) Acton town Alfred town Arundel town Biddeford city Cornish town Dayton town Kennebunk town Kennebunkport town Lebanon town Limerick town Lyman town Newfield town North Berwick town Ogunquit town Parsonsfield town Saco city Sanford town Shapleigh town Waterboro town Wells town	SOMERSET COUNTY
	PISCATAQUIS COUNTY	WASHINGTON COUNTY	SAGADAHOC COUNTY	
MS	BOLIVAR COUNTY WASHINGTON COUNTY	COAHOMA COUNTY	ISSAQUENA COUNTY	LAFAYETTE COUNTY

1998 Internal Revenue Code Section 42(d)(5)(C) Nonmetropolitan Difficult Develeopment Areas (cont.)

STATE	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT
MT	GALLATIN COUNTY			
NC	CAMDEN COUNTY	DARE COUNTY	WATAUGA COUNTY	
NH	BELKNAP COUNTY HILLSBOROUGH COUNTY (part) Antrim town Bennington town Deering town Francestown town Greenfield town Hancock town Hillsborough town Lyndeborough town New Boston town Peterborough town Sharon town Temple town Windsor town SULLIVAN COUNTY	CARROLL COUNTY MERRIMACK COUNTY (part) Andover town Boscawen town Bow town Bradford town Canterbury town Chichester town Concord city Danbury town Dunbarton town Epsom town Franklin city Henniker town Hill town Hopkinton town Loudon town Newbury town New London town Northfield town Pembroke town Pittsfield town Salisbury town Sutton town Warner town Webster town Wilmot town	CHESHIRE COUNTY ROCKINGHAM COUNTY (part) Deerfield town Northwood town Nottingham town	GRAFTON COUNTY STRAFFORD COUNTY (part) Middleton town New Durham town Strafford town
NM	GRANT COUNTY QUAY COUNTY	LINCOLN COUNTY SAN MIGUEL COUNTY	LUNA COUNTY TAOS COUNTY	MCKINLEY COUNTY
NV	DOUGLAS COUNTY			
NY	CHENANGO COUNTY ESSEX COUNTY SCHUYLER COUNTY	CLINTON COUNTY GREENE COUNTY SULLIVAN COUNTY	COLUMBIA COUNTY HAMILTON COUNTY TOMPKINS COUNTY	CORTLAND COUNTY JEFFERSON COUNTY ULSTER COUNTY
OR	BAKER COUNTY CURRY COUNTY GRANT COUNTY JOSEPHINE COUNTY LINN COUNTY TILLAMOOK COUNTY WASCO COUNTY	CLATSOP COUNTY DESCHUTES COUNTY HARNEY COUNTY KLAMATH COUNTY MALHEUR COUNTY UMATILLA COUNTY WHEELER COUNTY	COOS COUNTY DOUGLAS COUNTY HOOD RIVER COUNTY LAKE COUNTY MORROW COUNTY UNION COUNTY	CROOK COUNTY GILLIAM COUNTY JEFFERSON COUNTY LINCOLN COUNTY SHERMAN COUNTY WALLOWA COUNTY
PA	MONROE COUNTY	NORTHUMBERLAND COUNTY	UNION COUNTY	WAYNE COUNTY
RI	NEWPORT COUNTY (part) Middletown town Newport city Portsmouth town	WASHINGTON COUNTY (part) New Shoreham town		
SD	BUTTE COUNTY	LAWRENCE COUNTY	MEADE COUNTY	

1998 Internal Revenue Code Section 42(d)(5)(C) Nonmetropolitan Difficult Develeopment Areas (cont.)

STATE	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT	NONMETROPOLITAN COUNTY OR COUNTY EQUIVALENT
TX	ARANSAS COUNTY	CAMP COUNTY	HUDSPETH COUNTY	KIMBLE COUNTY
	LLANO COUNTY	REAGAN COUNTY	VAL VERDE COUNTY	WALKER COUNTY
UT	DAGGETT COUNTY	IRON COUNTY	WASHINGTON COUNTY	
VA	CAROLINE COUNTY	KING AND QUEEN COUNTY	WESTMORELAND COUNTY	
VT	ADDISON COUNTY	BENNINGTON COUNTY	LAMOILLE COUNTY	ORANGE COUNTY
	RUTLAND COUNTY	WASHINGTON COUNTY	WINDHAM COUNTY	WINDSOR COUNTY
WA	ADAMS COUNTY	ASOTIN COUNTY	CHELAN COUNTY	CLALLAM COUNTY
	COLUMBIA COUNTY	DOUGLAS COUNTY	FERRY COUNTY	GARFIELD COUNTY
	GRANT COUNTY	GRAYS HARBOR COUNTY	JEFFERSON COUNTY	KITTITAS COUNTY
	KLICKITAT COUNTY	LEWIS COUNTY	LINCOLN COUNTY	MASON COUNTY
	OKANOGAN COUNTY	PACIFIC COUNTY	PEND OREILLE COUNTY	SAN JUAN COUNTY
	SKAGIT COUNTY	SKAMANIA COUNTY	STEVENS COUNTY	WAHKIAKUM COUNTY
	WHITMAN COUNTY			
WV	TAYLOR COUNTY	UPSHUR COUNTY		

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BILLING CODE 4210–32–C

Federal Register

Tuesday
October 21, 1997

Part IV

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Part 8

Assessment of Fees; National Banks; District of Columbia Banks; Final and Proposed Rules

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 97–21]

RIN 1557–AB60

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The OCC is finalizing, with slight modifications, changes made by two previous interim rules with request for comments. The first interim rule removed the specific calculation of fees for examinations of fiduciary activities, special examinations and investigations, examinations of affiliates, and examinations and investigations of corporate activities (collectively, trust and other examinations and investigations). The second interim rule authorized the OCC to reduce assessments on national banks that are not the largest national bank in a bank holding company (referred to as non-lead banks). These changes have resulted in assessment revenue that more accurately reflects the expenses incurred by the OCC as it supervises banks according to the OCC's Supervision by Risk Program.

EFFECTIVE DATE: October 21, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Madsen, Deputy Chief Financial Officer, Financial Review, Policy and Analysis, (202) 874–5130; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Interim Rules and Comments Received [1]

1994 Interim Rule Regarding Fees for Trust and Other Examinations and Investigations

The OCC issued an interim rule on November 18, 1994 (59 FR 59640) (1994 Interim Rule) that removed specific fees for trust and other examinations and investigations. That rule was adopted in response to changes to 12 U.S.C. 482 made by the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) which, among other things, removed the specific requirement for a fee adequate to recover expenses of examinations of fiduciary activities. In place of that requirement, FDICIA authorized the OCC to impose and collect assessments, fees, and other charges as necessary or appropriate to carry out its responsibilities, and gave the agency increased flexibility to set the assessments, fees, and charges to meet its expenses.

The OCC exercised this flexibility by removing the specific formula for calculating fees that formerly appeared in 12 CFR 8.6. As noted in the preamble to the 1994 Interim Rule, the specific fee structure reflected an outdated view of fiduciary activities as special and separate from other bank operations. The OCC stated in revised § 8.6 that it would assess a fee for examining fiduciary activities and for conducting special examinations and investigations, and that it would publish a fee schedule for these examinations and investigations in the Notice of Comptroller of the Currency Fees described in § 8.8. These changes were immediately effective, but the OCC also sought the views of interested parties.

The OCC received two comments in response to this request for comments. Both commenters supported the interim rule, noting that the changes will result in substantial savings for national banks. One of the commenters requested that the OCC seek additional comments when and if the agency intends to increase fees for fiduciary examinations and investigations or intends to impose a separate trust assessment.

In light of the comments received, the OCC is issuing this final rule that adopts the changes set out in the 1994 Interim Rule. In response to the commenter concerned about the possibility of future increases or separate assessments for trust examinations, the OCC notes that it will seek comment before it changes the manner in which it imposes fees for fiduciary examinations and investigations. While the specific amount of assessments may change from one assessment to the next as reflected in the Notice of Comptroller of the Currency Fees, the OCC will continue to calculate the assessment according to the method provided in part 8.

1996 Interim Rule Regarding Discounts for Non-Lead Banks

On December 2, 1996, the OCC published another interim rule with request for comments (61 FR 64000) (1996 Interim Rule). The 1996 Interim Rule amended part 8 by adding § 8.2(a)(6), which provides that the OCC will reduce the assessments for non-lead banks by a percentage that is to be specified in the Notice of Comptroller of the Currency Fees. In that rule, the OCC defined a ''non-lead bank'' as a national bank that is not the lead bank in a bank holding company that owns more than one national bank, and defined ''lead bank'' as the largest national bank controlled by a bank holding company, based on a comparison of total assets held by each national bank as reported in each bank's Consolidated Report of Condition and Income filed for the quarter immediately preceding the payment of a semiannual assessment. The OCC defined ''bank holding company'' by adopting the definition of that term used in section 2 of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1841(a)(1)).

The 1996 Interim Rule also removed the provisions in part 8 prohibiting the proration of assessments. Prior to adoption of that rule, part 8 provided that each bank and Federal branch or agency subject to the OCC's jurisdiction must pay the full amount of its assessment for the next six-month period, ''without proration for any reason.'' *See* former 12 CFR 8.2 (a)(5) and (b). This prohibition is inconsistent with a reduction in non-lead banks' assessments, because the reduction is effectively a proration of these banks' assessments. Accordingly, the OCC removed the prohibition against prorations.

The OCC received two comments in response to the 1996 Interim Rule, both of which supported the changes. However, one commenter expressed its concern that the discount could unfairly benefit larger banks, which, in the commenter's view, tend to be structured in multi-bank holding companies more often than are smaller banks. The OCC notes that the discount applies equally to all banks, regardless of size, that are non-lead banks in a bank holding company, and, in fact, many community banks have benefitted from the Interim Rule.

The other commenter, which owns several national banks that are credit card banks, suggested that the rule be further amended to cover institutions that are chartered and supervised by the OCC as national banks but that are excluded from the definition of ''bank'' under section 2(c)(2)(F) of the BHC Act (12 U.S.C. 1841(c)(2)(F)). This commenter noted that the 1996 Interim Rule, by adopting the definition of ''bank holding company'' used in the BHC Act, technically precludes non-

[1] Elsewhere in this issue of the **Federal Register** the OCC is soliciting comments on, among other things, a proposed change to part 8 that would impose a 25 percent surcharge on national banks that receive a rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System (the CAMELS rating) and on Federal branches and agencies of foreign banks that receive a rating of 3, 4, or 5 under the ROCA rating system (which rates risk management, operational controls, compliance, and asset quality).

lead banks from receiving an assessment reduction if the institutions are not ''banks'' under the BHC Act, because their holding companies then are not ''bank holding companies'' under the BHC Act. The commenter opined that the same economies of scale are realized when supervising non-lead credit card banks, and requested that the OCC clarify that the assessment reduction applies to all non-lead national banks, regardless of whether the parent is a ''bank holding company'' under the BHC Act.[2]

The OCC agrees with this commenter. The same economies realized when supervising non-lead banks owned by bank holding companies are available when supervising non-lead banks that would qualify for the reduction but for the fact that the parent is not a ''bank holding company'' under the BHC Act. This conclusion also applies to non-lead Federal branches and agencies of foreign banks, whose level of supervision, enforcement, and licensing are increasingly tied to the condition of the foreign bank. Consistent with this conclusion, the OCC has issued letters in which the OCC applied the assessment reduction to (a) non-lead banks owned by a company that is not a ''bank holding company'' under the BHC Act and (b) non-lead Federal branches and agencies of a foreign bank.

In light of the comments received, the OCC is adopting in final form the changes contained in the 1996 Interim Rule, as amended to reflect the interpretations noted above. Consistent with these interpretations, the OCC is amending § 8.2(a)(6)(ii) (A)–(C) so that ''non-lead bank'' includes a national bank that is not the largest national bank controlled by a company (as opposed to a bank holding company) and is adopting a new § 8.2(b)(4) to apply the assessment reduction to non-lead Federal branches and agencies of foreign banks. Finally, the OCC also has adopted a technical change to § 8.2(b)(3) to use the term ''Call Report'' (in lieu of ''Report of Condition'') that is used elsewhere in part 8.

Immediately Effective Rule

This final rule is effective upon publication in the **Federal Register**. The OCC has determined that the rule may be immediately effective pursuant to 5 U.S.C. 553(d) (1) and (3). By enabling the OCC to reduce assessments, the rulemaking will have the effect of granting a partial exemption from the assessment obligations that otherwise would apply to non-lead entities. Accordingly, the rule may be immediately effective under 5 U.S.C. 553(d)(1). There also is good cause to dispense with a delayed effective date under 5 U.S.C. 553(d)(3), namely, that the rule needs to be effective in time to ensure that reductions will be reflected in the Notice of Comptroller of the Currency Fees that will be mailed in early December to all national banks and Federal branches and agencies. The OCC will continue to provide a semiannual Assessment Notice to each institution, and each national bank and Federal branch or agency will continue to have at least 30 days following receipt of a semiannual assessment notice in which to pay the assessment.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), the regulatory flexibility analysis otherwise required under section 604 of the RFA (5 U.S.C. 604) is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule does not impose any new reporting or recordkeeping requirement. Moreover, to the extent that it has any impact on national banks, the impact will be to lower assessments for non-lead national banks and non-lead Federal branches and agencies of foreign banks and to eliminate a separate assessment for trust and other examinations and investigations. Accordingly, a regulatory flexibility analysis under section 604 of the RFA is not required.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed any regulatory alternatives. As discussed in the preamble, the final rule has the effect of reducing the assessments and fees paid by national banks.

List of Subjects in 12 CFR Part 8

Assessments, Fees, National banks.

Authority and Issuance

For the reasons set forth in the preamble, part 8 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 8—ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

1. The authority citation for part 8 is revised to read as follows:

Authority: 12 U.S.C. 93a, 481, 482, 3102, and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

2. The interim rule amending 12 CFR part 8 that was published at 59 FR 59640 on November 18, 1994 is adopted as a final rule without change.

3. Section 8.2 is amended by revising paragraphs (a)(6) and (b)(3) and adding paragraph (b)(4) to read as follows:

§ 8.2 Semiannual assessment.

(a) * * *

(6)(i) Notwithstanding any other provision of this part, the OCC may reduce the semiannual assessment for each non-lead bank by a percentage that it will specify in the Notice of Comptroller of the Currency Fees described in § 8.8.

(ii) For purposes of this paragraph (a)(6):

(A) *Lead bank* means the largest national bank controlled by a company, based on a comparison of the total assets held by each national bank controlled by that company as reported in each bank's Call Report filed for the quarter immediately preceding the payment of a semiannual assessment.

(B) *Non-lead bank* means a national bank that is not the lead bank controlled by a company that controls two or more national banks.

(C) *Control* and *company* have the same meanings as these terms have in

[2] The OCC received a similar request in connection with Federal branches and agencies of foreign banks, although the request was not submitted in a comment to the 1996 interim rule.

sections 2(a)(2) and 2(b), respectively, of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 (a)(2) and (b)).

(b) * * *

(3) Each semiannual assessment of each Federal branch or Federal agency is based upon the total assets shown in the Call Report most recently preceding the payment date. The assessment shall be computed in the manner and on the form provided by the OCC. Each Federal branch or Federal agency subject to the jurisdiction of the OCC on the date of the second and fourth Call Reports is subject to the full assessment for the next six month period.

(4)(i) Notwithstanding any other provision of this part, the OCC may reduce the semiannual assessment for each non-lead Federal branch or agency by an amount that it will specify in the Notice of Comptroller of the Currency Fees described in § 8.8.

(ii) For purposes of this paragraph (b)(4):

(A) *Lead Federal branch or agency* means the largest Federal branch or agency of a foreign bank, based on a comparison of the total assets held by each Federal branch or agency of that foreign bank as reported in each Federal branch's or agency's Call Report filed for the quarter immediately preceding the payment of a semiannual assessment.

(B) *Non-lead Federal branch or agency* means a Federal branch or Federal agency that is not the lead Federal branch or agency of a foreign bank that controls two or more Federal branches or agencies.

Dated: October 15, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 97–27828 Filed 10–20–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 97–20]

RIN 1557–AB60

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), in order to more accurately reflect the OCC's costs of supervising banks, is proposing to amend its assessment regulation to impose a surcharge on banks that receive a rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System (UFIRS) (also referred to as the CAMELS rating) and on Federal branches and agencies of foreign banks that receive a rating of 3, 4, or 5 under the ROCA rating system (which rates risk management, operational controls, compliance, and asset quality). This amendment will enable the OCC to distribute more equitably the costs it incurs when supervising institutions that are experiencing significant problems. The OCC also is soliciting comments on the appropriate method of computing assessments for those banks that own other banks.

DATES: Comments must be received by November 20, 1997.

ADDRESSES: Comments should be directed to, and may be inspected and copied at: Communications Division, OCC, 250 E Street, SW., Washington, D.C. 20219, Attention: Docket No. 97–20. In addition, comments may be sent via FAX, at (202) 874–5274, or via Internet at regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: Roy Madsen, Deputy Chief Financial Officer, Financial Review, Policy and Analysis, (202) 874–5130; or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

The OCC charters, regulates, and supervises approximately 2,700 national banks and 64 Federal branches and agencies of foreign banks in the United States, accounting for nearly 60 percent of the nation's banking assets. Its mission is to ensure a safe, sound, and competitive National Banking System that supports the citizens, communities, and economy of the United States. The OCC funds the activities that further this mission by imposing assessments, fees, and other charges on banks within its jurisdiction, as necessary and appropriate to meet the OCC's expenses, pursuant to 12 U.S.C. 482.

The OCC charges each national bank and Federal branch and agency a semiannual assessment according to a formula that is described in 12 CFR 8.2. In general, the OCC calculates the semiannual assessment by using a marginal rate that declines as an institution's asset size grows. The OCC also reduces assessments charged to a ''non-lead bank'' (which, generally speaking, refers to a national bank that is not the largest national bank owned by the same company [1]) by a percentage determined in accordance with each assessment. For example, the OCC reduced the assessment for non-lead national banks that was due January 31, 1997, by 12 percent.[2]

The marginal rate structure (which applies a declining marginal rate as bank asset size grows) and the assessment reduction for non-lead national banks reflect the OCC's cost savings resulting from the economies of scale realized in the examination and supervision of large institutions and non-lead banks. However, the current assessment regulation does not reflect the *increased* costs that the OCC incurs when supervising a bank whose condition requires special attention. As a result, healthy banks subsidize banks that are experiencing significant problems. The proposed imposition of a surcharge on banks requiring additional OCC resources, discussed in the section that follows, addresses this concern.

Discussion of the Proposal and Request for Comment

Surcharge

The proposal adds new paragraphs (a)(7) and (b)(5) to § 8.2,[3] which provide that the OCC will impose a surcharge equal to 25 percent of the amount of the assessment that otherwise would be due from (a) national banks that receive a UFIRS rating (also referred to as a CAMELS rating [4]) of 3, 4, or 5 and (b) Federal branches and agencies of foreign banks that receive a ROCA rating of 3, 4, or 5. OCC cost data show that there is a significant increase in supervision costs once an institution's rating moves from 2 to 3 and that these increased costs continue while the bank is rated 3, 4, or 5. To reflect this increase in costs of supervising a bank rated 3 or worse, the proposal uses a UFIRS or ROCA rating (as appropriate) of 3 as the threshold for applying the surcharge. Using the most recently available data at the time this proposed rule was prepared, the surcharge would affect a total of approximately 85 national banks and Federal branches and agencies of foreign banks, resulting in an aggregate annual increase in assessments for these banks of approximately $0.7 million.

By linking assessments with the condition of the banks supervised, the proposal ensures that a greater proportion of increased OCC costs attributable to banks whose condition requires additional supervisory resources is funded by those banks rather than by the national banking system as a whole. If more banks were rated 3, 4, or 5, the OCC would need additional and/or more specialized staff to monitor the efforts of those banks to improve their condition. The proposal expands or contracts assessment revenue automatically in a way that responds to the changing demands on the OCC.

The OCC considered the alternative of imposing a 50-percent surcharge on banks that are rated 4 or 5.[5] However, a 50-percent surcharge on UFIRS or ROCA 4-and 5-rated institutions would not cover the increased costs of supervising all institutions rated 3, 4, or 5. As a result, institutions rated 3 would be subsidized both by healthier banks (who would, under the alternative approach, be paying assessments at the same rate as 3-rated institutions even though the healthier banks require less supervision) and by banks in worse condition (who would be paying the assessment surcharge).

The OCC seeks comment on the approach set out in proposed paragraphs (a)(7) and (b)(5) of § 8.2. The OCC also seeks comment on whether the ROCA rating is the appropriate

[1] In a final rule published elsewhere in this issue of the **Federal Register**, the OCC has amended the definition of ''non-lead bank'' to include a national bank that is not the largest national bank controlled by a company (as opposed to a bank holding company).

[2] The OCC made this reduction pursuant to an interim rule published on December 2, 1996 (61 FR 64000). In the final rule referred to in footnote 1 of this document, the OCC is adopting the changes set forth in that interim rule. The final rule also adopts the changes set forth in an interim rule published in 1994 (59 FR 59640) concerning fees for examinations of fiduciary activities, special examinations and investigations, examinations of affiliates, and examinations and investigations of corporate activities.

[3] In the final rule referred to in footnote 1, the OCC added a new paragraph (b)(4) to § 8.2.

[4] CAMELS is an acronym that stands for capital, assets, management, earnings, liquidity, and sensitivity to market risk.

[5] This is the approach taken by the Office of Thrift Supervision in assessing savings institutions. *See* 12 CFR 502.1.

rating to use in imposing an assessment surcharge on Federal branches and agencies, and, if not, whether some other rating or set of criteria would be more appropriate.

Assessments of a Bank That Owns Another Bank

An issue has arisen concerning the proper method of calculating the assessments of national banks that own other banks. This issue stems from a recent change in the Call Report instructions[6] pursuant to which the assets of a subsidiary bank are reported on a consolidated basis in the Call Report of its parent bank. Given that the subsidiary bank also is required to file a Call Report, the current assessment regulation, which bases assessments on assets reported in a bank's Call Report, has the unintended effect of double-counting at least some of the assets of the subsidiary bank.

The OCC seeks comment on methods that commenters believe would be appropriate for calculating, for assessment purposes, the assets of a national bank that owns another bank.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), the regulatory flexibility analysis otherwise required under section 603 of the RFA (5 U.S.C. 603) is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes that certification and a short, explanatory statement in the **Federal Register** along with its notice of proposed rulemaking.

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The proposed rule does not impose any new reporting or recordkeeping requirement. While the proposal would require national banks, Federal branches, and Federal agencies of all sizes that receive a UFIRS or ROCA rating of 3, 4, or 5 to pay an assessment surcharge, this will not create a significant or disparate impact on small institutions. The assessments for the 58 national banks, Federal branches, and Federal agencies with total assets of under $100 million that currently are rated 3, 4, or 5 would increase, in the aggregate, by approximately $287,204 per year, or approximately $4,952 per institution. Accordingly, a regulatory flexibility analysis under 603 of the RFA is not required.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed any regulatory alternatives. As discussed in the preamble, the proposal, while increasing the annual assessments for institutions receiving a UFIRS or ROCA rating of 3, 4, or 5, will, in the current banking environment, increase assessments in the aggregate only by approximately $0.7 million.

List of Subjects in 12 CFR Part 8

Assessments, Fees, National banks.

Authority and Issuance

For the reasons set forth in the preamble, part 8 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 8—ASSESSMENT OF FEES; NATIONAL BANKS; DISTRICT OF COLUMBIA BANKS

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

Authority: 12 U.S.C. 93a, 481, 482, 3102, and 3108; 15 U.S.C. 78c and 78l; and 26 D.C. Code 102.

2. Section 8.2 is amended by adding new paragraphs (a)(7) and (b)(5) to read as follows:

§ 8.2 Semiannual assessment.

(a) * * *

(7) The OCC shall adjust the semiannual assessment computed in accordance with paragraphs (a)(1) through (a)(6) of this section by multiplying that figure by 1.25 for each bank that receives a rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System at its most recent examination.

(b) * * *

(5) The OCC shall adjust the semiannual assessment computed in accordance with paragraphs (b)(1) through (b)(4) of this section by multiplying that figure by 1.25 for each Federal branch or Federal agency that receives a ROCA rating (which rates risk management, operational controls, compliance, and asset quality) of 3, 4, or 5 at its most recent examination.

Dated: October 15, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 97–27829 Filed 10–20–97; 8:45 am]

BILLING CODE 4810–33–P

[6] *See* 62 FR 8078 (February 21, 1997).

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October 21, 1997

Part V

The President

Proclamation 7042—National Forest Products Week, 1997

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Presidential Documents

Title 3—

The President

Proclamation 7042 of October 17, 1997

National Forest Products Week, 1997

By the President of the United States of America

A Proclamation

America's forests are a precious resource, making numerous rich contributions not only to the natural splendor of our Nation, but also to the well-being of our people. Whether part of the vast acreages that make up our industrial, State, and National forests or rural woodlots and urban forests, they offer us clean water and air, priceless wildlife habitat and fisheries, welcome settings for recreation, and breathtaking beauty. Our forests also provide us with more tangible products essential to everyday living: wood and paper products for our homes, schools, and offices, and even medicines and food.

While the wood products we harvest from our forests can be so durable that they last for centuries, forest ecosystems themselves are very fragile. America's growing population and urban expansion are putting ever-increasing demands on forest lands and resources. We must work together to devise imaginative forest management approaches that will allow us to preserve and cultivate healthy forest ecosystems, meet the need for forest products, provide jobs for those who depend on forests for their livelihood, and continue to offer Americans enjoyable recreational opportunities.

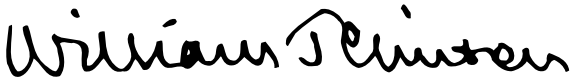
Fortunately, forest research is equipping us with vital knowledge that can help us to balance the many and varied demands on our woodlands. Thanks to such research, we are now using new products and innovative technologies and employing new recycling methods that not only extend the available supply of raw materials, but also help us to process those materials more efficiently and with fewer harmful by-products. This use of science to balance the needs of our people both for forest products and a healthy environment will help us to achieve our goal of sustainable forest management.

All of us are indebted to past generations of Americans whose vision and generosity preserved so many of our Nation's great forests for our use and pleasure. Now it falls to us to continue their wise stewardship so that we may pass on to future generations this priceless natural legacy.

In recognition of the central role our forests play in the long-term welfare of our Nation, the Congress, by Public Law 86–753 (36 U.S.C. 163), has designated the week beginning on the third Sunday in October of each year as ''National Forest Products Week'' and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 19 through October 25, 1997, as National Forest Products Week. I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–28081
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Federal Register

Tuesday
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Part VI

The President

Proclamation 7043—National Character Counts Week, 1997

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Presidential Documents

Title 3—

The President

Proclamation 7043 of October 17, 1997

National Character Counts Week, 1997

By the President of the United States of America

A Proclamation

The roots of America's greatness are embedded in the character of its citizens. From our Founders' passion for justice and equality to the social consciousness and humanitarian spirit of today's citizens, the character of our people has inspired the world. Undeniably, character does count for our citizens, our communities, and our Nation, and this week we celebrate the importance of character in our individual lives and in the life of our country.

Instilling sound character in our children is essential to maintaining the strength of our Nation into the 21st century. The core ethical values of trustworthiness, fairness, responsibility, caring, respect, and citizenship form the foundation of our democracy, our economy, and our society. These qualities are not innate but learned, and we must ensure that we nurture them—both through our words and our example—in our Nation's young people.

More than any other institution, the family is the cradle of character, giving children their first crucial lessons in attitude and behavior. In today's complex society, where children are subject to pressures and negative influences rarely experienced by earlier generations, parents face great challenges as they strive to impart to their children the values that will help them become caring and responsible members of society.

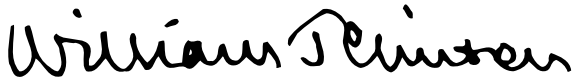
My Administration has worked hard to give parents new tools to help them fulfill their important responsibilities. We worked to require V-chips on all new televisions to give parents greater control over what their children watch; we collaborated with the television industry to encourage the airing of more educational programming for children; and we negotiated a breakthrough agreement with the entertainment and broadcast industries to create a voluntary ratings system that will help parents identify programs containing material inappropriate for children. Our proposed funding for the Anti-Gang and Youth Violence Strategy will provide for after-school initiatives in communities across the country to help keep young people occupied in wholesome activities, off the streets, and out of trouble while their parents are at work.

Schools also have an important role in educating our young people about the difference between right and wrong. My Administration has recognized this by creating partnerships with the States to help our schools do a better job of teaching character to America's students. Our push for rigorous standards and our promise to open the doors of college to all students who work hard let students know that good character really does count and will be rewarded with expanded opportunity. We also should encourage and commend the schools across our country that have begun to incorporate volunteer service as a curriculum requirement, teaching students the important life lessons of sharing, compassion, and civic responsibility.

Developing strong values in America's children requires the participation of all our people. As we observe this special week, I ask that all Americans demonstrate in their personal and public lives, and teach actively to our country's children, the high ethical standards that are essential to good character and to the continued success of our Nation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 19 through October 25, 1997, as National Character Counts Week. I call upon the people of the United States, government officials, educators, religious, community, and business leaders, and the States to commemorate this week with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



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- Automatic data processing equipment leasing costs; published 8-22-97
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LIST OF PUBLIC LAWS

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H.R. 2203/P.L. 105–62

Energy and Water Development Appropriations Act, 1998 (Oct. 13, 1997; 111 Stat. 1320)

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