12–11–97
Vol. 62 No. 238
Pages 65197–65308

federal register

Thursday
December 11, 1997

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see the announcement on the inside cover of this issue.

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register* on *GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the **Federal Register** on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov; by faxing to (202) 512–1262; or by calling toll free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche **202–512–1800**
Assistance with public subscriptions **512–1806**
General online information **202–512–1530; 1–888–293–6498**
Single copies/back copies:
Paper or fiche **512–1800**
Assistance with public single copies **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche **523–5243**
Assistance with Federal agency subscriptions **523–5243**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: Sponsored by the Office of the Federal Register.

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

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

WASHINGTON, DC

WHEN: December 16, 1997 at 9:00 am.
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 62, No. 238

Thursday, December 11, 1997

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register

Vol. 62, No. 238

Thursday, December 11, 1997

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

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 790

Description of NCUA; Requests for Agency Action

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board amends its rules to state that the Executive Director and the General Counsel report to the NCUA Board. The purpose of the rule is to enhance the organization and operations of NCUA.

DATES: Effective on December 11, 1997.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, General Counsel, Office of the General Counsel, at the above address or telephone (703)518–6540. E-mail questions may be sent to ogcmail@ncua.gov.

SUPPLEMENTARY INFORMATION: Part 790 of NCUA Rules and Regulations, 12 CFR Part 790, describes the organization of NCUA's central and regional offices, and sets forth the places and method of obtaining information from NCUA. Prior to this amendment, § 790.2(b)(7) and § 790.2(b)(8) did not state specifically to whom the Executive Director and the General Counsel report. Accordingly, the above sections are amended to provide that the Executive Director and the General Counsel report to the NCUA Board.

Immediate Effective Date

Because these amendments concern the organization of NCUA, prior notice and comment are not required by 5 U.S.C. 553. These amendments are effective upon publication in the **Federal Register**.

Regulatory Procedures

Regulatory Flexibility Act

NCUA certifies that part 790 will not have a significant impact on a substantial number of small credit unions. Accordingly, a regulatory flexibility analysis is not required. The rule affects internal NCUA operations only. Thus, it will not result in any additional burden for regulated institutions. The purpose of the rule is to enhance the organization and operations of NCUA.

Paperwork Reduction Act

The amendments to the rule do not contain any collection of information requirements pursuant to the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Part 790 only applies to NCUA and the NCUA Board. Accordingly, NCUA has determined that the rule will not have a substantial impact on the states or state interests. Further, the rule will not preempt provisions of state law or regulations.

List of Subjects in 12 CFR Part 790

Organization and functions (Government agencies).

By the National Credit Union Administration Board on December 2, 1997.

Becky Baker,

Secretary to the Board.

Accordingly, NCUA amends 12 CFR part 790 as follows:

PART 790—DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTION

1. The authority citation for part 790 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1789, 1795f.

2. Section 790.2 is amended by adding a new sentence before the existing first sentence of paragraphs (b)(7) and (b)(8) to read as follows:

§ 790.2 Central and regional office organization.

* * * * *

(b) * * *

(7) *Office of the Executive Director.* The Executive Director reports to the entire NCUA Board. * * *

(8) *Office of the General Counsel.* The General Counsel reports to the entire NCUA Board. * * *

* * * * *

[FR Doc. 97–32326 Filed 12–10–97; 8:45 am]

BILLING CODE 7535–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 934

[No. 97–77]

RIN 3069–AA70

Authority To Approve Federal Home Loan Bank Bylaws

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adding a new provision to its regulation on Federal Home Loan Bank (FHLBank) operations to devolve responsibility for approving FHLBank bylaws or amendments thereto, subject to certain conditions, from the Finance Board to the boards of directors of the FHLBanks. The rule is part of the Finance Board's continuing effort to devolve management and governance responsibilities to the FHLBanks and is consistent with the goals of the Regulatory Reinvention Initiative of the National Performance Review.

DATES: The interim final rule will become effective on January 12, 1998. The Finance Board will accept comments on the interim final rule in writing on or before January 12, 1998.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Amy R. Maxwell, Compliance Assistance Division, Office of Policy, 202/408–2882, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Subject to the approval of the Finance Board, section 12(a) of the Federal Home Loan Bank Act (Bank Act) authorizes the board of directors of each FHLBank to ''prescribe, amend, and repeal by-laws, rules, and regulations governing the manner in which its affairs may be administered.'' 12 U.S.C. 1432(a). Currently, no Finance Board regulation or policy addresses specifically the process by which the Finance Board evaluates and approves FHLBank bylaws or amendments thereto.

From the establishment of the Finance Board in 1989 until the present, Finance Board staff has reviewed proposed FHLBank bylaws and bylaws amendments to ensure that they are consistent with applicable statutes, regulations, and Finance Board policies. Pursuant to delegated authority, the Associate Director of the former District Banks Secretariat, and, after that position and office were eliminated, the Managing Director of the Finance Board, approved FHLBank bylaws or bylaws amendments upon the recommendation of staff. See Federal Home Loan Bank Board Resolution No. 21,526 (Apr. 4, 1968) (rescinded by Finance Board Resolution No. 97–76 (Dec. 1, 1997)); Finance Board Chairperson's Order No. 95–OR–6 (Oct. 10, 1995).

The Finance Board believes the FHLBanks should have broad discretion to manage their affairs, including the authority to approve bylaws and amendments thereto. Accordingly, as part of the Finance Board's continuing effort to devolve management and governance responsibilities to the FHLBanks, the interim final rule transfers the authority to approve FHLBank bylaws and bylaws amendments, subject to certain conditions, from the Finance Board to the boards of directors of the FHLBanks.

II. Analysis of the Interim Final Rule

The Finance Board is proposing to add a new section, designated as § 934.16, to its regulation on FHLBank operations. Section 934.16 devolves responsibility for approving FHLBank bylaws and amendments thereto, subject to certain conditions, from the Finance Board to the boards of directors of the FHLBanks. The rule authorizes the board of directors of each FHLBank to prescribe, amend, or repeal bylaws governing the manner in which the FHLBank administers its affairs without the prior approval of the Finance Board provided that the bylaws or bylaws amendments are consistent with applicable statutes, regulations, and Finance Board policies. The Finance Board will ensure that FHLBank bylaws are legally unobjectionable through the examination process.

III. Notice and Public Participation

The Finance Board finds that the notice and comment procedure required by the Administrative Procedure Act is unnecessary, impracticable, and contrary to the public interest in this instance because the change made by the interim final rule is technical in nature and applies only to the FHLBanks. See 5 U.S.C. 553(b)(3)(B). Nevertheless, because the Finance Board believes public comments aid in effective rulemaking, it will accept written comments on the interim final rule on or before January 12, 1998.

IV. Regulatory Flexibility Act

The Finance Board is adopting this amendment to part 934 in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 601(2), 603(a).

V. Paperwork Reduction Act

This interim final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. See 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 934

Federal home loan banks, Securities, Surety bonds.

Accordingly, the Federal Housing Finance Board hereby amends part 934, chapter IX, title 12 of the Code of Federal Regulations as follows:

PART 934—OPERATIONS OF THE BANKS

1. Revise the authority citation for part 934 to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1431(g), 1432(a), and 1442.

2. Add § 934.16 to read as follows:

§ 934.16 Approval of Bank bylaws.

The board of directors of a Bank may prescribe, amend, or repeal bylaws governing the manner in which the Bank administers its affairs without the Board's prior approval provided that the bylaws or amendments are consistent with applicable statutes, regulations, and Board policies.

Dated: December 3, 1997.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

[FR Doc. 97–32207 Filed 12–10–97; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–46–AD; Amendment 39–10240; AD 97–20–13]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland Model EC135 P1 and T1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 97–20–13 which was sent previously to all known U.S. owners and operators of Eurocopter Deutschland Model EC135 P1 and T1 helicopters by individual letters. This amendment is prompted by the discovery of cracks on the stator blades of the fenestron tail rotor (tail rotor). The actions specified by this AD are intended to prevent failure of the tail rotor and subsequent loss of control of the helicopter.

DATES: Effective December 29, 1997, to all persons except those persons to whom it was made immediately effective by priority letter AD 97–20–13, issued on September 25, 1997, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before February 9, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–46–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, (817) 222–5961.

SUPPLEMENTARY INFORMATION: On September 25, 1997, the FAA issued priority letter AD 97–20–13, applicable to Eurocopter Deutschland Model

EC135 P1 and T1 helicopters, which requires immediate and daily repetitive inspections of the stator blades for cracks in the stator hub area. If this visual inspection reveals a crack, a dye-penetrant inspection is required. Also, within 400 hours time-in-service (TIS) after the effective date of this AD, and thereafter, at intervals not to exceed 400 hours TIS, a dye-penetrant inspection for cracks is required. If any of the inspections reveal cracked stator blades, each crack must be stop-drilled. If any of the inspections reveal cracks on a stator blade with a total crack length of 15mm or longer, or if cracks are found on more than 3 stator blades, the affected blades must be replaced with airworthy blades prior to further flight. That action was prompted by the discovery of cracks on the stator blades of the tail rotor. This condition, if not corrected, could result in failure of the tail rotor and subsequent loss of control of the helicopter.

Since the unsafe condition described is likely to exist or develop on other Eurocopter Deutschland Model EC135 P1 and T1 helicopters of the same type design, the FAA issued priority letter AD 97–20–13 to prevent failure of the tail rotor and subsequent loss of control of the helicopter. The AD requires, before further flight, and thereafter, before the first flight of each day, visually inspecting the stator blades in the stator hub area. If this visual inspection reveals a crack, a dye-penetrant inspection is required. Also, within 400 hours TIS after the effective date of this AD, and thereafter, at intervals not to exceed 400 hours TIS, a dye-penetrant inspection for cracks is required. If any of the inspections reveal cracked stator blades, each crack must be stop-drilled. If any of the inspections reveal cracks on a stator blade with a total crack length of 15mm or longer, or if cracks are found on more than 3 stator blades, the affected stator blades must be replaced with airworthy stator blades prior to further flight.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on September 25, 1997 to all known U.S. owners and operators of Eurocopter Deutschland Model EC135 P1 and T1 helicopters. 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 to all persons.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–SW–46–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 to read as follows:

97–20–13—Eurocopter Deutschland: Amendment 39–10240. Docket No. 97–SW–46–AD.

Applicability: Model EC135 P1 and T1 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the tail rotor and subsequent loss of control of the helicopter, accomplish the following:

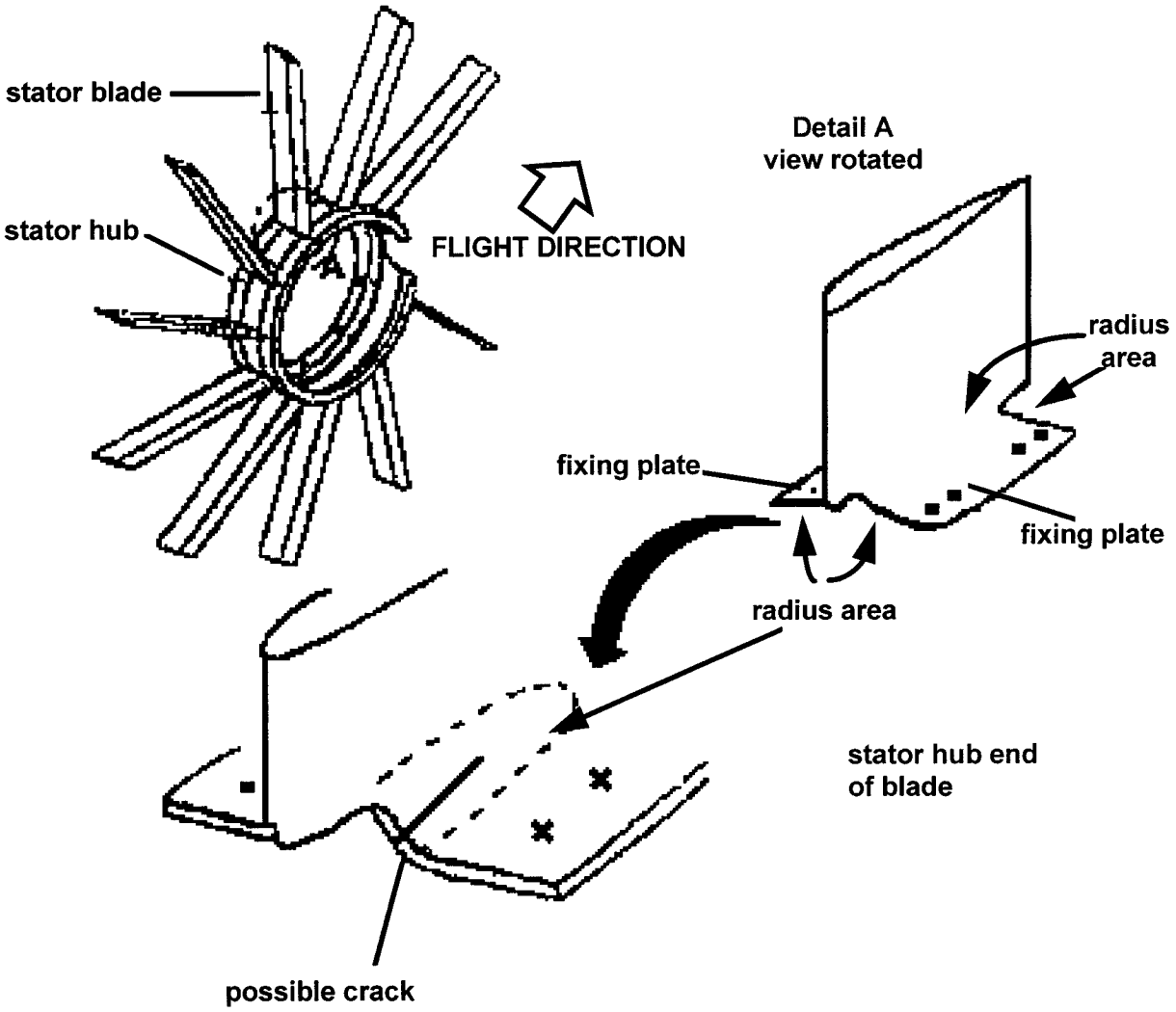
(a) Before further flight, and thereafter before the first flight of each day, visually inspect all stator blades in the stator hub area for cracks (see Figure 1). Inspect the stator blades in the areas where they are riveted to

the stator hub. Pay particular attention to the radius areas where the stator blade base attaches to the stator hub.

(1) If the inspection reveals a crack at the base of a stator blade, remove the paint from the area and perform a dye-penetrant inspection.

(2) If the inspection reveals 3 or less cracked stator blades and a total crack length per stator blade of less than 15mm, stop-drill each crack with a 2mm diameter drill.

BILLING CODE 4910–13–P



Criteria:

1. **Maximum 3 stator blades with cracks allowed.**
2. **The total length of all cracks on each blade must not exceed 15 mm.**

Inspection of the stator blades
Figure 1

(b) Within 400 hours time-in-service (TIS), and thereafter, at intervals not to exceed 400 hours TIS, remove the paint from all stator blades in the stator hub area and perform a dye-penetrant inspection for cracks.

(c) If the inspections reveal cracks on any stator blade with a total crack length of 15mm or longer, or if more than 3 stator blades are cracked, remove the affected stator blades and replace them with airworthy stator blades before further flight. The inspections required by this AD must continue to be performed on all stator blades including replacement stator blades.

Note 2: Eurocopter Deutschland Alert Service Bulletin No. EC 135–53A–001, Revision 01, dated August 8, 1997, pertains to this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(e) Special flight permits will not be issued.

(f) This amendment becomes effective on December 29, 1997, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 97–20–13, issued September 25, 1997, which contained the requirements of this amendment.

Note 4: The subject of this AD is addressed in Luftfahrt-Bundesamt (Germany) AD 97–249, effective September 25, 1997.

Issued in Fort Worth, Texas, on December 2, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–32255 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–31]

RIN 2120–AA66

Amendment of Legal Descriptions of Jet Routes and Federal Airways in the Vicinity of Indianapolis, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal descriptions of three jet routes and thirteen Federal airways that include the Indianapolis Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) as part of their route structure. Currently, the Indianapolis VORTAC and the Indianapolis International Airport share the ''Indianapolis'' name even though they are not collocated. This situation has led to confusion among users. To eliminate this confusion, the Indianapolis VORTAC will be renamed ''Brickyard VORTAC.'' The effective date of this name change will coincide with this rulemaking action. This action amends the legal descriptions of those jet routes and airways affected by the VORTAC's name change.

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Steve Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends 14 CFR part 71 by amending the legal descriptions of three jet routes and thirteen Federal airways that have ''Indianapolis VORTAC'' included as part of their route structure. Currently, the Indianapolis VORTAC and the Indianapolis International Airport share the ''Indianapolis'' name even though the VORTAC is approximately 7 nautical miles (NM) northwest of the airport. This situation has led to confusion among users because the VORTAC and the airport are not collocated. To eliminate this confusion, the Indianapolis VORTAC will be renamed ''Brickyard VORTAC.'' The effective date changing the name of the VORTAC will coincide with this rulemaking action. As a result of the VORTAC's name change, this rule will amend all jet routes and airways with ''Indianapolis VORTAC'' included as part of their legal descriptions.

Since this action merely involves changes in the legal description of jet routes and Federal airways, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

Jet routes and domestic VOR Federal airways are published in paragraph 2004 and paragraph 6010(a), respectively, of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The jet routes and airways listed in this document will be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–24 [Revised]

From Myton, UT, to Hayden, CO. From Hugo, CO, Hays, KS; via Salina, KS; Kansas City, MO; St. Louis, MO; Brickyard, IN; Falmouth, KY; Charleston, WV; Montebello, VA; Flat Rock, VA; to Harcum, VA.

* * * * *

J–80 [Revised]

From Oakland, CA; via Manteca, CA; Coaldale, NV; Wilson Creek, NV; Milford, UT; Grand Junction, CO; Red Table, CO; Falcon, CO; Goodland, KS; Hill City, KS; Kansas City, MO; Capital, IL; Brickyard, IN; Bellaire, OH; INT Bellaire 090° and East

Texas, PA, 240° radials; East Texas; Sparta, NJ; Barnes, MA; to Bangor, ME.

* * * * *

J–110 [Revised]

From Oakland, CA, via Salinas, CA; Clovis, CA; Boulder City, NV; Farmington, NM; Alamosa, CO; Garden City, KS; Butler, MO; St. Louis, MO; Brickyard, IN; Bellaire, OH; to Coyle, NJ.

* * * * *

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–11 [Revised]

From Brookley, AL; Greene County, MS; Jackson, MS; Sidon, MS; Holly Springs, MS; Dyersburg, TN; Cunningham, KY; Pocket City, IN; Brickyard, IN; Marion, IN; Fort Wayne, IN; to INT Fort Wayne 038° and Carleton, MI, 262° radials.

* * * * *

V–14 [Revised]

From Chisum, NM, via Lubbock, TX; Childress, TX; Hobart, OK; Will Rogers, OK; INT Will Rogers 052° and Tulsa, OK, 246° radials; Tulsa; Neosho, MO; Springfield, MO; Vichy, MO; INT Vichy 067° and St. Louis, MO, 225° radials; Vandalia, IL; Terre Haute, IN; Brickyard, IN; Muncie, IN; Findlay, OH; Dryer, OH; Jefferson, OH; Erie, PA; Dunkirk, NY; Buffalo, NY; Geneseo, NY; Georgetown, NY; INT Georgetown 093° and Albany, NY, 270° radials; Albany; INT Albany 084° and Gardner, MA, 284° radials; Gardner; to Norwich, CT. The airspace within R–5207 is excluded.

* * * * *

V–24 [Revised]

From Aberdeen, SD, via Watertown, SD; Redwood Falls, MN; Rochester, MN; Lone Rock, WI; INT Lone Rock 147° and Janesville, WI, 281° radials; Janesville; INT Janesville 112° and Northbrook, IL, 290° radials; to Northbrook. From Peotone, IL; INT Peotone 152° and Brickyard, IN, 312° radials; to Brickyard.

* * * * *

V–50 [Revised]

From Hastings, NE, via Pawnee City, NE; St. Joseph, MO; Kirksville, MO; Quincy, IL; Capital, IL; Decatur, IL; Terre Haute, IN; Brickyard, IN; Dayton, OH.

* * * * *

V–53 [Revised]

From Charleston, SC, via Columbia, SC; Spartanburg, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Hazard, KY; Lexington, KY; Louisville, KY; INT Louisville 333° and Brickyard, IN, 170° radials; Brickyard. The airspace within R–3401B is excluded.

* * * * *

V–96 [Revised]

From Brickyard, IN; Kokomo, IN; Fort Wayne, IN; INT Fort Wayne 071° and Waterville, OH, 246° radials; Waterville.

* * * * *

V–128 [Revised]

From Janesville, WI; via Rockford, IL; INT Rockford 169° and Pontiac, IL, 343° radials; INT Pontiac 343° and Kankakee, IL, 274° radials; Kankakee; INT Kankakee 126° and Peotone, IL, 152° radials; INT Peotone 152° and Brickyard, IN, 312° radials; Brickyard; INT Brickyard 137° and Cincinnati, OH, 290° radials; Cincinnati; York, KY; Charleston, WV; to Casanova, VA.

* * * * *

V–192 [Revised]

From Champaign, IL; Terre Haute, IN, INT 079° and Brickyard, IN, 230° radials; Brickyard; Muncie, IN; to Dayton, OH.

* * * * *

V–210 [Revised]

From Los Angeles, CA, INT Los Angeles 083° and Pomona, CA, 240° radials; Pomona; INT Daggett, CA, 229° and Hector, CA, 263° radials; Hector; Goffs, CA; 13 miles, 23 miles 71 MSL, 85 MSL, Peach Springs, AZ; Grand Canyon, AZ; Tuba City, AZ; 10 miles 90 MSL, 91 miles 105 MSL, Farmington, NM; Alamosa, CO; INT Alamosa 074° and Lamar, CO, 250° radials; 40 miles, 51 miles, 65 MSL, Lamar; 13 miles, 79 miles, 55 MSL, Liberal, KS; INT Liberal 137° and Will Rogers, OK, 284° radials; Will Rogers; INT Will Rogers 113° and Okmulgee, OK, 238° radials; Okmulgee. From Brickyard, IN, Muncie, IN; Rosewood, OH; Tiverton, OH; Briggs, OH; INT Briggs 044° and Akron, OH, 088° radials; INT Akron 088° and Youngstown, OH, 116° radials; INT Youngstown 116° and Clarion, PA, 222° radials; Revloc, PA; INT Revloc 096° and Harrisburg, PA, 285° radials; Harrisburg; Lancaster, PA; INT Lancaster 095° and Yardley, PA, 255° radials; to Yardley.

* * * * *

V–285 [Revised]

From Brickyard, IN, via Kokomo, IN; Goshen, IN; INT of the Goshen 038° and the Kalamazoo, MI, 191° radials; Kalamazoo; INT Kalamazoo 014° and Grand Rapids, MI, 167° radials; Grand Rapids; White Cloud, MI; Manistee, MI; to Traverse City, MI.

* * * * *

V–305 [Revised]

From Belcher, LA, via INT Belcher 084° and El Dorado, AR, 233° radials; El Dorado; Little Rock, AR; Walnut Ridge, AR; Malden, MO; Cunningham, KY; Pocket City, IN; INT Pocket City 046° and Hoosier, IN, 205° radials; Hoosier; INT Hoosier 025° and Brickyard, IN, 185° radials; Brickyard; INT Brickyard 038° and Kokomo, IN, 182° radials; to Kokomo.

* * * * *

V–399 [Revised]

From Brickyard, IN, via INT Brickyard 312° and Boiler, IN, 159° radials; Boiler; INT Boiler 313° and Peotone, IL, 152° radials; to Peotone.

* * * * *

V–434 [Revised]

From Ottumwa, IA, Moline, IL; Peoria, IL; Champaign, IL; Brickyard, IN.

* * * * *

Issued in Washington, DC, on December 2, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–32453 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 28109; Amendment No. 121–266]

RIN 2120–AF76

Revisions to Digital Flight Data Recorder Rules; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: The Federal Aviation Administration published in the **Federal Register** of July 17, 1997, a final rule requiring that certain airplanes be equipped to accommodate additional digital flight data recorder (DFDR) parameters. This document corrects an error in the section that describes the parameters for certain turbine-engine-powered airplanes with 10–19 seats.

DATES: Effective on December 11, 1997.

FOR FURTHER INFORMATION CONTACT: Gary E. Davis, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration published in the **Federal Register** of July 17, 1997, a document requiring that certain airplanes be equipped to accommodate additional digital flight data recorder (DFDR) parameters. Under § 121.344a, the range of parameters was incorrectly referenced. This correction corrects the ranges.

In rule FR Doc 97–18514, published on July 17, 1997, (62 FR 38362) make the following correction. On page 38381, in the first column, paragraph (a)(1), in the second line, remove ''121.344(a)(11)'' and add ''121.344(a)(18)'' in its place.

Issued in Washington, DC on December 8, 1997.

Donald P. Byrne,

Assistant Chief Counsel.

[FR Doc. 97–32450 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

Changes in Reporting Levels for Large Trader Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking; correction.

SUMMARY: The Commodity Futures Trading Commission is correcting an error in reports by large traders previously published in the **Federal Register** on November 17, 1997 (62 FR 61226).

EFFECTIVE DATE: December 17, 1997.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5310.

Correction

In the final rule, FR Doc. No. 97–29995, beginning on page 61226 in the **Federal Register** issue of November 17, 1997, make the following correction:

§ 15.03 [Corrected]

On page 61227, in the third column, in § 15.03, in the table, in the column entitled ''Quantity,'' the fourth line reflecting the quantity 500,000 for the commodity of oats (bushels), should be deleted and replaced with the quantity 300,000.

Dated: December 8, 1997.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–32412 Filed 12–10–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. ICR–97–2]

Electrical Power Generation, Transmission and Distribution and Electrical Protective Equipment; Approval of Information Collection Requirements

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule; Announcement of OMB approval number and expiration date.

SUMMARY: The Occupational Safety and Health Administration is announcing that the collections of information regarding § 1910.269, Electrical Power Generation, Transmission and Distribution and § 1910.137, Electrical Protective Equipment have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number and expiration date. It also amends 29 CFR 1910.8.

DATES: Effective December 11, 1997.

FOR FURTHER INFORMATION CONTACT: Barbara Bielaski, Directorate of Policy, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3627, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 219–8076, ext. 142.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 7, 1997 (62 FR 10592), the Agency announced its intent to request renewal of its current OMB approval for 29 CFR 1910.269, Electrical Power Generation, Transmission and Distribution and 29 CFR 1910.137, Electrical Protective Equipment, and provided a 60-day period for the public to comment on OSHA's burden hour estimates. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has renewed its approval for the information collections and assigned OMB control number 1218–0190 for both collections. The approval expires on July 31, 2000. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 28th day of November 1997.

Charles N. Jeffress,

Assistant Secretary of Labor.

Accordingly, OSHA amends 29 CFR part 1910 as set forth below.

PART 1910—[AMENDED]

1. The authority citation for Subpart A of part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR part 1911.

§ 1910.8 [Amended]

2. Sec. 1910.8 is amended by adding the entry ''1910.137—1218–0190'' (in numerical order) to the table in the section.

[FR Doc. 97–32408 Filed 12–10–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[CGD] 97–067

RIN 2115–AF54

Advance Notice of Arrival: Vessels Bound for Ports and Places in the United States

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard amends its rules to require certain vessels to notify us of their International Safety Management (ISM) Code certification status when they enter U.S. waters and ports. The rule requires these vessels to include their ISM Code status in notice of arrival messages that are routinely sent to the Coast Guard Captain of the Port. This rule will allow the Coast Guard to monitor vessel compliance with ISM Code certification requirements.

DATES: This interim rule is effective January 26, 1998. Comments must reach the Coast Guard on or before January 12, 1998. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before February 9, 1998.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 97–067), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477. You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street N.W., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for

inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Gauvin, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), at (202) 267–1053, or fax (202) 267–4570.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 97–067) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard has not published a Notice of Proposed Rulemaking (NPRM) for this regulatory amendment. Under the Administrative Procedure Act (5 U.S.C. 553), an agency can publish a rule without notice and public procedure if it finds for good cause that notice would be impracticable, unnecessary, or contrary to the public interest. This rule involves international issues and safety and port management concerns. Compliance with the ISM Code is mandated by the Coast Guard Authorization Act of 1996 and by Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS).

The initial implementation date of the ISM Code is July 1, 1998, for the following vessels engaged on a foreign voyage: A vessel transporting more than 12 passengers; or a tanker, a bulk freight vessel, and a high speed freight vessel of 500 gross tons or more. The second implementation date for the ISM Code is July 1, 2002, for other freight vessels and self-propelled mobile offshore drilling units (MODU) of 500 gross tons or more.

The majority of countries that are a party to the SOLAS convention have adopted the ISM Code and are committed to timely and strict enforcement of the Code internationally. In order for the U.S. to demonstrate its support for this international goal, it is crucial that we begin monitoring and documenting ISM Code compliance status of vessels that must comply with the ISM Code by July 1, 1998. Similarly, it will be critical to begin monitoring ISM Code compliance for the remaining classes of vessels covered by the ISM Code well in advance of July 1, 2002.

Once the ISM Code is in effect, vessels entering U.S. waters and bound for U.S. ports which do not have fully certificated or implemented safety management systems under the ISM Code may be detained or denied entry into U.S. ports. Gathering ISM Code certification information about vessels that must comply with the ISM Code by July 1, 1998, well in advance of that date, will permit the Coast Guard to determine resource allocations for the U.S. Port State Control Programs and carry out enforcement actions required by 46 U.S.C. 3204(c) and 3205(d). This will enhance the Coast Guard's ability to carry out the required enforcement of the ISM Code, and promote safe and smooth operations at U.S. ports. For these reasons, the Coast Guard finds good cause under 5 U.S.C. 553(b)(B) that a notice before the effective date of this rule is unnecessary.

Although this rule will not be preceded by a notice of proposed rulemaking, we have provided for a 30-day public comment period. This ensures that the public has an opportunity to comment prior to the effective date of the rule, but also allows us to begin collecting the necessary information as soon as possible prior to implementation of the ISM Code.

Background and Purpose

The Ports and Waterways Safety Act of 1972 [86 Stat. 424], as amended by the Port and Tanker Safety Act of 1978 [92 Stat. 1271], authorizes the Secretary of the Department in which the Coast Guard is operating to require the receipt of notice from any vessel destined for or departing from a port or place under the jurisdiction of the U.S. This does not include a vessel declaring force majeure or a vessel on innocent passage through U.S. waters. This notice may include any information necessary for the control of the vessel and for the safety of the port or marine environment. See 33 U.S.C. 1223; 33 CFR Part 160, Subpart C.

In October 1996, the Coast Guard Authorization Act of 1996 [110 Stat. 3901] amended title 46 of the U.S. Code by adding Chapter 32, ''Management of Vessels.'' Under this new law, the Secretary of Transportation was directed to prescribe regulations and enforce compliance with the ISM Code for safety management systems on vessels engaged on a foreign voyage. This authority was delegated to the Commandant of the Coast Guard on April 24, 1997 (62 FR 19935), in 49 CFR, Part 1.46 (fff) and (ggg).

On May 1, 1997, the Coast Guard published a Notice of Proposed Rulemaking on implementation and certification of owners' and vessels' safety management systems consistent with the ISM Code (62 FR 23705). The NPRM's comment period closed on July 30, 1997.

Briefly, compliance with the ISM Code means that these vessels and the companies which own or operate these vessels must have in effect safety management systems that meet the requirements of the ISM Code, and they must hold valid Document of Compliance certificates and Safety Management Certificates.

This rule will require these vessels to provide their ISM certification status prior to entering U.S. ports. It should be noted that passenger vessels carrying 12 passengers or more involved in foreign voyages that are below 500 gross tons are not covered by this rule even though these passenger vessels under 500 gross tons will be required to be certificated to the ISM Code requirements.

There are very few foreign passenger vessels operating within the U.S. that meet these parameters. Those that do operate on liner runs to the same port daily with their schedules well known to the Coast Guard's Captain of the Port. An example of this would be small passenger ferries operating between the British Virgin Islands and U.S. Virgin Islands, which enter U.S. waters three or more times daily. Once the Captain of the Port's personnel verify that these vessels meet the ISM Code requirements during routine foreign vessel boardings, the need to report ISM Code status is unnecessary due to their limited, one U.S. port operation. For these reasons, we are excluding these vessels from the requirements of this rule.

The purpose of this rule is to permit the Coast Guard to enforce the requirements of 46 U.S.C. 3204(c),

which prohibits a vessel from operating in U.S. waters without having on board a valid Document of Compliance certificate and Safety Management Certificate. Collecting a vessel's certification status before arrival in port is vital to determining appropriate enforcement actions by Coast Guard officials at U.S. ports. An effected vessel that does not have the ISM Code certificates on board will be denied entry into a U.S. port after the effective date of the ISM Code. A vessel that has the proper ISM Code certificates will be boarded annually under the existing standards of the U.S. Port State Control program. During these boardings, if the vessel is found to have valid certificates but has not properly implemented or maintained its safety management system, the vessel will be detained in port. The vessel's flag state or organization acting on behalf of its flag, will be requested by the Coast Guard to attend to the vessel to ensure corrections, or take actions to manage the corrections of non-conformities to the vessel's safety management system prior to the vessel departing the port.

Discussion of the Proposed Rule

Notification of a vessel's ISM Code certification status will be added to 33 CFR 160.207 as new paragraphs (d) and (e). Paragraph (d) requires an owner, agent, master, operator, or person in charge of a vessel of 500 gross tons or more and engaged on a foreign voyage to the United States to provide the ISM Code notice described in paragraph (e).

Vessels that are required to comply with the ISM Code by July 1, 1998 must comply with this rule on its effective date. These are listed in paragraph (d)(1) and include a passenger vessel carrying 12 or more passengers, a tank vessel, a bulk freight vessel, or a high-speed freight vessel.

Vessels that must comply with the ISM Code by July 1, 2002, must comply with this rule beginning January 1, 2000. These vessels are listed in paragraph (d)(2) and include a freight vessel not listed in paragraph (d)(1) or a self-propelled MODU. We are not collecting ISM Code compliance information from these other freight vessels and self-propelled MODU's until January 1, 2000, because they are not required to comply with the ISM Code until July 1, 2002. This delayed compliance date reduces the collection of information burden for these vessels, but will allow the Coast Guard to collect this information well in advance of the second ISM Code effective date.

Paragraph (e) describes the content and manner of the notice. These vessels will be required to include in their advance notice of arrival message the issuance dates of their Document of Compliance certificate and Safety Management Certificate, and the name of the Flag Administration or recognized organization(s) representing the vessel's flag which issued the certificates. The notice must be given to the appropriate Captain of the Port at least 24 hours prior to entry, and can be combined with the existing notification given under 33 CFR 160.207(a).

We recognize that this rule will take effect prior to the initial ISM Code implementation date of July 1, 1998, and will take effect for other freight vessels and self-propelled MODUs on July 1, 2002. Vessels that are not in compliance with the ISM Code will not be detained or denied entry into U.S. ports prior to the implementation date for that particular vessel. However, compiling ISM certification status prior to the ISM implementation dates will enable us to enforce the ISM Code compliance in a timely and efficient manner.

Regulatory Evaluation

This interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this interim rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This rule will amend established reporting regimes which are now customary procedures. The information to be reported is readily available aboard the vessel by international convention. Modern electronic communication systems make it easier to report this information, and will only add seconds to the delivery of currently required reports.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers the economic impact on small entities of each rule for which a general notice of proposed rulemaking is required. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, the Coast Guard has reviewed it for potential economic impact on small entities.

This rulemaking will affect U.S. oceangoing shipping companies and their vessels of specific categories of more than 500 gross tons, or passenger vessels of 500 gross tons or more carrying more than 12 passengers engaged on a foreign voyage. These companies and their vessels are not considered small businesses or small entities. Small passenger vessels are the only small entities required to comply with the ISM Code. A small passenger vessel is generally one carrying more than six passengers and is less than 100 gross tons (See 46 U.S.C. 2101 (35)). Since the new reporting requirements are for passenger vessels of 500 gross tons or over, there is no impact or reporting requirement for a small passenger vessel engaged on a foreign voyage.

Therefore, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Act of 1996 (Pub.L. 104–121), the Coast Guard wants to help small entities understand this proposed rule so they can better evaluate its effects on them and participate in the rulemaking process. If your small business is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Mr. Robert Gauvin, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), at (202) 267–1053, or fax (202) 267–4570.

Collection of Information

This rule provides for a collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), ''collection of information'' includes reporting,

recordkeeping, monitoring, posting, labeling, and other, similar actions.

The Coast Guard submitted the requirements for the collection request to the Office of Management and Budget, requesting emergency processing of the collection. The title and description of the collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Advance Notice of Arrivals: Vessels bound for ports and places in the U.S.

Summary of the Collection of Information: This interim rule contains collection of information requirements in § 160.207, and the corresponding approval number is OMB Control Number 2115–0557.

Need for Information: 46 U.S.C. 3204(c) prohibits vessels from operating in U.S. waters without having on board a copy of their company's Document of Compliance certificate and the vessel's Safety Management Certificate. This advance notice of arrival report will ensure that the vessel and its company have been issued these certificates and are in compliance. This report will ensure uninterrupted trading of the vessel in the U.S. when meeting the requirements of the ISM Code. Once the ISM Code implementation dates come into effect, this will allow the Coast Guard Captain of the Port to deny vessels from entry into U.S. waters and ports if the vessel does not verify the issuance of the required certificates in the advance notice of arrival. This will enhance safety in U.S. ports and waterways, and prevent costs for the U.S. port to detain a non-complying vessel, if found in port.

Proposed Use of Information: This information will be used by the cognizant Captain of the Port to ensure compliance with the ISM Code and U.S. law to enhance waterway safety management.

Description of the Respondents: Respondents include the vessel's owner, master, operator, agent or person in charge of a passenger vessel carrying more than 12 passengers, tank vessels, bulk freight vessels, freight vessels, high-speed freight vessels or self-propelled mobile offshore drilling units of at least 500 gross tons or more, engaged on a foreign voyage to the U.S.

Number of Respondents: The ISM Code compliance reporting requirement will effect the above-described vessels of 500 gross tons or more on a foreign voyage to the U.S. There are approximately 9,507 vessels operating on a foreign voyage to the U.S. annually. During 1998 and 1999, 60 percent of the total population will need to meet this requirement (5,704 vessels). In the year 2000, 100 percent compliance will be expected.

Frequency of Response: It is expected that each vessel will be required to make this report eight times per year at every port call. This will require a total of 45,632 responses per year during 1998 and 1999, and a total of 76,056 responses during the year 2000. Each vessel responds to local Coast Guard Captain of the Port units.

Burden of Response: It is expected that the additional requirement will add one minute of time per report for recording the additional information needed to verify the vessel's ISM Code certification compliance.

Estimated Total Annual Burden: The estimated total additional burden in each year, for 1998 and 1999 will equal: 1 minute × 45,632 responses = 45,632 minutes or 761 hours per year. At $20.00 an hour for clerical time, the cost to the public is $15,220 per year ($20.00 × 761 hours = $15,220).

The estimated total annual burden for the year 2000 will equal: 1 minute × 76,056 responses = 76,056 minutes or 1,268 hours per year. At $20.00 an hour for clerical time, the cost to the public is $25,360 per year ($20.00 × 1,268 hours = $25,360).

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this rule to OMB for its review of the collection of information.

Even though the Coast Guard has received emergency authorization to collect this information, it solicits public comment on the collection of information to (1) evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information will have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond, by allowing the submittal of responses by electronic means or the use of other forms of information technology.

Persons submitting comments on the collection of information should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES** by the date under **DATES.**

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

The Coast Guard has analyzed this interim rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this interim rule and concluded that, under paragraph 2.B.2e(34(d)) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 160 as follows:

1. Revise the authority citation for part 160 to read as follows:

PART 160—[AMENDED]

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46.

2. Revise § 160.207 by adding paragraphs (d) and (e) to read as follows:

§ 160.207 Notice of arrival: Vessels bound for ports or places in the United States.

* * * * *

(d) International Safety Management (ISM) Code (Chapter IX of SOLAS) Notice. If you are the owner, agent, master, operator, or person in charge of a vessel that is 500 gross tons or more and engaged on a foreign voyage to the United States, you must provide the ISM Code notice described in paragraph (e) as follows:

(1) Immediate ISM Code notice if your vessel is—a passenger vessel carrying 12 or more passengers, a tank vessel, a bulk freight vessel, or a high-speed freight vessel.

(2) ISM Code notice beginning January 1, 2000, if your vessel is—a freight vessel not listed in paragraph (d)(1) or a self-propelled mobile offshore drilling unit (MODU).

(e) *Content and Manner of ISM Code Notice.* (1) ISM Code notice includes the following:

(i) the date of issuance for the company's Document of Compliance certificate that covers the vessel,

(ii) the date of issuance for the vessel's Safety Management Certificate, and,

(iii) the name of the Flag Administration, or the recognized organization(s) representing the vessel flag administration, that issued those certificates.

(2) If you meet the criteria in paragraph (d) of this section, you must give the ISM Code notice to the Coast Guard Captain of the Port of the port or place of your destination in the U.S. at least 24 hours before you enter the port or place of destination. The ISM Code notice may be combined and provided with the report required by paragraph (a) of this section.

Dated: December 5, 1997.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–32447 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–14–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE40

Schedule for Rating Disabilities; The Cardiovascular System

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends that portion of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities addressing the cardiovascular system. The effect of this action is to update the cardiovascular system portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

EFFECTIVE DATE: This amendment is effective January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff (213A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 273–7230.

SUPPLEMENTARY INFORMATION: As part of a comprehensive review of the rating schedule, VA published, in the **Federal Register** of January 19, 1993 (58 FR 4954–60), a proposal to amend 38 CFR 4.100, 4.101, 4.102, and 4.104. Interested persons were invited to submit written comments, suggestions, or objections on or before March 22, 1993. We received comments from the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America, the American Legion, and several VA employees.

One commenter, stating that the primary objective of the review is to update the medical terminology and criteria used to evaluate disabilities rather than to amend the percentage evaluations, contended, without being specific, that a substantial number of the proposed changes go beyond the stated purpose and expressed general opposition to any changes that are inconsistent with the stated objective. The commenter also stated that the proposed criteria retain, and in some cases expand upon, the vague, indefinite, and arbitrary elements previously found in the schedule and felt that substantial revision of the proposed rules is required.

The purpose of the review was to update the cardiovascular system portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review. The proposed revisions published January 19, 1993, were intended to update the medical terminology; revise the criteria, including the length of convalescence evaluations, based on medical advances; and make criteria more objective, i.e., less ambiguous and, thereby, assure more consistent ratings. These proposed changes were consistent with the stated purposes of the revision. However, since establishing less ambiguous criteria to assure consistent evaluations is one of the purposes of this revision, and a number of commenters stated that the proposed criteria contained language that is too subjective to provide effective guidance in evaluating cardiovascular disabilities, we have further revised the proposed evaluation criteria to eliminate indefinite terminology and establish more objective and quantifiable criteria wherever possible. These changes will be discussed in detail under the individual codes affected.

One commenter suggested that the proposed criteria will discriminate against veterans of Desert Storm and future veterans because their conditions will be evaluated under criteria that he perceived as less generous than those in the prior rating schedule.

Significant medical advances, including new surgical and anesthetic techniques, new medications, and earlier diagnoses, have occurred, which we must take into account in revising the rating schedule. Doing so is, in fact, one of the primary reasons for conducting this review. Since recently discharged veterans clearly benefit from the application of these new techniques, in our judgment they are not discriminated against by having their disabilities evaluated under criteria which reflect the effects of these same medical advances.

One commenter objected that the rating schedule fails to take into consideration the disabling effects of the veteran's shortened life expectancy.

To consider a factor so far removed from ''the average impairments of earning capacity'' as the effect of various conditions on life expectancy would clearly exceed the parameters established by Congress in 38 U.S.C. 1155.

One commenter, citing a statistical economic validation study from the 1960s, implied that statistical studies may justify increased disability evaluations.

The statute (38 U.S.C. 1155) authorizing establishment of the rating schedule directs that ''[t]he Secretary shall from time to time readjust the schedule of ratings *in accordance with experience*'' (emphasis supplied). Rather than requiring statistical studies or any other specific type of data, the statute clearly leaves the nature of the experience which warrants an adjustment, and by extension the manner in which any review is conducted, to the discretion of the Secretary. Although during the 1970s VA considered adjusting the rating schedule based on the same statistical studies cited by the commenter, that approach proved to be unsatisfactory, and the proposed changes based on that study were not adopted.

One commenter agreed that ambiguous words such as ''severe'' should be deleted, but cautioned against making the evaluation criteria too objective.

Providing clear and objective criteria is the best way to assure that disabilities will be evaluated fairly and consistently. Judgment and flexibility cannot be eliminated from the evaluation process, however, because patients do not commonly present as textbook models of disease, and rating agencies have the task of assessing which evaluation level best represents the overall disability picture. (See § 4.7.)

The previous schedule provided convalescence evaluations for six

months for the following conditions: rheumatic heart disease (DC 7000); arteriosclerotic heart disease, following coronary occlusion (DC 7005); myocardial infarction (DC 7006); and soft tissue sarcoma (of vascular origin) (DC 7123). It provided convalescence evaluations for one year for the following conditions: Auriculoventricular block, with implantation of a pacemaker (DC 7015); heart valve replacement (DC 7016); coronary artery bypass (DC 7017); and aortic aneurysm, following surgical correction (DC 7110). We proposed to change the duration of convalescence evaluations for DC 7000, DC 7005, and DC 7006 to three months; for DC 7018 (pacemaker implantation, formerly DC 7015) to two months; and for DC 7017 to three months. We proposed an indefinite period of convalescence evaluation with an examination at six months for DC 7016, DC 7110, DC 7011 (now ventricular arrhythmias), DC 7111 (aneurysm of any large artery), and DC 7123. We also proposed an indefinite period of convalescence evaluation, but with an examination at one year, for cardiac transplantation (DC 7019).

One commenter stated that VA should justify the proposed changes in periods of convalescence evaluation by citing medical experts or texts.

A report from Jefferson Medical College that included a clinical review of the cardiovascular portion of the rating schedule and recommendations for changes was available to us when we undertook the revision of this body system. In addition, we received advice from the Veterans Health Administration and consulted standard medical texts such as ''Cecil Textbook of Medicine'' (James B. Wyngaarden, M.D. *et al.* eds., 19th ed. 1992), ''Heart Disease'' (Eugene Braunwald, M.D. ed., 4th ed. 1992), and ''The Heart'' (J. Willis Hurst, M.D. *et al.* eds., 7th ed. 1990). We published the proposed revision only after reviewing all of these sources of information. We have provided specific citations supporting many of the changes in the length of convalescence evaluations later in this document under the discussions of convalescence evaluation periods that have been changed.

One commenter stated that the proposed periods of convalescence evaluation do not represent the average impairment, but only the optimal recovery times. This commenter also stated that the changes in the duration of convalescence evaluations do not take into account advanced age, poor state of health, or the presence of etiologically related or concomitant disease.

The periods of convalescence evaluation we have established reflect, according to the sources noted above, the average periods of recovery needed by the average person following certain procedures and illnesses. These periods can be extended, when medically warranted, under the authority of 38 CFR 4.29 and 4.30.

One commenter said that the proposed changes in the length of convalescence evaluations appear to have been developed from a purely economic perspective.

As previously discussed, revisions to periods of convalescence evaluations were based on medical considerations rather than cost projections.

One of the commenters suggested that where the length of convalescence evaluations has been reduced to two, three, or six months, all claims should be referred to the Adjudication Officer for a possible extension of the convalescence rating under 38 CFR 4.30(b)(2).

The rating agency itself has the authority to extend the period of convalescence evaluations for up to three months under the provisions of § 4.30; the approval of the Adjudication Officer is required only when extending a convalescence evaluation for a longer period. Referring claims to the Adjudication Officer when the medical evidence does not warrant any extension, or when the rating agency can extend the evaluation for a sufficient period on its own authority, would cause needless delay, and we have made no change based on this suggestion.

Several commenters objected to indefinite periods of convalescence evaluation with a mandatory VA examination at a prescribed time. In our judgment, however, this method of determining the length of the total evaluation is both fairer and more accurate than assigning a total evaluation for a specified length of time, since the evaluation will be based on actual residual disability as documented by the examination, and the veteran will receive advance notice of any change and have the opportunity to submit additional evidence showing that the change is not warranted.

One set of comments reflected the view that applying § 3.105(e) to indefinite periods of convalescence evaluations will cause significant administrative problems and, in some instances, significantly lengthen the period for which a convalescence evaluation is assigned. These concerns appear to be based on the assumption that if medical information justifying a certain period of convalescence evaluation is not submitted until months or even years after the event, the condition must be evaluated as totally disabling from the date entitlement is established, through the entire intervening period, and until such time as an examination can be performed, advance notice be provided, and the effective date provisions of § 3.105(e) be observed.

Section 3.105(e) applies only to reductions in ''compensation payments currently being made;'' it does not apply in cases where a total evaluation is both assigned and reduced retroactively. We have established convalescence evaluations for indefinite periods under other portions of the rating schedule (See DC 7528, malignant neoplasms of the genitourinary system, in 38 CFR 4.115b and DC 7627, malignant neoplasms of gynecological system or breast, in 38 CFR 4.116), some having been in effect for over two years, and there is no evidence that they cause the type of administrative problems that the commenters foresee.

There were three introductory sections to the cardiovascular system in the previous rating schedule. Section 4.100, Necessity for complete diagnosis, named common types of heart disease and discussed the need for accurate diagnosis. Section 4.101, Rheumatic heart disease, discussed the course of rheumatic heart disease, the significance of a diagnosis of mitral insufficiency, possible etiologies for later developing aortic insufficiency, and the need for accurate diagnosis of a service-connected condition. Section 4.102, Varicose veins and phlebitis, discussed the need to determine impairment of deep circulation due to varicosities and included a requirement to assign a higher evaluation when there is phlebitis or deep impairment of circulation. We proposed to retitle the introductory sections: 4.100, as ''Forms of heart disorder;'' 4.101, as ''Hypertension;'' and 4.102, as ''Varicose veins.'' We proposed to include in § 4.100 a list of common forms of heart abnormalities, a discussion of how to evaluate service-connected valvular heart disease or arrhythmia in the presence of nonservice-connected arteriosclerotic heart disease, and a statement that the identification of coronary artery disease (without occlusion or thrombosis) early in service is not a basis for service connection, but that any sudden development of coronary occlusion or thrombosis during service would be service-connected. However, as explained below, we have either deleted or relocated all of the material we had proposed to include in §§ 4.100, 4.101,

and 4.102, and we have, therefore, removed those sections and reserved them for future use.

One commenter suggested that we remove all material in §§ 4.100, 4.101, and 4.102 that refer to the issue of service connection because it is inappropriate to place criteria for determining entitlement to service connection in the rating schedule. A second commenter suggested that the material about the identification of coronary artery disease early in service not being a basis for service connection should be removed because the provision violates the statutory presumption of soundness at induction as set forth in 38 U.S.C. 1111.

The rules governing determinations of service connection are found in the regulations beginning at 38 CFR 3.303, rather than in the rating schedule, which is a guide to evaluating disabilities. We agree that rules affecting determinations of service connection are inappropriate in the rating schedule, and we have removed that portion of the material in § 4.100 that addressed the issue of service connection for coronary artery disease for that reason. We have also removed other provisions of §§ 4.101 and 4.102 that addressed service connection for cardiovascular conditions, as discussed below.

We had proposed including in § 4.102, varicose veins, a provision from VA's Adjudication Procedures Manual, M21–1, Part VI, that if varicose veins developed during active service in one leg, varicose veins developing in the other leg within three years, in the absence of an intercurrent cause, will also be service-connected. However, in response to this comment, we have determined that since it addresses the issue of service connection, it is not appropriate in the rating schedule, and we have removed it.

Two commenters suggested that these introductory sections specify which cardiovascular diseases should be service-connected when they develop subsequent to certain amputations.

38 CFR 3.310(b) provides that ''ischemic heart disease or other cardiovascular diseases'' developing in veterans who have suffered a service-connected amputation of one lower extremity at or above the knee, or service-connected amputations of both lower extremities at or above the ankles, shall be held to be the result of the service-connected amputation or amputations. Since that issue is addressed elsewhere in VA's regulations, it is unnecessary to address it here. Furthermore, as previously discussed, it would be inappropriate to include material about the determination of service connection in the rating schedule.

One commenter recommended that we include more discussion of pertinent clinical and nonclinical factors to be considered in assigning evaluations within this portion of the rating schedule.

We have made a number of changes along these lines that will assist in the evaluation of cardiovascular conditions. Most significantly, we have adopted more objective evaluation criteria based on specific clinical (and, in some cases, laboratory) findings, e.g., by using the level of METs (metabolic equivalents, discussed in detail below) to assess the severity of heart disease. In addition, we have retained or added notes, as appropriate, containing clinical information, e.g., by adding a note defining characteristic attacks of Raynaud's syndrome.

One commenter suggested that § 4.100 discuss forms of heart disorder, § 4.101 discuss hypertension, and § 4.102 discuss varicose veins.

A regulation is an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy, or to describe the procedure or practice requirements of an agency (Executive Order 12866, Regulatory Planning and Review). Background material, such as general medical information that is available in standard textbooks, or other material that neither prescribes VA policy nor establishes procedures a rating activity must follow, falls outside of those parameters and is, therefore, not appropriate in a regulation. The material about the age of onset, course, etc., of rheumatic fever in former § 4.101 is general medical information which has no bearing on evaluating the condition, and we have deleted this material as not appropriate in a regulation. Upon further review, we have deleted the list of heart abnormalities from proposed § 4.100 because it too is general medical information that we do not intend to have the force and effect of law.

We proposed to retitle § 4.101 ''Hypertension,'' and to revise the content to include a prohibition against separately evaluating hypertension that is secondary to thyroid or renal disease; and a requirement that, in a veteran with service-connected hypertension, arteriosclerotic manifestations are to be service-connected. One commenter suggested adding more information to § 4.101 about secondary hypertension, to include specifying when secondary hypertension can be evaluated separately from the condition causing it.

The rule regarding evaluation of hypertension secondary to renal disease is included in the part of the rating schedule addressing the genitourinary system at § 4.115; secondary hypertension associated with aortic insufficiency or thyroid disease, and isolated systolic hypertension, which may be secondary to arteriosclerosis, are addressed under DC 7101 (hypertensive vascular disease). Since the issue of service connection of secondary hypertension is addressed in more appropriate areas of the regulations, it should not be addressed here, and rather than expanding this material, we have deleted it from § 4.101.

The material in proposed § 4.101 about conditions that are complications of hypertension or other medical conditions is also general medical information available in standard texts. As discussed above, it is not appropriate in a regulation, and we have, therefore, removed it. The issue of service connection for conditions that are proximately due to or the result of a service-connected condition is addressed at 38 CFR 3.310(a). It is, therefore, unnecessary to address the issue in § 4.101, and we have removed that material also.

In the former schedule, § 4.102, which was titled ''Varicose veins and phlebitis,'' discussed the necessity of testing for impairment of deep circulation in varicose veins. We proposed to retitle it ''Varicose veins'' but to retain the material about deep circulation. Under the revised evaluation criteria for varicose veins adopted in this rule, however, determining whether the deep circulation is impaired is unnecessary because the evaluation criteria focus on functional impairment rather than the location of the venous insufficiency. We have, therefore, deleted that material from § 4.102.

Another commenter requested that we address in § 4.101 the advances in medical science or objective foundation for requiring that adjudicators attempt to apportion cardiac signs and symptoms that are attributable to nonservice-connected arteriosclerotic heart disease that is superimposed on service-connected rheumatic heart disease.

While it is often possible through modern technology to determine the separate effects of coexisting heart diseases, such a determination requires a medical assessment on a case-by-case basis and cannot be determined by regulation. We have, therefore, revised the material to require that the rating agency request a medical opinion when it is necessary to determine whether

current signs and symptoms can be attributed to one of the coexisting conditions. Since the material is not relevant to the entire cardiovascular portion of the rating schedule, we have moved it to a note under DC 7005, arteriosclerotic heart disease.

One commenter suggested adding a section to explain which diagnostic codes should not be combined in the case of coexisting cardiovascular diseases.

As in the case of coexisting heart diseases, determining whether coexisting cardiovascular diseases have functional impairments that can be separately evaluated must be determined on a case-by-case basis, depending on the particular manifestations of each condition. We, therefore, make no change based on this suggestion.

One commenter recommended that we include cor pulmonale in the cardiovascular portion of the schedule.

Cor pulmonale is a combination of hypertrophy and dilatation of the right ventricle secondary to pulmonary hypertension, which is due to disease of the lung parenchyma or pulmonary vascular system (Braunwald, 1581). Since cor pulmonale is always secondary to a lung condition, and since it is included in the evaluation criteria for various conditions of the respiratory system, in our judgment it is not appropriate to include it in the cardiovascular portion of the rating schedule. For the sake of clarity, however, we have placed a note in § 4.104 before DC 7000 instructing rating agencies to evaluate cor pulmonale as part of the pulmonary condition that causes it.

The previous rating schedule provided a 100-percent evaluation for rheumatic heart disease (DC 7000) ''as active disease and, with ascertainable cardiac manifestation, for a period of six months.'' We proposed to retitle DC 7000 ''valvular heart disease,'' and to provide a 100-percent evaluation for ''active infections with valvular heart damage for three months following cessation of therapy.''

Three commenters objected to the proposed change in the length of the convalescence evaluation for DC 7000 (valvular heart disease).

Rheumatic fever is the condition most commonly associated with valvular heart damage, and its acute phase rarely lasts longer than three months (Braunwald, 1729). The level of activity following this period depends on the severity of residual disease (Cecil, 1637). While in the past patients with acute rheumatic fever were put to bed for several months, bed rest is no longer considered necessary unless there is significant carditis (Hurst, 1527). In addition, most rebounds of rheumatic fever (that is, reappearances of clinical or laboratory evidence of acute rheumatic fever following cessation of treatment) occur within two weeks after cessation of therapy, and do not occur more than five weeks after complete cessation of anti-rheumatic therapy (Braunwald, 1730). In our judgment, three months following cessation of therapy is a reasonable period to allow for stabilization of valvular damage due to infection, and we have retained the convalescence provision as proposed, except for minor editorial changes.

We proposed that valvular heart disease (DC 7000) be evaluated on the basis of the level of physical activity, i.e., ''any,'', ''ordinary,'' or ''strenuous,'' required to produce cardiac symptoms, such as ''dyspnea,'' ''fatigue,'' etc. We received three comments objecting to the proposed criteria.

One commenter suggested that although the proposed general rating formula for rheumatic heart disease (DC 7000), arteriosclerotic heart disease (DC 7005), and ventricular arrhythmia (DC 7011) is consistent with the classifications of the New York Heart Association, they are mostly for subjective complaints, and the commenter suggested that the current criteria be retained except for deleting words like ''characteristic'' and ''definitely.'' Another commenter stated that the proposed criteria for valvular heart disease are highly subjective and urged that we adopt objectively confirmable criteria at every level.

We agree that more objective criteria would result in more consistent evaluations. In our judgment, however, simply removing such terms as ''characteristic'' and ''definitely'' from the criteria in the previous schedule would not have the intended effect. We have, therefore, revised the criteria to incorporate objective measurements of the level of physical activity, expressed in METs (metabolic equivalents), at which cardiac symptoms develop. This does not represent a substantive change in the method of evaluating cardiac disabilities that we proposed, i.e., basing evaluations on the level of physical activity that causes symptoms, but is an objective method for measuring the level of activity that causes symptoms.

The exercise capacity of skeletal muscle depends on the ability of the cardiovascular system to deliver oxygen to the muscle, and measuring exercise capacity can, therefore, also measure cardiovascular function. The most accurate measure of exercise capacity is the maximal oxygen uptake, which is the amount of oxygen, in liters per minute, transported from the lungs and used by skeletal muscle at peak effort (Braunwald, 1382). Because measurement of the maximal oxygen uptake is impractical, multiples of resting oxygen consumption (or METs) are used to calculate the energy cost of physical activity. One MET is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. The calculation of work activities in multiples of METs is a useful measurement for assessing disability and standardizing the reporting of exercise workloads when different exercise protocols are used (Braunwald, 162).

We have revised the evaluation criteria for the major types of heart disease based on: the level of physical activity, expressed in METs, that leads to cardiac symptoms; whether there is heart failure; the extent of any left ventricular dysfunction; the presence of cardiac hypertrophy or dilatation; and the need for continuous medication. We had proposed that valvular heart disease (DC 7000) be evaluated on the basis of the level of physical activity that produces symptoms—100 percent if ''any,'' 60 percent if ''ordinary,'' and 30 percent if ''strenuous'' activity produces symptoms. We have revised those criteria to assign a 100-percent evaluation if a workload of three METs or less produces dyspnea, fatigue, angina, dizziness, or syncope. A workload of three METs represents such activities as level walking, driving, and very light calisthenics. We have revised the criteria to assign a 60-percent evaluation if a workload of greater than three METs but not greater than five METs results in cardiac symptoms. Activities that fall into this range include walking two and a half miles per hour, social dancing, light carpentry, etc. We have revised the criteria to assign a 30-percent evaluation if a workload of greater than five METs but not greater than seven METs produces symptoms. Activities that fall into this range include slow stair climbing, gardening, shoveling light earth, skating, bicycling at a speed of nine to ten miles per hour, carpentry, and swimming (Fox, S. M. III, Naughton, J.P., Haskell, W.L.: Physical activity and the prevention of coronary heart disease. *Ann. Clin. Res.*, 3:404, 1971 and Goldman, L. *et al.*: Comparative reproducibility and validity of systems for assessing cardiovascular functional class: Advantages of a new specific activity

scale. *Circulation 64:1227, 1981*). METs are measured by means of a treadmill exercise test, which is the most widely used test for diagnosing coronary artery disease and for assessing the ability of the coronary circulation to deliver oxygen according to the metabolic needs of the myocardium (Cecil, 175 and Harrison, 966).

Administering a treadmill exercise test may not be feasible in some instances, however, because of a medical contraindication, such as unstable angina with pain at rest, advanced atrioventricular block, or uncontrolled hypertension. We have, therefore, provided objective alternative evaluation criteria, such as cardiac hypertrophy or dilatation, decreased left ventricular ejection fraction, and congestive heart failure, for use in those cases. We have also indicated that when a treadmill test cannot be done for medical reasons, the examiner's estimation of the level of activity, expressed in METs and supported by examples of specific activities, such as slow stair climbing or shoveling snow that results in dyspnea, fatigue, angina, dizziness, or syncope, is acceptable.

The other objective criteria that we have added as alternatives to the METs-based criteria for valvular heart disease are a left ventricular ejection fraction of less than 30 percent or chronic congestive heart failure for a 100-percent evaluation; a left ventricular ejection fraction of 30 to 50 percent, or more than one episode of acute congestive heart failure in the past year for a 60-percent evaluation; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray for a 30-percent evaluation, and a requirement for continuous medication for a 10-percent evaluation.

Since neurologic, gastrointestinal, and other cardiovascular disorders may result in symptoms similar to those for valvular heart disease, we have also added a requirement that valvular heart disease be documented by findings on physical examination and by echocardiogram, Doppler echocardiogram, or cardiac catheterization.

Another commenter felt that the proposed criteria for the 100-percent level for valvular heart disease (DC 7000), arteriosclerotic heart disease (DC 7005), and ventricular arrhythmias (DC 7011)—that ''any'' physical activity results in specified cardiac symptoms—correlates not with total industrial impairment but with being housebound or helpless. Similarly, the commenter objected that the requirement for the 60-percent level—that ''ordinary'' physical activity results in symptoms—actually represents total impairment.

The proposed criteria for the 100-percent level of these conditions were meant to indicate a severe level of impairment, but the language was imprecise and perhaps suggested a degree of impairment beyond total impairment. Under the more objective criteria that we are adopting here, a 100-percent evaluation requires that a workload of three METs or less produces dyspnea, fatigue, angina, dizziness, or syncope. A workload of three METs includes such activities as level walking, driving, and very light calisthenics. While the development of cardiac symptoms at this level of activities indicates total impairment, it does not suggest that the patient is either housebound or helpless. Similarly, under the more objective criteria, a 60-percent evaluation requires that a workload of greater than three METs but not greater than five METs produces cardiac symptoms. Since activities that fall into this range include walking two and a half miles per hour, social dancing, and light carpentry, this range does not represent total impairment. In our judgment, by adopting more objective criteria, we have eliminated the problem that the commenter identified.

The prior schedule assigned a 10-percent evaluation under DC 7000 (rheumatic heart disease, now designated as valvular heart disease), when there was an identifiable valvular lesion, with little dyspnea and no cardiomegaly. We proposed to delete the 10-percent level and to evaluate the condition as zero percent disabling if it does not limit physical activity.

Two commenters objected to the proposed deletion of a 10-percent level of evaluation for valvular heart disease. One suggested a 10-percent evaluation when dietary adjustments and medication are necessary to control symptoms or prevent emboli; the other suggested a 10-percent evaluation for asymptomatic valvular heart disease or arrhythmias that require medication.

Upon further consideration, we have added a 10-percent evaluation, which will be assigned when symptoms develop at a workload of greater than 7 METs but not greater than 10 METs. Activities that fall into this range include jogging, playing basketball, digging ditches, and sawing hardwood. When symptoms develop only during such activities, there may be some impairment of earning capacity, but it is likely to be slight. We have also established an alternative criterion for a 10-percent evaluation—the need for continuous medication—consistent with the 10-percent evaluations assigned under other body systems, e.g., gynecological and endocrine conditions, when continuous medication is required. We have also deleted the zero-percent level of evaluation as unnecessary, since zero percent may be assigned under any diagnostic code when the criteria for a compensable evaluation are not met (38 CFR 4.31).

DC 7000 was titled ''rheumatic heart disease'' in the previous schedule. We proposed to retitle it ''valvular heart disease,'' and to specify that it included rheumatic heart disease, syphilitic heart disease, and sequelae involving valvular heart damage from endocarditis, pericarditis, or trauma. Because each of the conditions listed under DC 7000 (except trauma) has its own diagnostic code and criteria, we have revised the title to ''valvular heart disease (including rheumatic heart disease)'' and deleted the list of conditions. The term ''valvular heart disease'' encompasses all types of valvular disease not otherwise specified, including those due to trauma.

We proposed to require that endocarditis (DC 7001), pericarditis (DC 7002), and pericardial adhesions (DC 7003) be rated as valvular heart disease. We have instead repeated the evaluation criteria under each diagnostic code to which they apply. We have also deleted the three-month period of convalescence evaluation that would have been available for pericardial adhesions if evaluated strictly under the criteria for valvular heart disease (DC 7000); pericardial adhesions are a chronic condition rather than an acute infection, and a convalescence evaluation is, therefore, inappropriate.

We proposed that syphilitic heart disease (DC 7004) be evaluated under the criteria for either valvular heart disease or aortic aneurysm (DC 7110). We have now provided criteria for DC 7004 that are based on the same objective measurements of the level of physical activity that causes symptoms. We placed a note following this diagnostic code directing that syphilitic aortic aneurysms be evaluated under DC 7110 (aortic aneurysm), since the criteria under DC 7110 apply to aortic aneurysm of any etiology. Since syphilitic heart disease has no phase of active infection, being the late result of a much earlier syphilitic infection, we have omitted the criteria based on active infection, as we did under DC 7003.

We proposed to revise the length of convalescence evaluation following a myocardial infarction (DC 7005 or 7006) from six months to three months. One commenter objected that three months represents the optimal, rather than the

average, recovery period following myocardial infarction.

The interval between an uncomplicated myocardial infarction and return to work is 70–90 days (Braunwald, 1390), and a return to work evaluation can be performed within five weeks after an uncomplicated myocardial infarction (''The Heart'' 1115 (J. Willis Hurst, M.D. *et al.* eds., 7th ed. 1990)). Complete healing of the myocardium, i.e., replacement of the infarcted area by scar tissue, takes six to eight weeks, and most patients will be able to return to work by 12 weeks, many much earlier (''Harrison's Principles of Internal Medicine'' 956–57 (Jean D. Wilson, M.D. *et al.* eds., 12th ed. 1991)). This information clearly establishes that most patients with myocardial infarction recover within three months, and, in our judgment, that is an adequate period for a convalescence evaluation.

Another individual said that three months is not an adequate length of convalescence evaluation following myocardial infarction because it takes six months, which according to the commenter is the normally accepted recovery time, for ancillary circulation patterns to develop.

The development of collateral circulation represents a long-range adaptation to ischemia due to coronary artery disease (Hurst, 944). It is, therefore, more relevant in predicting whether an infarction will occur or how severe it might be, than in determining the length of convalescence after infarction, and we have made no change based on this comment.

In response to requests for more objective criteria, we have adopted criteria for the 10-, 30-, 60-, and 100-percent levels for arteriosclerotic heart disease using the same METs-based criteria we have adopted for DC 7000 (valvular heart disease). We have also adopted similar alternative criteria based either on chronic or multiple episodes of congestive heart failure, left ventricular dysfunction with decreased ejection fraction percentages, or cardiac hypertrophy or dilatation.

The prior rating schedule assigned 30-percent evaluations under DCs 7005 (arteriosclerotic heart disease) and 7006 (myocardium, infarction of, due to thrombosis or embolism) ''following typical coronary occlusion or thrombosis,'' or ''with history of substantiated anginal attack, ordinary manual labor feasible,'' but provided neither a 10-percent level nor specific criteria for a zero-percent evaluation. We proposed to assign a 30-percent evaluation for those with cardiac symptoms appearing after strenuous physical activity, and to establish a zero-percent level for those with no limitation of physical activity.

Two commenters objected to the proposed changes. One suggested we provide a 20-percent level under DC 7005 for some limitation of activities and a 30-percent level for one or more symptoms. One felt that 30 percent should be the minimum under DC 7005 or DC 7006 because permanent disability results.

In keeping with the objective evaluation criteria we are adopting, it is feasible to establish additional levels of impairment based on an objective measurement of the workload at which symptoms develop. We have added a 10-percent evaluation under DC's 7005 and 7006 for those who have cardiac symptoms at a workload greater than 7 METs but not greater than 10 METs, which includes such activities as gardening and skating. The 10-percent evaluation may also be assigned when continuous medication is required, which is consistent with the evaluation of other heart conditions. As a result, if, for different conditions, the same workload elicits symptoms, the conditions will be assigned the same evaluation. A 30-percent minimum evaluation is not warranted. Arteriosclerotic heart disease may be mild enough that it imposes little or no functional impairment, and, in our judgment, the most equitable way to evaluate the condition is to do so objectively according to the physical workload that causes symptoms.

We proposed that arteriosclerotic heart disease (DC 7005) and myocardial infarction (DC 7006) be evaluated under the same criteria. That was reasonable under the subjective evaluation criteria that were proposed, but there are some condition-specific differences that the criteria must reflect. We have provided for a three-month convalescence evaluation following a myocardial infarction (DC 7006), a condition of sudden onset. Arteriosclerotic heart disease (DC 7005), on the other hand, is a chronic condition that does not warrant a convalescence evaluation. We have added a requirement to DC 7005 that the veteran have ''documented'' coronary artery disease. Similarly, we have headed DC 7006 with the statement ''with history of myocardial infarction, documented by laboratory tests.'' This replaces the requirement that the myocardial infarction be ''typical'' in order to assign the convalescence evaluation. Since atypical myocardial infarctions may be just as disabling as typical ones, we have revised the criteria for a convalescence rating to require that an infarction be ''documented'' rather than ''typical.''

We have deleted the instruction proposed under DC 7005 that cardiomyopathies (DC 7020) and hypertensive heart disease (DC 7007) are to be rated as arteriosclerotic heart disease because we have provided each of these conditions with criteria under its own diagnostic code.

We proposed that hypertensive heart disease (DC 7007) be evaluated under the criteria for arteriosclerotic heart disease, i.e., percentage evaluations based on the level of activity that causes symptoms, and we have revised the criteria using the same objective evaluation criteria as for arteriosclerotic heart disease.

We have made minor editorial changes under DC 7008 (hyperthyroid heart disease).

We proposed that a 30-percent evaluation under DC 7010 (supraventricular arrhythmias) require paroxysmal atrial fibrillation or other supraventricular tachycardia, with severe frequent attacks despite therapy, and that the 10-percent evaluation require permanent atrial fibrillation or infrequent or mild attacks documented by electrocardiogram (ECG) or Holter monitor.

Two commenters pointed out that such phrases as ''severe, frequent attacks'' are indefinite, and one suggested that we replace these terms with more objective ones.

We agree and have revised the criteria to require more than four episodes a year of paroxysmal atrial fibrillation or other supraventricular tachycardia for the 30-percent level, and permanent atrial fibrillation or one to four episodes a year of paroxysmal atrial fibrillation or other supraventricular tachycardia for the 10-percent level. Both sets of criteria require documentation by ECG or Holter monitor.

We proposed to evaluate sustained ventricular arrhythmias (DC 7011) according to whether ''ordinary'' or ''strenuous'' activity results in palpitations or symptoms of arrhythmia. A commenter objected to the subjectivity of the proposed criteria for DC 7011.

Based on this comment, we have revised the criteria using the same objective measurements that we are using for arteriosclerotic heart disease. We have, however, retained specific provisions for a total evaluation while an Automatic Implantable Cardioverter-Defibrillator (AICD) is in place. The use of AICDs is associated with the potential for serious complications such as myocardial infarction, stroke, cardiogenic shock, and complications

associated with the thoracotomy required for its insertion (Braunwald, 750). We have revised the language slightly to make it clear that a 100-percent evaluation will be assigned for as long as the AICD is in place. We have also made other nonsubstantive changes in the language at 100 percent for the sake of clarity.

The previous schedule provided a 100-percent evaluation for DC 7015, atrioventricular block, for one year following implantation of a pacemaker when required by a complete heart block with attacks of syncope, and a 60-percent evaluation for complete heart block with Stokes-Adams attacks several times a year despite medication or a pacemaker. We proposed to eliminate the 100-percent level while retaining essentially the same criteria for the other levels.

One commenter stated that a 100-percent evaluation is warranted under DC 7015 when there is a complete heart block with syncopal attacks despite therapy or a pacemaker. Another commenter suggested that we replace the requirement for ''several'' attacks a year for the 60-percent evaluation under DC 7015 with a definite number.

Upon further review, in response both to these comments and to the requests for more objective criteria, we have revised the criteria for DC 7015 by providing the same objective evaluation criteria we have used for ventricular arrhythmias (DC 7011) and many other heart conditions, since heart block may result in a variety of cardiac signs and symptoms and a wide range of disabilities. This change restores the 100-percent evaluation level. These criteria replace evaluation criteria based on the electrocardiographic designation of complete or incomplete block. Because both complete and incomplete heart blocks can differ in severity, basing evaluations on the degree of heart block could lead to different evaluations for similar symptoms. In our judgment, the revised criteria are a better measure of the disabling effects of atrioventricular block than whether the block is complete or incomplete.

The only difference in the criteria for atrioventricular block (DC 7015) and ventricular arrhythmias (DC 7011) is that a 10-percent evaluation for DC 7015 will be assigned when either a pacemaker, a common method of treatment for this condition, or continuous medication is required. We have deleted the proposed zero-percent evaluation, since under the provisions of 38 CFR 4.31a, a zero-percent evaluation may be assigned when the findings are less than those needed for a compensable level. We have also edited the note requiring that certain unusual cases of associated arrhythmias are to be submitted to the Director of the Compensation and Pension Service for evaluation, for the sake of clarity.

The previous schedule established a minimum 30-percent evaluation for heart valve replacement (DC 7016); we proposed a 30-percent evaluation when strenuous activity causes specific cardiac symptoms, and a zero-percent evaluation when the condition imposes no limitation of physical activity. One commenter suggested that we retain the 30-percent minimum evaluation, but gave no rationale for the suggestion.

The level of residual disability following valve replacement can also be objectively determined based on the level of activity that results in symptoms in the same manner as for valvular heart disease. We have, therefore, revised the criteria to assign a 30-percent evaluation when a workload of greater than 5 METs but not greater than 7 METs results in symptoms, or when there is evidence of cardiac hypertrophy or dilatation. For the sake of consistency with the evaluation criteria for other heart conditions evaluated based on the level of physical activity that causes symptoms, we have added a ten-percent evaluation when a workload of greater than 7 METs but not greater than 10 METs results in symptoms. In our judgment, specific symptoms warrant the same evaluation whether they occur before or after valve replacement, and we are not aware of any special circumstances following valve replacement that would justify a 30-percent minimum evaluation.

We have edited the language of the note regarding the assignment of 100 percent following admission for heart valve replacement to assure that the provisions of § 3.105(e) will be followed whether the reduction from the 100-percent evaluation is based upon the mandatory examination six months following discharge or following a subsequent examination.

The previous schedule called for a total evaluation for one year following heart valve replacement (DC 7016). We proposed a total evaluation for an indefinite period, with a mandatory VA examination six months after the surgery, with any change in evaluation based on that or any subsequent examination to be made under the provisions of 38 CFR 3.105(e).

One commenter objected to the proposed change, stating that heart valve replacement is a high risk surgical procedure, and many patients have post-operative congestive heart failure for a considerable time. Another commenter said that the proposed reduction in length of the convalescence evaluation is arbitrary, that it goes beyond the purpose of the review, and that no justification has been provided.

We recognize that it ordinarily takes patients longer to recover from valve replacement than from acute valvular infection, endocarditis, or pericarditis and, therefore, proposed an indefinite period of total evaluation. We believe that six months following discharge from the hospital is a reasonable time at which to examine a patient to determine whether the condition has stabilized and the extent of residual disability. If the results of that or any subsequent examination warrant a reduction in evaluation, the reduction will be implemented under the notice and effective date provisions of 38 CFR 3.105(e), which require a 60-day notice before VA reduces an evaluation and an additional 60-day notice before the reduced evaluation takes effect. By requiring an examination, the revised procedure will assure that all residuals are documented; it also ensures that the veteran receive timely notice of any proposed action and have an opportunity to present evidence showing that the proposed action should not be taken. In our judgment, this method will better ensure that actual residual disabilities and recuperation times are taken into account because they will be documented on examination.

We proposed to change the length of the total evaluation following coronary artery bypass surgery (DC 7017) from one year to three months. One commenter objected, stating that unspecified medical textbooks suggest resumption of sedentary activity over the two-to three-month period following surgery, with resumption of full activity after three months. Another expressed his belief that a reduction to three months is unreasonably restrictive and does not reflect the average impairment for those in poor health or those who have cardiomyopathies or pulmonary and systemic organ congestion.

An article in the Journal of the American College of Cardiology (1029 vol. 14, no. 4, Oct. 1989) entitled ''Insurability and Employability of the Patient with Ischemic Heart Disease'' states that return to work evaluations are appropriate seven weeks after bypass surgery. Neither this article nor the unidentified information cited by the commenter justifies the need for a convalescence evaluation longer than three months. For the individual who requires a longer than average period of convalescence, a total evaluation may be assigned for a longer period under the provisions of §§ 4.29 and 4.30 of the

rating schedule. We have, therefore, retained the provision assigning a total evaluation for three months following surgery as proposed.

We proposed that coronary artery bypass surgery be evaluated using the evaluation criteria for arteriosclerotic heart disease, which was not a change from the previous schedule. One commenter suggested that 30 percent be the minimum evaluation following bypass surgery, analogous to arteriosclerotic heart disease (DC 7005).

We have provided objective criteria for evaluation following coronary bypass surgery that are the same as the criteria we have provided for arteriosclerotic heart disease (DC 7005). The surgery itself does not necessarily produce a 30-percent level of impairment; in fact, it often alleviates the disability from arteriosclerotic heart disease. In our judgment, an evaluation based on the workload at which symptoms develop is a reasonable and consistent way to assess the extent of disability; a 30-percent evaluation will be assigned if symptoms develop at the same workload that warrants a 30-percent evaluation for other cardiac conditions.

One commenter suggested that we add a convalescence evaluation following balloon angioplasty for coronary artery disease.

Most patients who undergo balloon angioplasty are discharged from the hospital 24 hours or less after surgery, and many can return to work in a week or less after a successful and uncomplicated angioplasty (Hurst, 2145 and Braunwald, 1367). In our judgment, a total evaluation for a specified period to allow for convalescence is, therefore, not warranted.

We proposed changing the duration of the total evaluation following implantation of a cardiac pacemaker (currently Note (2) under DC 7015, proposed as DC 7018) from one year to two months. One commenter said that the total evaluation should continue for one year; another said that pacemakers require close monitoring postoperatively and that patients should not concern themselves with a return to activity sooner than medically advisable.

Pacemaker implantation is not major surgery, nor is it associated with debilitating or long-term residuals. Those who undergo a cardiac pacemaker implantation are usually discharged from the hospital the following day and are seen in follow-up two weeks after surgery to check the wound and to test the pacing system (Hurst, 2103–4). They are subsequently evaluated two months after implantation, and virtually all patients will have definitive pacemaker programming for long-term function at that time (Braunwald, 747). Thereafter, there is periodic monitoring, often conducted by telephone. In our judgment, a two-month convalescence evaluation is adequate for a normal recovery from pacemaker implantation.

One commenter suggested that we add a 100-percent evaluation under DC 7018, implantable cardiac pacemakers, for those patients who require frequent follow-up and adjustment after pacemaker implant.

DC 7018 allows evaluation of a patient's condition following implantation of a pacemaker under supraventricular arrhythmias (DC 7010), ventricular arrhythmias (DC 7011), or atrioventricular block (DC 7015), if appropriate. A 100-percent evaluation may, therefore, be assigned based either on symptoms or on the number of episodes of arrhythmia, depending on the diagnostic code used. These criteria are a better indicator of residual disability than the frequency of adjustments or follow-up, and we have made no change based on this suggestion.

Another commenter felt that 30 percent should be the minimum evaluation for DC 7018 after a pacemaker has been implanted.

A pacemaker requires regular checkups and monitoring, often by telephone, but the patient may, in fact, be asymptomatic. An evaluation of 10 percent rather than 30 percent is more appropriate for such cases, and we have added a minimum evaluation of 10 percent to the criteria under DC 7018. This is comparable to the assignment of 10 percent for other cardiac conditions when continuous medication is required.

One commenter suggested that we add a caveat under pacemaker implantation (DC 7018) that reimplantation or replacement of a pacemaker does not warrant a 100-percent evaluation.

The total evaluation for two months following implantation of a pacemaker is to provide a period of recuperation from the surgery and any possible side-effects, as well as to provide a period to adjust the device itself and test the response of the individual's heart. These considerations apply as well to the replacement of a pacemaker, and, in our judgment, limiting convalescence evaluations to the initial implantation only is not warranted.

We proposed to add a new diagnostic code (DC 7019) for cardiac transplantation allowing a total evaluation for an indefinite period following the transplant, with a mandatory VA examination to be conducted one year later. In the past, with no provision for cardiac transplantation in the rating schedule, a fixed period of convalescence evaluation for two years was assigned, analogous to what the rating schedule provided following renal transplant prior to the revisions to the genitourinary portion of the rating schedule published January 18, 1994.

One commenter stated that the total evaluation following cardiac transplantation (DC 7019) should continue for two years because the risk of rejection and survival data show that this is dangerous surgery.

Because more than 85 percent of one-year survivors of a cardiac transplant have been rehabilitated and return to work or to school by the end of one year after transplant (Hurst, 2253–54), in our judgment, one year following hospital discharge is a reasonable time to conduct an examination in order to assess residual disability. As with other indefinite periods of convalescence evaluation, any change in evaluation based on the results of the examination will be implemented under the notice and effective date provisions of § 3.105(e), which require VA to notify the claimant of any proposed reduction, once the examination has been carried out and reviewed, and allows 60 days for the claimant to provide additional evidence to show that a reduction should not be carried out.

We proposed to evaluate cardiac transplantation (DC 7019) under the same criteria as arteriosclerotic heart disease (DC 7005), i.e., according to the level of activity that causes symptoms; we have, therefore, revised the criteria using the same objective measurements that we have adopted for evaluating arteriosclerotic heart disease. We proposed a minimum 30-percent evaluation following cardiac transplantation as long as the veteran is on immunosuppressive medication. Because almost every patient will permanently require immunosuppressive therapy following cardiac transplantation, we have simply made 30 percent the minimum evaluation and deleted the requirement that the veteran be taking immunosuppressive medication. This is consistent with the minimum evaluation for kidney transplant (DC 7531), which was published in the **Federal Register** of January 18, 1994 (59 FR 2523).

We also proposed to evaluate cardiomyopathy (DC 7020) under the same criteria as arteriosclerotic heart disease (DC 7005), i.e., according to the level of activity that causes symptoms;

we have, therefore, revised the criteria using the same objective measurements that we have adopted for evaluating arteriosclerotic heart disease.

The previous schedule had a diagnostic code, DC 7100, for generalized arteriosclerosis, which we proposed to delete. One commenter objected, stating that this condition, which is often present in geriatric cases, produces total industrial incapacity with involutional changes such as cerebral ischemia with reduced mentation, bone and muscle atrophy, etc.

The effects of generalized arteriosclerosis are so widespread that, in our judgment, a single diagnostic code is neither appropriate nor necessary. Many diagnostic codes, such as DC 7005, arteriosclerotic heart disease, DC 7114, arteriosclerosis obliterans, and DC 9305, multi-infarct dementia associated with cerebral arteriosclerosis, represent potential effects of arteriosclerosis on end organs, and evaluating each disability resulting from generalized arteriosclerosis under an appropriate code will result in more accurate assessments of the actual disabilities caused by the condition. We have, therefore, made no change based on this comment.

Two commenters requested that we define the term hypertension (DC 7101).

In response to this comment, we have revised Note (1) under DC 7101 to state that, for purposes of this section, hypertension means that the diastolic blood pressure is predominantly 90mm. or greater, and that isolated systolic hypertension means that the systolic blood pressure is predominantly 160mm. or greater with a diastolic blood pressure of less than 90mm. (Cecil, 253, based on the 1988 report of the Joint National Committee on Detection, Evaluation, and Treatment of High Blood Pressure).

Since both essential hypertension and secondary types of hypertension, such as isolated systolic hypertension due to arteriosclerosis, may be evaluated under this diagnostic code, we have revised the title of DC 7101 from Hypertensive vascular disease (essential arterial hypertension) to Hypertensive vascular disease (hypertension and isolated systolic hypertension).

In the previous schedule, Note (1) under DC 7101 (hypertensive vascular disease) stated that the 40- and 60-percent evaluations required careful attention to diagnosis and repeated blood pressure readings. We proposed to revise the note to state that careful and repeated measurements of blood pressure readings are required prior to the assignment of any compensable evaluation.

Two commenters requested that we clarify the meaning of the note. Standard medical texts recommend multiple blood pressure readings for the diagnosis of hypertension, although the number of measurements recommended varies, with ''at least three sets over at least a three-month interval'' (Braunwald, 818) and ''at least two measurements on two separate examinations'' (Harrison, 1001) among the specific recommendations. We have revised the note to require that hypertension be confirmed by readings taken two or more times on each of at least three different days. This will assure that the existence of hypertension is not conceded based solely on readings taken on a single, perhaps unrepresentative, day.

In a note under DC 7101 (hypertensive vascular disease), the previous schedule established a minimum evaluation of ten percent when medication is necessary to control hypertension with a history of diastolic blood pressure predominantly 100 or more. We proposed to keep this note.

One commenter asked if 10 percent should be assigned whenever continuous medication is required for any disorder; another asked if the assignment of 10 percent for hypertension should depend on the amount of medication required.

In our judgment, it would not be appropriate to assign a ten-percent evaluation for every condition which requires continuous treatment by medication. Whether a ten-percent evaluation is warranted when continuous medication is required is based on a case-by-case assessment of each condition and the usual effects of treatment. As to the second comment, the evaluation for hypertension is based not on the amount of medication required to control it, but on the level of control that can be achieved. While there may be more side effects with higher levels of medication or with combined antihypertensive medications, the disabling side effects of medication may be separately evaluated under the provisions of 38 CFR 3.310(a).

Since the provision concerning the assignment of a minimum ten-percent evaluation when there is a history of diastolic pressure predominantly 100 or more and continuous medication is required represents part of the evaluation criteria, we have included it in the criteria for a ten-percent evaluation, rather than in a separate note, as proposed.

The previous schedule called for a 100-percent evaluation for aortic aneurysm (DC 7110) when there are markedly disabling symptoms and for one year following surgical correction. Because of a typographical error, omission of a semicolon, the proposed criteria as published implied that a total evaluation would be assigned following surgery only if the aneurysm had been 5 cm. or more in diameter. One commenter pointed out this error. We had intended to propose that veterans be evaluated as totally disabled under either of two circumstances: (1) If the aneurysm is 5 cm. or greater in diameter, or (2) for six months following resection of an aneurysm of any size. We have corrected the error in the final rule.

In addition, to assure internal consistency, we have revised the criteria to allow a 100-percent evaluation under DC 7110 in an additional situation: when an aortic aneurysm is symptomatic. Under DC 7111, aneurysm of any large artery is evaluated at 100 percent if it is symptomatic. Since the aorta is the largest artery in the body, it would be inconsistent and inequitable not to allow the same evaluation that the schedule provides for symptomatic aneurysms of other large arteries.

The previous schedule assigned a minimum 20-percent evaluation following surgical correction of aortic aneurysm (DC 7110). We proposed to evaluate residuals following surgical correction on actual residual disability, according to the organ system affected, in lieu of assigning a minimum evaluation. A commenter recommended that we retain the 20-percent minimum evaluation following surgery, contending that after such surgery individuals lead a tenuous and extremely sedentary existence, often requiring revision of the graft.

There is a wide range of possible complications and residual disability following surgical correction of an aortic aneurysm, depending on such factors as the location of the aneurysm, its type (dissecting or not), etc. Because some would warrant a higher, and some a lower, evaluation than 20 percent, in our judgment it is preferable to evaluate the actual residuals rather than provide a minimum evaluation, and we have made no change based on this comment.

We proposed to eliminate the fixed one-year period of convalescence evaluation following surgical correction of an aortic aneurysm (DC 7110) in favor of a 100-percent evaluation for an indefinite period from the date of admission for surgical correction, with a mandatory VA examination six months following discharge, and with any change in evaluation subject to the notice and effective date provisions of

§ 3.105(e). One commenter urged that we retain the one-year convalescence evaluation, but gave no specific reasons. We also proposed an indefinite total evaluation following repair of an aneurysm of a large artery (DC 7111) although the previous schedule had provided no post-surgical total evaluation. One commenter suggested that a one-year period of convalescence evaluation would be appropriate following repair of an aneurysm of a large artery because, as after aortic aneurysm repair, these patients lead a tenuous and sedentary existence after surgery.

The period of total evaluation following surgery under DCs 7110 and 7111 will continue indefinitely under the revised schedule, and an examination six months following the date of admission for surgical correction will determine whether a change in evaluation is warranted, based on actual residuals documented at that time. Since any change will be implemented under the notice and effective date provisions of § 3.105 (e), the veteran will have the opportunity to present medical evidence if he or she disagrees with the proposed change in evaluation. These provisions assure an evaluation that reflects the actual disability as documented by medical examination, and we have made no change based on these comments.

The previous schedule assigned a 10-percent evaluation for aneurysm of any small artery (DC 7112); we proposed that such an aneurysm be assigned a zero-percent evaluation. One commenter stated that the proposed change is based on empirical, as opposed to statistical, evidence and that evaluations that have stood the test of time should not be routinely reduced or discontinued.

Small artery aneurysms may produce symptoms such as headaches or visual abnormalities due to local pressure effects, and an aneurysm that ruptures may result in a wide variety of symptoms. However, small artery aneurysms that are asymptomatic are found in about five percent of the population (Cecil, 2165). Because of the wide range of possible disabling effects, it is appropriate to rate each one on the actual findings rather than provide a 10-percent evaluation in all cases. In our judgment, an asymptomatic aneurysm of a small artery has no disabling effects and does not warrant a compensable evaluation.

Another commenter asked where and how to rate cerebral aneurysms. Aneurysms of cerebral arteries are evaluated under DC 7112, as are all other aneurysms of small arteries. We have made no change in response to this comment.

The previous schedule specified a minimum evaluation of 60 percent for traumatic arteriovenous aneurysm (DC 7113) when there is cardiac involvement, and we proposed no change. One commenter, noting that designating a minimum evaluation implied that a higher one could be assigned, asked what findings would warrant an evaluation higher than 60 percent, since 60 percent was also the highest evaluation under DC 7113.

The most serious potential consequence of arteriovenous aneurysm is congestive heart failure due to high output, which would warrant a 100-percent evaluation. We have, therefore, added a 100-percent evaluation, to be assigned if there is high output heart failure.

In response to the request for more objective criteria, we have revised the criteria for a 60-percent evaluation under DC 7113 to require an enlarged heart, wide pulse pressure, and tachycardia rather than the ambiguous term ''cardiac involvement'' that we had proposed. We have revised the criteria for the 50-percent level for lower extremity involvement or the 40-percent level for upper extremity involvement, which were proposed as ''without cardiac involvement with marked vascular symptoms,'' to require edema, stasis dermatitis, and either ulceration or cellulitis. We have revised the criteria for the 30-percent level for lower extremity involvement or the 20-percent level for upper extremity involvement, which were proposed as ''with definite vascular symptoms,'' to require edema or stasis dermatitis. These are not substantive changes, but more specific designations of the cardiac and vascular signs that warrant these evaluations. We have also revised the title of DC 7113 from ''arteriovenous aneurysm, traumatic'' to ''arteriovenous fistula, traumatic,'' the currently accepted term for the condition, which is a direct communication between an artery and a vein.

One commenter requested that we add a paragraph under arteriosclerosis obliterans (DC 7114) addressing the evaluation of aorto-femoral bypass grafts.

To assure consistent evaluations of the residuals of aortic and large arterial bypass surgery, we have added a note under DC 7114 stating that the residuals of aortic and large arterial bypass surgery or arterial grafts are to be rated under that code. Since the most common residuals of bypass surgery are signs and symptoms of arterial insufficiency, it is appropriate to evaluate them under the criteria for arteriosclerosis obliterans.

Two commenters suggested we provide a specific period of convalescence evaluation following bypass surgery for aortoiliac and femoral-popliteal artery disease.

The evaluation criteria for serious complications that might result from bypass surgery and, therefore, be service-connected under the provisions of 38 CFR 3.310(a), such as myocardial infarction, have their own periods of convalescence evaluation. For the milder complications, or the uncomplicated cases, the standard periods of convalescence evaluation authorized under § 4.30 of this part are adequate, and we have made no change based on these comments.

The criterion for the 40-percent evaluation for arteriosclerosis obliterans (DC 7114) in the previous schedule was ''well-established cases with intermittent claudication or recurrent episodes of superficial phlebitis;'' we proposed to revise this criterion to ''well-established cases of intermittent claudication with associated physical findings (hair loss, skin changes).'' We proposed for the 100-percent level: ''severe, with marked physical signs producing total incapacity''; for the 60-percent level: ''claudication on minimal walking (less than three miles per hour on a level grade) with persistent coldness of the extremity''; and for the 20-percent level: ''minimal circulatory impairment, with paresthesias, temperature changes and occasional claudication.'' One commenter noted that the phrase ''well-established cases'' is one of the vague, indefinite, and arbitrary elements in the schedule.

In response to both that comment and the requests for more objective criteria, we have revised the criteria under this diagnostic code: To specify at each evaluation level the distance that can be covered before claudication occurs; and to base evaluations on objective physical findings, such as peripheral pulses, trophic changes, persistent coldness, and deep ischemic ulcers. We have also added an objective alternative criterion, the ankle/brachial index, at each level, and a note explaining that this index is obtained by dividing the systolic blood pressure at the ankle by the systolic blood pressure in the arm. The ratio is normally one or greater; but because arterial occlusive disease obstructs the blood flow in the legs, the ratio in patients with that condition is less than one. A ratio of less than 0.5 is consistent with severe ischemia (Harrison, 1019). The ankle/brachial index thus allows a noninvasive

objective assessment of the severity of peripheral vascular disease.

We proposed to evaluate Raynaud's syndrome (DC 7117) as 100-percent, 60-percent, 40-percent, or 20-percent disabling, using measures such as ''marked'' circulatory changes, ''multiple'' ulcerated areas, ''frequent'' vasomotor disturbances, and ''occasional'' attacks of blanching or flushing. One commenter suggested that we replace subjective terms with more objective requirements.

Simply replacing the indefinite words would not result in truly objective criteria. We have, therefore, defined ''characteristic attacks'' of Raynaud's disease for VA purposes as consisting of sequential color changes of the digits lasting minutes to hours, sometimes with pain and paresthesias, and precipitated by exposure to cold or by emotional upsets. We have revised the evaluation criteria based on the frequency of characteristic attacks, the number of digital ulcers, and whether autoamputation in one or more digits has occurred. While we proposed no change in the former 20-percent level, which required ''occasional attacks of blanching or flushing,'' under the more objective criteria we have provided both a 20- and a 10-percent level, with 20-percent requiring characteristic attacks four to six times a week, and 10-percent requiring characteristic attacks one to three times a week. This will ensure more consistent evaluations in milder cases of Raynaud's, where, in the former schedule, the assignment of zero percent or 20 percent depended on an individual rater's interpretation of ''occasional.''

One commenter suggested that we include neurologic symptoms associated with exposure to low or subfreezing temperatures under the evaluation criteria for DC 7117.

In response to this comment, we have included pain and paresthesias, which are neurologic symptoms, among the possible manifestations of the characteristic attacks of Raynaud's syndrome.

We proposed to assign 40-percent, 20-percent, and zero-percent evaluations for angioneurotic edema (DC 7118), based generally on the frequency, severity, and duration of attacks. One commenter recommended that we add a 10-percent evaluation; another recommended that we replace language such as ''frequent'' and ''infrequent'' with more definite terms.

Angioneurotic edema is a condition that is ordinarily self-limited, with attacks subsiding in one to seven days (Merck, 333), but at times palliative treatment is used. There are also unusual types that are more persistent and resistant to therapy. We have established more objective criteria based on the typical duration of attacks, their frequency, and on whether there is laryngeal involvement. We have added a 10-percent evaluation, to be assigned if attacks without laryngeal involvement occur two to four times a year. These criteria will foster more consistent evaluations for angioneurotic edema, since different raters will not be required to interpret subjective terms such as ''mild,'' ''moderate,'' ''frequent,'' and ''infrequent.''

One commenter suggested that when angioneurotic edema affects the larynx even briefly, a 10-percent evaluation is warranted.

In our judgment, angioneurotic edema affecting the larynx does warrant separate consideration in the evaluation criteria because laryngeal edema commonly causes respiratory distress due to airway obstruction and requires emergency treatment. This situation is serious enough that if it occurs once or twice a year, it warrants a 20-percent evaluation; if it occurs more than twice a year, it warrants a 40-percent evaluation.

A second commenter objected that the proposed changes to DC 7118 were based on empirical, as opposed to statistical, information.

As noted under the response to comments about DC 7122, 38 U.S.C. 1155 gives the Secretary the authority to revise the rating schedule periodically in accordance with experience. The revisions of these criteria are based on the usual effects of the disease, which is consistent with the basis of revisions throughout the current comprehensive revision of the rating schedule. They are medically, rather than statistically, based, and no statistical studies were done in conjunction with the revision.

Under the previous schedule, there were a variety of methods used to evaluate vascular diseases affecting the extremities, particularly when more than one extremity was affected. For example, the criteria for thrombophlebitis (DC 7121) applied to a single extremity, and if other extremities were affected, they were separately evaluated. For varicose veins (DC 7120), the criteria for a 10-percent evaluation applied to either unilateral or bilateral involvement; but at other evaluation levels, different percentages were assigned for unilateral and bilateral involvement, with no direction for evaluation if one extremity were more severely affected than the other. The criteria for intermittent claudication (DC 7116) applied to a single extremity; determining the evaluation for multiple extremities required application of a complex set of rules (contained in a note following DC 7117) that sometimes produced an evaluation for involvement of multiple extremities no higher than that for involvement of a single extremity. We proposed no substantive change in either the methods of evaluating these conditions or in the percentage levels.

One commenter questioned why the percentage evaluations and the method of determining the evaluation when more than one extremity is affected differ for arterial and venous diseases. He suggested that we use 20-, 40,-and 60-percent levels for both peripheral arterial diseases (DCs 7114 through 7117), and venous diseases (DCs 7120 and 7121) instead of the variety of levels proposed, and that we adopt a uniform and simple method of determining evaluations when more than one extremity is involved, such as adding ten percent for each additional extremity involved.

We proposed evaluations levels of 20, 40, 60, and 100 percent for DCs 7114, 7115, and 7117, and we have kept those levels in this rule, with the addition of a 10-percent level for DC 7117. (We removed DC 7116, ''intermittent claudication,'' which was in the previous schedule, because it was a symptom of disease rather than a disease.) In response to the comment, we have further revised DCs 7120 (varicose veins) and 7121 (post-phlebitic syndrome of any etiology) to provide percentage evaluation levels of 10, 20, 40, 60, and 100 percent. In addition, we have revised the method of evaluating DCs 7114 (arteriosclerosis obliterans), 7115 (thromboangiitis obliterans), and 7120 (varicose veins) so that the criteria apply to a single extremity, as the criteria for DC 7121 do. If the paired extremity is also affected, the evaluation for each extremity will be separately determined and combined using the combined ratings table (see 38 CFR 4.25) and the bilateral factor (see 38 CFR 4.26) when applicable. Section 4.26 also provides instructions on applying the bilateral factor when there is involvement of upper and lower extremities. While we have made the percentage levels similar, the signs, symptoms, and effects of venous and arterial diseases differ greatly and, therefore, require different evaluation criteria.

In order to adopt the more consistent method of separately evaluating each extremity affected by vascular disease and to assure that venous conditions with similar findings receive consistent evaluations, further revisions of the evaluation criteria for varicose veins

(DC 7120) and post-phlebitic syndrome of any etiology (DC 7121) were required.

Varicose veins are ordinarily asymptomatic or mildly symptomatic, but may produce prolonged venous insufficiency and progress to thrombophlebitis and postphlebitic syndrome. Signs of venous insufficiency, such as edema, stasis pigmentation, ulceration, eczema, and induration, and symptoms such as aching and fatigue, are the major disabling effects of varicose veins. The size, location, extent, etc., of varicose veins do not correlate with symptoms (Merck, 590), and we have removed those criteria as factors in evaluation. The presence or absence of impairment of the deep circulation is more an indicator of the feasibility of surgical repair than of functional impairment, and we have, therefore, removed references to the deep circulation from the evaluation criteria. We have replaced these criteria with criteria based on symptoms (such as aching and fatigue after prolonged standing or walking) or objective physical findings (such as edema, stasis pigmentation, eczema, or ulceration).

The effects of chronic venous insufficiency are the same, whether from varicosities, thrombophlebitis, or some other cause. The postphlebitic syndrome may itself lead to the development of varicosities because of chronic venous insufficiency (Cecil, 363–7). Therefore, the possible manifestations and disabling effects of varicose veins and postphlebitic syndrome are very similar, and we have used the same criteria to evaluate both conditions, with evaluation levels of 0, 10, 20, 40, 60, and 100 percent for involvement of a single extremity, and the same method of evaluation for multiple extremity involvement as that used in arterial vascular disease of the extremities.

We added under DC 7120: ''With the following findings attributed to the effects of varicose veins,'' and under DC 7121: ''With the following findings attributed to venous disease'' in order to assure that the examiner has determined that the abnormal findings are attributed to venous disease.

One commenter suggested that we clarify how to assign bilateral evaluations for frozen feet (DC 7122) and varicose veins (DC 7120) when one extremity is more severely affected than the other.

The changes described above that we have made in the evaluation criteria, evaluation percentages, and method of determining an evaluation for multiple extremity involvement will allow accurate and consistent evaluations when more than one extremity is affected by varicose veins, but to different degrees. We have made similar changes in the method of evaluating cold injury, DC 7122, in order to assure accurate and consistent evaluations when there is multiple extremity involvement, and this is further discussed below.

We proposed no change in the previous evaluation criteria for frozen feet (DC 7122). One commenter suggested that we expand the criteria to include cold injuries to the hands, face, and ears; another suggested that higher ratings may be warranted for loss of use of multiple fingers or one or both hands.

We have revised the title of DC 7122 from ''frozen feet, residuals of'' to ''cold injury, residuals of'' to indicate that it may be used to evaluate any cold injury. Because cold injury produces similar tissue changes wherever it occurs, a single diagnostic code and set of evaluation criteria are adequate; we have, however, revised the criteria to more accurately reflect the range of effects that cold injury may produce, such as arthralgia, tissue loss, nail abnormalities, and color changes. We have also deleted the bilateral evaluations contained in the prior schedule in favor of evaluating each affected part separately and combining them for the overall evaluation for cold injury, a change which is similar to changes we have made in the method of evaluating peripheral arterial and venous diseases of the extremities. In the case of paired extremities, the evaluations will be combined, if appropriate, in accordance with §§ 4.25 and 4.26 (as described in Note (2), added following DC 7122).

The proposed note following DC 7122 directed that higher ratings could be assigned, if warranted, because of loss of toes, by reference to amputation ratings. We have edited this Note (1) for clarity and added a statement about the evaluation of complications such as peripheral neuropathy or squamous cell carcinoma of the skin at the site of a scar.

One commenter requested that we include neurologic symptoms associated with exposure to low or subfreezing temperatures in the evaluation criteria for DC 7122, cold injuries.

In response to this suggestion, we have added numbness or locally impaired sensation, which are neurologic symptoms, to the evaluation criteria.

One individual suggested that cold injuries of the hands are generally more disabling than those of the lower extremities.

The severity of cold injuries to various parts of the body depends on such factors as the extent and duration of exposure, more than on the particular part affected. We have provided evaluation criteria that, applied with the notes regarding amputations and complications, are flexible enough to cover a broad range of severity and allow evaluation of any extent of tissue damage from cold injury to any body part, so we have not adopted any changes based on this comment.

The current schedule provides six months of convalescence evaluation for soft tissue sarcoma of vascular origin (DC 7123). We proposed that a total evaluation be assigned indefinitely, with a mandatory VA examination to be conducted six months following the completion of therapy. One commenter recommended that we allow one year of convalescence evaluation.

We believe that an examination six months following the cessation of treatment affords sufficient time for convalescence and stabilization of residuals, particularly since the rule requires only an examination, not a reduction, at that time. In our judgment, this method of determining the length of the total evaluation is both fairer and more accurate than assigning a total evaluation for a specified length of time, since the evaluation will be based on actual residual disability as documented by the examination, and the veteran will receive advance notice of any change and have the opportunity to submit additional evidence showing that the change is not warranted.

Two commenters requested that VA provide a zero-percent evaluation for all diagnostic codes.

On October 6, 1993, VA revised its regulation addressing the issue zero-percent evaluations (38 CFR 4.31) to authorize assignment of a zero-percent evaluation for any disability in the rating schedule when minimum requirements for a compensable evaluation are not met. In general, that regulatory provision precludes the need for zero-percent evaluation criteria.

On further review, we have revised the title of DC 7121 from ''phlebitis or thrombophlebitis'' to ''post-phlebitic syndrome of any etiology'' because both superficial and deep acute thrombophlebitis are transient conditions, but it is the chronic form of thrombophlebitis with venous insufficiency, known as ''postphlebitic leg,'' ''postphlebitic sequelae of chronic venous insufficiency,'' ''postphlebitic syndrome,'' or ''stasis syndrome,'' that may follow thrombophlebitis. This is not a substantive change.

For the sake of clarity, we have made nonsubstantive changes in the notes under ventricular arrhythmias (DC 7011), heart valve replacement (DC 7016), cardiac transplantation (DC 7019), aortic aneurysm (DC 7110), aneurysm, any large artery (DC 7111), and soft tissue sarcoma (DC 7123).

VA appreciates the comments submitted in response to the proposed rule, which is now adopted with the amendments noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: August 7, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

Subpart B—Disability Ratings

§§ 4.100 through 4.102 [Removed and Reserved]

2. Sections 4.100, 4.101, 4.102 are removed and reserved.

3. Section 4.104 is revised to read as follows:

§ 4.104 Schedule of ratings—cardiovascular system.

Diseases of the Heart

Note (1): Evaluate cor pulmonale, which is a form of secondary heart disease, as part of the pulmonary condition that causes it.
Note (2): One MET (metabolic equivalent) is the energy cost of standing quietly at rest and represents an oxygen uptake of 3.5 milliliters per kilogram of body weight per minute. When the level of METs at which dyspnea, fatigue, angina, dizziness, or syncope develops is required for evaluation, and a laboratory determination of METs by exercise testing cannot be done for medical reasons, an estimation by a medical examiner of the level of activity (expressed in METs and supported by specific examples, such as slow stair climbing or shoveling snow) that results in dyspnea, fatigue, angina, dizziness, or syncope may be used.

	Rating
7000 Valvular heart disease (including rheumatic heart disease):	
During active infection with valvular heart damage and for three months following cessation of therapy for the active infection	100
Thereafter, with valvular heart disease (documented by findings on physical examination and either echocardiogram, Doppler echocardiogram, or cardiac catheterization) resulting in:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electro-cardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
7001 Endocarditis:	
For three months following cessation of therapy for active infection with cardiac involvement	100
Thereafter, with endocarditis (documented by findings on physical examination and either echocardiogram, Doppler echocardiogram, or cardiac catheterization) resulting in:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
7002 Pericarditis:	
For three months following cessation of therapy for active infection with cardiac involvement	100
Thereafter, with documented pericarditis resulting in:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent.	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electro-cardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10

	Rating
7003 Pericardial adhesions:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electro-cardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
7004 Syphilitic heart disease:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
Note: Evaluate syphilitic aortic aneurysms under DC 7110 (aortic aneurysm).	
7005 Arteriosclerotic heart disease (Coronary artery disease):	
With documented coronary artery disease resulting in:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
Note: If nonservice-connected arteriosclerotic heart disease is superimposed on service-connected valvular or other non-arteriosclerotic heart disease, request a medical opinion as to which condition is causing the current signs and symptoms.	
7006 Myocardial infarction:	
During and for three months following myocardial infarction, documented by laboratory tests	100
Thereafter:	
With history of documented myocardial infarction, resulting in:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
7007 Hypertensive heart disease:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
7008 Hyperthyroid heart disease:	
Include as part of the overall evaluation for hyperthyroidism under DC 7900. However, when atrial fibrillation is present, hyperthyroidism may be evaluated either under DC 7900 or under DC 7010 (supraventricular arrhythmia), whichever results in a higher evaluation.	
7010 Supraventricular arrhythmias:	
Paroxysmal atrial fibrillation or other supraventricular tachycardia, with more than four episodes per year documented by ECG or Holter monitor	30
Permanent atrial fibrillation (lone atrial fibrillation), or; one to four episodes per year of paroxysmal atrial fibrillation or other supraventricular tachycardia documented by ECG or Holter monitor	10
7011 Ventricular arrhythmias (sustained):	
For indefinite period from date of hospital admission for initial evaluation and medical therapy for a sustained ventricular arrhythmia, or; for indefinite period from date of hospital admission for ventricular aneurysmectomy, or; with an automatic implantable Cardioverter-Defibrillator (AICD) in place	100
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100

	Rating
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
Note: A rating of 100 percent shall be assigned from the date of hospital admission for initial evaluation and medical therapy for a sustained ventricular arrhythmia or for ventricular aneurysmectomy. Six months following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7015 Atrioventricular block:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication or a pacemaker required	10
Note: Unusual cases of arrhythmia such as atrioventricular block associated with a supraventricular arrhythmia or pathological bradycardia should be submitted to the Director, Compensation and Pension Service. Simple delayed P–R conduction time, in the absence of other evidence of cardiac disease, is not a disability.	
7016 Heart valve replacement (prosthesis):	
For indefinite period following date of hospital admission for valve replacement	100
Thereafter:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
Note: A rating of 100 percent shall be assigned as of the date of hospital admission for valve replacement. Six months following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7017 Coronary bypass surgery:	
For three months following hospital admission for surgery	100
Thereafter:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
7018 Implantable cardiac pacemakers:	
For two months following hospital admission for implantation or reimplantation	100
Thereafter:	
Evaluate as supraventricular arrhythmias (DC 7010), ventricular arrhythmias (DC 7011), or atrioventricular block (DC 7015). Minimum	10
Note: Evaluate implantable Cardioverter-Defibrillators (AICD's) under DC 7011.	
7019 Cardiac transplantation:	
For an indefinite period from date of hospital admission for cardiac transplantation	100
Thereafter:	
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Minimum	30
Note: A rating of 100 percent shall be assigned as of the date of hospital admission for cardiac transplantation. One year following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7020 Cardiomyopathy:	

	Rating
Chronic congestive heart failure, or; workload of 3 METs or less results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of less than 30 percent	100
More than one episode of acute congestive heart failure in the past year, or; workload of greater than 3 METs but not greater than 5 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; left ventricular dysfunction with an ejection fraction of 30 to 50 percent	60
Workload of greater than 5 METs but not greater than 7 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; evidence of cardiac hypertrophy or dilatation on electrocardiogram, echocardiogram, or X-ray	30
Workload of greater than 7 METs but not greater than 10 METs results in dyspnea, fatigue, angina, dizziness, or syncope, or; continuous medication required	10
Diseases of the Arteries and Veins	
7101 Hypertensive vascular disease (hypertension and isolated systolic hypertension):	
Diastolic pressure predominantly 130 or more	60
Diastolic pressure predominantly 120 or more	40
Diastolic pressure predominantly 110 or more, or; systolic pressure predominantly 200 or more	20
Diastolic pressure predominantly 100 or more, or; systolic pressure predominantly 160 or more, or; minimum evaluation for an individual with a history of diastolic pressure predominantly 100 or more who requires continuous medication for control	10
Note (1): Hypertension or isolated systolic hypertension must be confirmed by readings taken two or more times on at least three different days. For purposes of this section, the term hypertension means that the diastolic blood pressure is predominantly 90mm. or greater, and isolated systolic hypertension means that the systolic blood pressure is predominantly 160mm. or greater with a diastolic blood pressure of less than 90mm.	
Note (2): Evaluate hypertension due to aortic insufficiency or hyperthyroidism, which is usually the isolated systolic type, as part of the condition causing it rather than by a separate evaluation.	
7110 Aortic aneurysm:	
If five centimeters or larger in diameter, or; if symptomatic, or; for indefinite period from date of hospital admission for surgical correction (including any type of graft insertion)	100
Precluding exertion	60
Evaluate residuals of surgical correction according to organ systems affected.	
Note: A rating of 100 percent shall be assigned as of the date of admission for surgical correction. Six months following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7111 Aneurysm, any large artery:	
If symptomatic, or; for indefinite period from date of hospital admission for surgical correction	100
Following surgery:	
Ischemic limb pain at rest, and; either deep ischemic ulcers or ankle/brachial index of 0.4 or less	100
Claudication on walking less than 25 yards on a level grade at 2 miles per hour, and; persistent coldness of the extremity, one or more deep ischemic ulcers, or ankle/brachial index of 0.5 or less	60
Claudication on walking between 25 and 100 yards on a level grade at 2 miles per hour, and; trophic changes (thin skin, absence of hair, dystrophic nails) or ankle/brachial index of 0.7 or less	40
Claudication on walking more than 100 yards, and; diminished peripheral pulses or ankle/brachial index of 0.9 or less	20
Note (1): The ankle/brachial index is the ratio of the systolic blood pressure at the ankle (determined by Doppler study) divided by the simultaneous brachial artery systolic blood pressure. The normal index is 1.0 or greater.	
Note (2): These evaluations are for involvement of a single extremity. If more than one extremity is affected, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor, if applicable.	
Note (3): A rating of 100 percent shall be assigned as of the date of hospital admission for surgical correction. Six months following discharge, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter.	
7112 Aneurysm, any small artery:	
Asymptomatic	0
Note: If symptomatic, evaluate according to body system affected. Following surgery, evaluate residuals under the body system affected.	
7113 Arteriovenous fistula, traumatic:	
With high output heart failure	100
Without heart failure but with enlarged heart, wide pulse pressure, and tachycardia	60
Without cardiac involvement but with edema, stasis dermatitis, and either ulceration or cellulitis:	
Lower extremity	50
Upper extremity	40
With edema or stasis dermatitis:	
Lower extremity	30
Upper extremity	20
7114 Arteriosclerosis obliterans:	
Ischemic limb pain at rest, and; either deep ischemic ulcers or ankle/brachial index of 0.4 or less	100
Claudication on walking less than 25 yards on a level grade at 2 miles per hour, and; either persistent coldness of the extremity or ankle/brachial index of 0.5 or less	60
Claudication on walking between 25 and 100 yards on a level grade at 2 miles per hour, and; trophic changes (thin skin, absence of hair, dystrophic nails) or ankle/brachial index of 0.7 or less	40
Claudication on walking more than 100 yards, and; diminished peripheral pulses or ankle/brachial index of 0.9 or less	20
Note (1): The ankle/brachial index is the ratio of the systolic blood pressure at the ankle (determined by Doppler study) divided by the simultaneous brachial artery systolic blood pressure. The normal index is 1.0 or greater.	
Note (2): Evaluate residuals of aortic and large arterial bypass surgery or arterial graft as arteriosclerosis obliterans.	
Note (3): These evaluations are for involvement of a single extremity. If more than one extremity is affected, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor (§ 4.26), if applicable.	

	Rating
7115 Thrombo-angiitis obliterans (Buerger's Disease):	
Ischemic limb pain at rest, and; either deep ischemic ulcers or ankle/brachial index of 0.4 or less	100
Claudication on walking less than 25 yards on a level grade at 2 miles per hour, and; either persistent coldness of the extremity or ankle/brachial index of 0.5 or less	60
Claudication on walking between 25 and 100 yards on a level grade at 2 miles per hour, and; trophic changes (thin skin, absence of hair, dystrophic nails) or ankle/brachial index of 0.7 or less	40
Claudication on walking more than 100 yards, and; diminished peripheral pulses or ankle/brachial index of 0.9 or less	20
Note (1): The ankle/brachial index is the ratio of the systolic blood pressure at the ankle (determined by Doppler study) divided by the simultaneous brachial artery systolic blood pressure. The normal index is 1.0 or greater.	
Note (2): These evaluations are for involvement of a single extremity. If more than one extremity is affected, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor (§ 4.26), if applicable.	
7117 Raynaud's syndrome:	
With two or more digital ulcers plus autoamputation of one or more digits and history of characteristic attacks	100
With two or more digital ulcers and history of characteristic attacks	60
Characteristic attacks occurring at least daily	40
Characteristic attacks occurring four to six times a week	20
Characteristic attacks occurring one to three times a week	10
Note: For purposes of this section, characteristic attacks consist of sequential color changes of the digits of one or more extremities lasting minutes to hours, sometimes with pain and paresthesias, and precipitated by exposure to cold or by emotional upsets. These evaluations are for the disease as a whole, regardless of the number of extremities involved or whether the nose and ears are involved.	
7118 Angioneurotic edema:	
Attacks without laryngeal involvement lasting one to seven days or longer and occurring more than eight times a year, or; attacks with laryngeal involvement of any duration occurring more than twice a year	40
Attacks without laryngeal involvement lasting one to seven days and occurring five to eight times a year, or; attacks with laryngeal involvement of any duration occurring once or twice a year	20
Attacks without laryngeal involvement lasting one to seven days and occurring two to four times a year	10
7119 Erythromelalgia:	
Characteristic attacks that occur more than once a day, last an average of more than two hours each, respond poorly to treatment, and that restrict most routine daily activities	100
Characteristic attacks that occur more than once a day, last an average of more than two hours each, and respond poorly to treatment, but that do not restrict most routine daily activities	60
Characteristic attacks that occur daily or more often but that respond to treatment	30
Characteristic attacks that occur less than daily but at least three times a week and that respond to treatment	10
Note: For purposes of this section, a characteristic attack of erythromelalgia consists of burning pain in the hands, feet, or both, usually bilateral and symmetrical, with increased skin temperature and redness, occurring at warm ambient temperatures. These evaluations are for the disease as a whole, regardless of the number of extremities involved.	
7120 Varicose veins:	
With the following findings attributed to the effects of varicose veins: Massive board-like edema with constant pain at rest	100
Persistent edema or subcutaneous induration, stasis pigmentation or eczema, and persistent ulceration	60
Persistent edema and stasis pigmentation or eczema, with or without intermittent ulceration	40
Persistent edema, incompletely relieved by elevation of extremity, with or without beginning stasis pigmentation or eczema	20
Intermittent edema of extremity or aching and fatigue in leg after prolonged standing or walking, with symptoms relieved by elevation of extremity or compression hosiery	10
Asymptomatic palpable or visible varicose veins	0
Note: These evaluations are for involvement of a single extremity. If more than one extremity is involved, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor (§ 4.26), if applicable.	
7121 Post-phlebitic syndrome of any etiology:	
With the following findings attributed to venous disease:	
Massive board-like edema with constant pain at rest	100
Persistent edema or subcutaneous induration, stasis pigmentation or eczema, and persistent ulceration	60
Persistent edema and stasis pigmentation or eczema, with or without intermittent ulceration	40
Persistent edema, incompletely relieved by elevation of extremity, with or without beginning stasis pigmentation or eczema	20
Intermittent edema of extremity or aching and fatigue in leg after prolonged standing or walking, with symptoms relieved by elevation of extremity or compression hosiery	10
Asymptomatic palpable or visible varicose veins	0
Note: These evaluations are for involvement of a single extremity. If more than one extremity is involved, evaluate each extremity separately and combine (under § 4.25), using the bilateral factor (§ 4.26), if applicable.	
7122 Cold injury residuals:	
With pain, numbness, cold sensitivity, or arthralgia plus two or more of the following: tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, X-ray abnormalities (osteoporosis, subarticular punched out lesions, or osteoarthritis) of affected parts	30
With pain, numbness, cold sensitivity, or arthralgia plus tissue loss, nail abnormalities, color changes, locally impaired sensation, hyperhidrosis, or X-ray abnormalities (osteoporosis, subarticular punched out lesions, or osteoarthritis) of affected parts	20
With pain, numbness, cold sensitivity, or arthralgia	10
Note (1): Amputations of fingers or toes, and complications such as squamous cell carcinoma at the site of a cold injury scar or peripheral neuropathy should be separately evaluated under other diagnostic codes.	
Note (2): Evaluate each affected part (hand, foot, ear, nose) separately and combine the ratings, if appropriate, in accordance with §§ 4.25 and 4.26.	

	Rating
7123 Soft tissue sarcoma (of vascular origin)	100
Note: A rating of 100 percent shall continue beyond the cessation of any surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residuals.	

(Authority: 38 U.S.C. 1155)

[FR Doc. 97–32413 Filed 12–10–97; 8:45 am]
BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5931–8]

Technical Amendments to Air Quality Implementation Plan for Connecticut; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: The Environmental Protection Agency published in the **Federal Register** of Monday, October 6, 1997, a direct final rule concerning the approval of regulations which define reasonably available control technology for sources of nitrogen oxides in Connecticut. Inadvertently, the wrong city address was attributed to two facilities affected by the regulations. Also in that document, the table of EPA approved regulations was mislabelled.

DATES: Effective on December 11, 1997.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp at (617) 565–2773, or E-mail at Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: The EPA published a direct final rule in the October 6, 1997 **Federal Register** (62 FR 52016) adding § 52.370(c)(72) and § 52.385 but inadvertently included the wrong city address for two facilities listed under § 52.370(c)(72)(i) and mislabelled the table of EPA approved regulations under § 52.385. This correction changes the address for the two entries as well as the label of the table.

In FR Doc. 97–26434 published on October 6, 1997, (62 FR 52016) make the following corrections:

§ 52.370 [Corrected]

1. On page 52020, in the third column in § 52.370(c)(72)(i)(B), in the fourth line, ''New Haven * * *'' should read ''Bridgeport * * *'',

2. On page 52021, in the third column in § 52.370(c)(72)(i)(K), in the sixth line, ''New Haven'' should read ''Bridgeport'',

§ 52.385 [Corrected]

3. On pages 52022 through 52029, the heading for the table ''Table 52.384—EPA-Approved Regulations'' should read ''Table 52.385—EPA-Approved Regulations'', and

4. On page 52027, the table in § 52.385, under Connecticut state citation 22a-174–22, Control of nitrogen oxide emissions, the subentries that begin with the dates ''5/18/95'' and ''2/14/96'' are corrected to read as follows:

* * * * *

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut State Citation	Title/subject	Dates		Federal Register Citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
* * *	* * *	5/18/95	10/6/97	* * *	(c) 72	Case-specific trading order for United Illuminating's Station #3, in Bridgeport.
*	*	*	*	*	*	*
* * *	* * *	2/14/96	10/6/97	* * *	(c) 72	Case-specific trading order for United Illuminating's Station #4, in Bridgeport.
*	*	*	*	*	*	*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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).

Dated: November 25, 1997.

Susan Studlien,

Deputy Director, Office of Ecosystem Protection, Region I.

[FR Doc. 97–32331 Filed 12–10–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5933–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Para-Chem Southern, Inc. Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the partial deletion of the Para-Chem Superfund site in Simpsonville, South Carolina from the National Priorities List (NPL). The portion to be deleted (Source Control Portion of the Site) is described below. The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of South Carolina have determined that all appropriate Fund-financed responses under CERCLA have been implemented on the portions of the property targeted for this partial deletion and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of South Carolina Department of Health and Environmental Control have determined that remedial actions conducted on these portions of the property at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Terry L. Tanner, Remedial Project Manager, U.S. EPA, Region 4, 61 Forsyth Street, Atlanta, GA 30303, 404/562–8797.

SUPPLEMENTARY INFORMATION: The site portion to be deleted from the NPL is a portion (Source Control Portion) of the Para-Chem Southern, Inc. Superfund Site, Simpsonville, South Carolina. The Source Control Portion of soils within one waste disposal area of the Site consisted of the excavation of 686 tons of drums, waste, and contaminated soils. These materials were classified as a hazardous waste by characteristic, and shipped to the GSX landfill. This partial deletion does not include all site soil actions nor the groundwater remedial action which will remain on the NPL. A Notice of Intent to Delete for this site was published in the **Federal Register** on June 30, 1997 (62 FR 35115). The closing date for comments on the Notice of Intent to Delete was July 30, 1997. EPA received no comments during this period.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover cost associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous waste, Intergovernmental relations, Superfund.

Dated: September 16, 1997.

Phyllis P. Hall,

Acting Regional Administrator, Region 4.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., 351; E.O. 12580; 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by revising the entry for ''Para-Chem Southern, Inc., Simpsonville, South Carolina'' to read as follows:

Appendix B to Part 300—National Priorities List

Table 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes[a]
*	*	*	*
SC	Para-Chem Southern, Inc	Simpsonville	P
*	*	*	*

[a] * * *

P=Sites with partial deletion(s).

* * * * *

[FR Doc. 97–32186 Filed 12–10–97; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 62, No. 238
Thursday, December 11, 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.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1301

Notice of Proposed Rulemaking; Over-Order Price Regulations

AGENCY: Northeast Dairy Compact Commission.

SUMMARY: The Northeast Dairy Compact Commission proposes to amend the current Compact Over-order Price Regulation, to exempt from the regulation fluid milk distributed by handlers during the 1998–1999 contract year under open competitive bid contracts with School Food Authorities in New England for Child Nutrition Programs qualified for reimbursement under the National School Lunch Act of 1946 and the Child Nutrition Act. Representatives of New England School Food Authorities and Food Services Programs have indicated to the Commission that the Regulation has had an adverse financial impact on their programs that will ultimately be born by school children. The proposal to exempt milk distributed to School Lunch Programs will avoid any increase in price to children due to the regulation for milk provided by School Food Service Programs.

DATES: Written comments and exhibits may be submitted until 5:00 PM, January 12, 1998. A public hearing to take testimony and receive documentary evidence relevant to amending § 1301.13 will be held on December 29, 1997 at 10:00 AM.

ADDRESSES: Send comments to the Northeast Dairy Compact Commission, 43 State Street. P.O. Box 1058, Montpelier, VT 05601.

The hearing will be held at the Ramada Rolling Green Hotel and Conference Center, 311 Lowell St., Andover, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941 or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

I. Background

The Northeast Dairy Compact Commission (the ''Commission'') was established under authority of the Northeast Interstate Dairy Compact (the ''Compact''). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Public Law 93–320; Maine—Public Law 89–437, as amended, Public Law 93–274; Massachusetts—Public Law 93–370; New Hampshire—Public Law 93–336; Rhode Island—Public Law 93–106; Vermont—Public Law 89–95, as amended 93–57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Public Law 104–127 (FAIR Act), Section 147, codified at 7 U.S.C. 7156. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized the implementation of the Compact.

Pursuant to its authority under Article V, Section 11 of the Compact, the Commission conducted an informal rulemaking proceeding to adopt a Compact Over-order Price Regulation. See 62 FR 29626 (May 30, 1997). The Commission amended and extended the Compact Over-order Price Regulation on October 23, 1997. See 62 FR 62810 (November 25, 1997).

Pursuant to Article V, Section 11, the Commission is proposing to amend the current Compact Over-order Price Regulation to exempt from the regulation fluid milk distributed by handlers under open and competitive bid contracts for the 1998–1999 contract year with School Food Authorities in New England for Child Nutrition Programs qualified for reimbursement under the National School Lunch Act of 1946 and the Child Nutrition Act of 1966. The current Compact Over-order Price Regulation is codified at 7 CFR 1300 through 1308.1. The Commission submits as its proposed rule for purposes of public review and comment a new paragraph (e) to be added to 7 CFR 1301.13 *Exempt milk.*

II. Date, Time and Location of the Public Hearing

The Northeast Dairy Compact Commission will hold a public hearing at 10:00 AM on December 29, 1997 at the Ramada Rolling Green Hotel and Conference Center, 311 Lowell Street, Andover, Massachusetts.

III. Request for Written Comments

Pursuant to Article VI (D) of the Commission's Bylaws, any person may participate in the rulemaking proceeding independent of the hearing process by submitting written comments and exhibits to the Commission. Comments and exhibits may be submitted at any time until 5:00 PM, January 12, 1998. Comments and exhibits will be made part of the record of the rulemaking proceeding only if they identify the author's name, address and occupation, and if they include a sworn notarized statement indicating that the comment and/or exhibit is presented based upon the author's personal knowledge and belief. Facsimile copies will be accepted up until the 5:00 PM, January 12, 1998 deadline but the original copies must then be sent by ordinary mail.

Comments and exhibits should be sent to: Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, VT 05601, (802) 229–2028 (fax).

For more information, contact a New England state department of agriculture or the Compact Commission offices—(802) 229–1941.

Dated December 8, 1997.

List of Subjects in 7 CFR Part 1301

Milk.

By authority of the Commission.

For the Commission.

Daniel Smith,

Executive Director.

For the reasons set forth in the preamble, the Commission proposes to amend 7 CFR part 1301 as follows:

PART 1301—[AMENDED]

1. The authority for part 1301 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1301.13 is amended by adding paragraph (e) to read as follows:

§ 1301.13 Exempt milk.

* * * * *

(e) Effective April 1, 1998, all fluid milk distributed by handlers in eight ounce containers under open and

competitive bid contracts for the 1998–1999 contract year with School Food Authorities in New England, as defined by 7 CFR 210.2, for Child Nutrition Programs qualified for reimbursement under the National School Lunch Act of 1946, as amended, 42 U.S.C. 1751 *et. seq.*, and the Child Nutrition Act of 1966, as amended, 42 U.S.C. 1773 *et. seq.*

* * * * *

[FR Doc. 97–32400 Filed 12–10–97; 8:45 am]
BILLING CODE 1650–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–150–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 and A321 series airplanes. This proposal would require activation of a spoiler function that allows partial ground spoiler activation with only one main landing gear compressed. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent possible delays in deceleration when landing with strong cross winds and/or on a contaminated runway, which could increase the potential for landing overrun.

DATES: Comments must be received by January 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–150–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–150–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, advises that possible delay in activation of automatic deceleration means when landing with strong cross winds and/or on a contaminated runway can occur on certain Airbus Model A320 and A321 series airplanes. This condition, if not corrected, could increase the potential for landing overrun.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–27–1088, Revision 3, dated December 11, 1996, which describes procedures for activation of a partial lift dumping function (''phased lift dumping'') that allows partial ground spoiler activation with only one main landing gear compressed. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 96–169–081(B), dated August 28, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 132 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 17 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $134,640, or $1,020 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket 97–NM–150–AD.

Applicability: Model A320 and A321 series airplanes on which Airbus Modification No. 24745 (Airbus Service Bulletin A320–27–1088, Revision 3, dated December 11, 1996) has not been accomplished, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously. To prevent possible delays in deceleration when landing with strong cross winds and/or on a contaminated runway, which could increase the potential for landing overrun, accomplish the following:

(a) Within 12 months after the effective date of this AD, activate the spoiler ''phased lift dumping'' function by modifying the aircraft wiring at the level of the three spoiler elevator computer (SEC) connectors, in accordance with Airbus Service Bulletin A320–27–1088, Revision 3, dated December 11, 1996.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in French airworthiness directive 96–169–081(B), dated August 28, 1996.

Issued in Renton, Washington, on December 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32426 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacement of electrical relays 15KF and 16KF, which control the auxiliary propeller control feathering system, with relays having increased load capacity. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the auxiliary propeller control feathering system, which, in the event of an engine failure combined with failure of the primary propeller pitch control, could result in the inability to feather the propeller, and consequent reduced controllability of the airplane.

DATES: Comments must be received by January 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Deutsche Aerospace, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–103–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–103–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that, because of the limited load capacity of electrical relays 15KF and 16KF, performing the standard test procedure on the propeller control feathering system could result in an overload of these electrical relays. Such overload could cause a failure of the auxiliary propeller control feathering system. This system is a back-up to the primary propeller pitch control system, and would be used to feather the propeller in the event of an engine failure combined with failure of the primary propeller pitch control. This chain of failure events could result in the inability to feather the propeller, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–61–138, dated November 13, 1995, which describes procedures for replacement of electrical relays 15KF and 16KF with relays having increased load capacity. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 96–002, dated January 8, 1996, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 38 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,280, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier: Docket 97–NM–103–AD.

Applicability: Model 328–100 series airplanes having serial numbers 3005 through 3063 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the auxiliary propeller control feathering system, which, in the event of an engine failure combined with failure of the primary propeller pitch control, could result in the inability to

feather the propeller, and consequent reduced controllability of the airplane; accomplish the following:

(a) Within 90 days after the effective date of this AD, replace electrical relays 15KF and 16KF having part number (P/N) DON405M520U5NL with relays having P/N 2504MY1, in accordance with Dornier Service Bulletin SB–328–61–138, dated November 13, 1995.

(b) As of the effective date of this AD, no person shall install relays 15KF and 16KF having P/N DON405M520U5NL on any airplane.

(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, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in German airworthiness directive 96–002, dated January 8, 1996.

Issued in Renton, Washington, on December 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32425 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–190–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Dassault Model Mystere-Falcon 50 series airplanes. This proposal would require a one-time inspection of the clearances around the wiring harnesses of the right-hand electrical cabinet, and readjustment of the clearances, if necessary. This proposal would also require installation of protective strips on the wiring harnesses and equipment supports. This proposal is prompted by issuance of mandatory continued airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent interference between the wiring harnesses and adjacent equipment, support brackets, and structural elements, which could cause an electrical short circuit resulting in fire, and consequent loss of electrical power to essential flight systems.

DATES: Comments must be received by January 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–190–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–190–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–190–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Dassault Model Mystere-Falcon 50 series airplanes. The DGAC advises that it received a report of an in-flight incident, in which interference between a wiring harness cable and an equipment support bracket resulted in an electrical short. This condition, if not corrected, could result in fire and loss of electrical power to essential flight systems.

Explanation of Relevant Service Information

Dassault has issued Service Bulletin F50–256 (F50–20–5), Revision 1, dated December 22, 1996, which describes procedures for a one-time inspection (measurement) of the clearances between the wiring harnesses and the equipment, support brackets, and structural elements between fuselage frames 9 and 11, on the right-hand electrical cabinet; and adjustment of these clearances, if necessary. Additionally, the service bulletin describes procedures for installation of Teflon protective strips on the wiring harnesses and rubber protective strips on the rear edges of the equipment supports. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 96–094–017(B)R1, dated December 18, 1996, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 155 Dassault Model Mystere-Falcon 50 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $355 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $110,825, or $715 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket 97–NM–190–AD.

Applicability: All Model Mystere-Falcon 50 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent interference between the wiring harnesses and adjacent equipment, support brackets, and structural elements, which could cause an electrical short circuit resulting in fire, and consequent loss of electrical power to essential flight systems; accomplish the following:

(a) Within 6 months or 300 flight hours after the effective date of this AD, whichever occurs first, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Dassault Service Bulletin F50–256 (F50–20–5), Revision 1, dated December 22, 1996.

(1) Perform a one-time inspection of the clearances between the wiring harnesses and the adjacent equipment, support brackets, and structural elements. If any clearance is outside the limits specified in the service bulletin, prior to further flight, readjust the clearances in accordance with the service bulletin.

(2) Install Teflon protective strips on the wiring harnesses in the vicinity of the equipment supports.

(3) Install rubber protective strips to the rear edges of the equipment supports.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in French airworthiness directive 96–094–017(B)R1, dated December 18, 1996.

Issued in Renton, Washington, on December 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32423 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–145–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require repetitive visual inspections to detect discrepancies of the bushing installation

of the aileron actuation fitting, and eventual installation of staked bushings in the fitting. Accomplishment of such installation terminates the repetitive inspections. This proposal also provides for an optional temporary preventive action, which, if accomplished, would allow the repetitive inspection intervals to be extended until the terminating action is accomplished. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the fitting lugs due to vibration caused by loose bushings in the fittings, and consequent reduced controllability of the airplane.

DATES: Comments must be received by January 12, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–145–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that, during vibration damping tests, it has been discovered that the bushings in the aileron actuation fittings can become loose and cause vibration. Such vibration, if not corrected, could lead to failure of the fitting lugs, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Saab has issued Service Bulletin SAAB 2000–57–014, Revision 02, dated February 11, 1997, which describes procedures for repetitive visual inspections to detect discrepancies of the bushing installations. In addition, the service bulletin describes procedures for eventual installation of new staked bushings in the aileron actuation fitting, which, when accomplished, eliminates the need for the repetitive inspections. The service bulletin also describes procedures for an optional temporary preventive action, which entails various corrective actions and installation of washers on the bushings of the aileron actuation fittings. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive (SAD) No. 1–102R1, dated November 8, 1996, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of a certain repair condition, this proposal would require the repair of that condition to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 1 airplane of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspection on the single U.S. operator is estimated to be $60 per airplane, per inspection cycle.

The FAA estimates that it would take approximately 4 work hours to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed installation on the single U.S. operator is estimated to be $240 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of

the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional temporary preventive action that would be provided by this AD action, it would take approximately 1 work hour to accomplish it, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the optional temporary preventive action would be $60 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB Aircraft AB: Docket 97–NM–145–AD.

Applicability: Model SAAB 2000 series airplanes having serial numbers –002 through -023 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the fitting lugs, due to vibration caused by loose bushings in the aileron actuation fittings, which could result in reduced controllability of the airplane; accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, inspect the bushing installations of the left-hand and right-hand aileron actuation fittings to detect any discrepancies, in accordance with Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997.

(1) If no discrepancy is found, repeat the inspection thereafter at intervals not to exceed 300 flight hours until the requirements of paragraph (b) of this AD have been accomplished. Accomplishment of the temporary preventive action specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin allows the repetitive inspections to be accomplished at intervals of 600 flight hours until the requirements of paragraph (b) of this AD have been accomplished.

(2) If any discrepancy is found, prior to further flight, accomplish the requirements of either paragraph (a)(2)(i) or (a)(2)(ii) of this AD in accordance with the service bulletin.

(i) Except as specified in paragraph (c), accomplish the installation required by paragraph (b) of this AD. Accomplishment of this installation constitutes terminating action for the requirements of this AD. Or

(ii) Accomplish the temporary preventive action specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 600 flight hours until the requirements of paragraph (b) of this AD have been accomplished.

(b) Except as specified in paragraph (c) of this AD, within 3,000 flight hours after the effective date of this AD, install the new staked bushings in the aileron actuation fitting in accordance with Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997. Accomplishment of this installation terminates the requirements of this AD.

(c) If, during the accomplishment of the installation required by paragraph (a)(2)(i) or paragraph (b) of this AD, the diameter of the small hole of the fitting lug is found to be outside the limits specified in Saab Service Bulletin 2000–57–014, Revision 02, dated February 11, 1997, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(d) As of the effective date of this AD, no person shall install on any airplane an aileron having part number, 7357995–843 (left-hand) or 7357995–844 (right-hand), unless it has been modified in accordance with paragraph (b) of this AD.

(e) 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, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(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.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive (SAD) 1–102R1, dated November 8, 1996.

Issued in Renton, Washington, on December 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32424 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–47–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that

currently requires repetitive high frequency eddy current (HFEC) inspections to detect cracking on all surfaces of the upper recesses in certain latch support fittings of the cargo doorway, and replacement of cracked fittings with new fittings. That AD also provides for optional terminating action for the repetitive inspections. This proposal would require accomplishment of the previously optional terminating action. This proposal is prompted by reports indicating that the repetitive inspections required by the existing AD may not detect cracked fittings in a timely manner. The actions specified by the proposed AD are intended to prevent the cargo door from opening while the airplane is in flight, which could result in rapid decompression of the airplane.

DATES: Comments must be received by January 26, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–47–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Robert Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–47–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 12, 1993, the FAA issued AD 93–02–16, amendment 39–8500 (58 FR 11190, February 24, 1993), applicable to certain Boeing Model 747 series airplanes, to require repetitive high frequency eddy current (HFEC) inspections to detect cracking on all surfaces of the upper recess in each 7079–T6 aluminum latch support fitting of the cargo doorway, and replacement of cracked fittings with new fittings. That action was prompted by reports of cracked fittings on two Model 747 series airplanes. The requirements of that AD are intended to prevent the cargo door from opening while the airplane is in flight, which could result in rapid decompression of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 93–02–16, the FAA has received reports indicating that the inspections required by that AD may not adequately detect stress corrosion cracking in 7079–T6 aluminum latch support fittings. Three operators reported that, during HFEC inspections, five cracked latch support fittings were detected on four airplanes that had accumulated between 11,555 and 18,252 flight cycles. That AD requires that an operator conduct repetitive HFEC inspections of latch support fittings at intervals not to exceed 18 months. One operator reported that it performed an HFEC inspection on the same airplane twice during a 6-month period and that during the first inspection, no cracks were detected. However, during the second inspection that was conducted 6 months later, an 8-inch crack was detected in one of the latch support fittings for the aft door.

Findings indicate that cracks in these fittings may occur at such an unpredictable rate that repetitive HFEC inspections are not sufficient to detect cracking in a timely manner.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 747–53A2377, Revision 2, dated October 6, 1994, which describes procedures for repetitive HFEC inspections to detect stress corrosion cracking on the surfaces of the upper recess in each 7079–T6 aluminum latch support fitting, and replacement of cracked fittings with new 7075–T73 fittings that are not susceptible to stress corrosion cracking. Such replacement would eliminate the need for repetitive HFEC inspections and prevent the development and propagation of stress corrosion cracking.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 93–02–16 to continue to require HFEC inspections of all 7079–T6 latch support fittings of the cargo doorway, and replacement of cracked fittings with new fittings. In addition, this proposed AD would require the eventual replacement of all 7079–T6 latch support fittings with new 7075–T73 fittings, which would constitute terminating action for the repetitive inspection requirements.

These actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 200 airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that are currently required by AD 93–02–16, and retained in this proposed AD, take approximately 31 work hours per airplane, per inspection cycle, to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of currently required inspections on U.S. operators is estimated to be $213,900, per inspection cycle, or $1,860 per airplane, per inspection cycle.

The replacement, as proposed in this new AD action, would take

approximately 1,019 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $20,917 per airplane ($12,888 for all aft door fittings; $8,029 for all forward door fittings). Based on these figures, the cost impact of the proposed replacement of this AD on U.S. operators is estimated to be $9,436,555, or $82,057 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8500 (58 FR 11190, February 24, 1993), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 97–NM–47–AD. Supersedes AD 93–02–16, Amendment 39–8500.

Applicability: Model 747 airplanes, line numbers 1 through 200 inclusive; having 7079–T6 aluminum latch support fittings; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the cargo door from opening while the airplane is in flight, which could result in rapid decompression of the airplane, accomplish the following:

Restatement of the Requirements of AD 93–02–16

(a) Within 60 days after March 11, 1993 (the effective date of AD 93–02–16, amendment 39–8500), perform a high frequency eddy current (HFEC) inspection to detect cracking on all surfaces of the upper recess in each 7079–T6 aluminum latch support fitting of the cargo doorway, in accordance with Boeing Service Bulletin 747–53A2377, Revision 1, dated January 28, 1993, or Revision 2, dated October 6, 1994. After the effective date of this AD, only Revision 2 of the service bulletin shall be used.

Note 2: Boeing Service Bulletin 747–53A2377, Revision 2, dated October 6, 1994, references Boeing Service Bulletin 747–53–2200, Revision 1, dated November 16, 1979, as an additional source of service information for the replacement of these fittings.

(1) If any cracking is found on any fitting, prior to further flight, replace the cracked fitting with a new 7075–T73 aluminum latch support fitting in accordance with Boeing Service Bulletin 747–53A2377, Revision 1, dated January 28, 1993, or Revision 2, dated October 6, 1994. After the effective date of this AD, only Revision 2 of the service bulletin shall be used.

(2) If no cracking is found on any fitting, repeat the HFEC inspection thereafter at intervals not to exceed 18 months until the requirements of paragraph (b) of this AD are accomplished.

New Requirements of This AD

(b) Within 18 months after the effective date of this AD, replace all 7079–T6 aluminum latch support fittings with new 7075–T73 fittings in accordance with Boeing Service Bulletin 747–53A2377, Revision 2, dated October 6, 1994. Replacement of all latch support fittings constitutes terminating action for the inspection requirements of this AD.

(c) As of the effective date of this AD, no operator shall install any 7079–T6 aluminum latch support fitting of the cargo door on any airplane.

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

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

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

Issued in Renton, Washington, on December 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32427 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1020

[Docket No. 97N–0427]

RIN 0910–ZA06

Diagnostic X-Ray Equipment Performance Standard; Request for Comments and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intention to propose amendments to the performance standard for diagnostic x-ray systems and their major components. The agency is taking this action to address changes in the technology and use of radiographic and fluoroscopic systems. The agency is issuing this advance notice of proposed rulemaking (ANPRM) in accordance with its policy of early public disclosure of rulemaking activities. The FDA is

soliciting comments and information from interested persons concerning the subject matter of the proposed amendments.

DATES: Submit written comments on the proposed amendments by March 11, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. See the SUPPLEMENTARY INFORMATION section for electronic access to the summary of concepts for amendments and a summary of the April 8 through 9, 1997, meeting of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC). Submit written requests for single copies of the Diagnostic X-Ray Equipment Performance Standard to the Division of Small Manufacturers Assistance (DSMA), Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request or fax your request to 301–443–8818.

FOR FURTHER INFORMATION CONTACT: Thomas B. Shope, Center for Devices and Radiological Health (HFZ–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3314, ext. 32.

SUPPLEMENTARY INFORMATION:

I. Background

FDA, under authority conferred by the Public Health Service Act as amended by the Radiation Control for Health and Safety Act (RCHSA) of 1968 (Pub. L. 90–602 (21 U.S.C. 360hh–360ss)), administers an electronic product radiation control program to protect the public health and safety. This authority provides for the development and administration of radiation safety performance standards for electronic products.

In order for mandatory performance standards to achieve intended public health protection, attention must be given to keeping the requirements of standards updated and appropriate. A number of technological developments have been or will be implemented for radiographic and fluoroscopic x-ray systems that are not addressed by the performance standard or that present problems in the application of the requirements of the current standard. FDA is developing proposed amendments to the performance standard for radiographic and fluoroscopic systems that take into account new technology, clarify certain provisions, and address additional requirements that may be determined to be necessary to provide for adequate radiation safety of these systems.

On October 16 and 17, 1992, the American College of Radiology and FDA sponsored a workshop on fluoroscopy to develop strategies for improvement in performance, safety and control of fluoroscopic equipment. Physicians, physicists, State and Federal government regulators, and fluoroscopic equipment manufacturers attended the workshop. They discussed and made recommendations for different ways to approach fluoroscopic radiation safety issues and concerns, including regulatory solutions.

In the **Federal Register** of May 19, 1994 (59 FR 26402), FDA published a final rule effective May 19, 1995, amending performance requirements for fluoroscopic systems to address the immediate concern of preventing unlimited exposure rates during the high-level control mode of fluoroscopic system operation. The TEPRSSC discussed the status of standards for fluoroscopic systems and new clinical uses during a meeting held on April 9 through 10, 1996. TEPRSSC is a permanent statutory advisory committee established by statute that FDA must consult prior to issuing standards under the RCHSA.

At a meeting of the TEPRSSC held on April 8 through 9, 1997, FDA presented general concepts for amendments to the performance standard for radiographic and fluoroscopic systems.

The committee recommended that FDA pursue development of the amendments in the areas discussed in section II of this notice.

A transcript of the TEPRSSC April 8 through 9, 1997, meeting may be ordered from Miller Reporting Co., Inc., 507 C St. NE., Washington, DC 20002, 202–546–6666 or FAX 202–546–1502.

Individuals or organizations wishing to receive copies of draft amendments or related documents distributed for review during the development of these amendments may have their names placed on the mailing list by writing to: Office of Science and Technology (HFZ–140), Center for Devices and Radiological Health, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, FAX 301–443–9101, e-mail: TBS@CDRH.FDA.GOV.

II. Concepts for Amendments to the Standard

FDA has identified the following nine areas as candidates for amendments to accommodate changes in technology and clinical use of radiographic and fluoroscopic systems. The discussion below each concept is not intended to indicate the specific content of the proposed amendment to be developed, but is meant only to describe the need and FDA's proposed approach. The specific regulatory changes or proposed standards will be included in a future proposed rule. Comments received in response to this notice will be used to develop the proposed amendments. FDA requests comments on the following conceptual changes:

1. Conversion to the International System of Units (SI) quantities and units for the entire standard. This proposal is to amend all sections of the performance standard for diagnostic x-ray systems to use the radiation quantity ''air kerma'' in place of the quantity ''exposure'' and to change the units to the SI.

2. Clarification of applicability of requirements to technological developments, such as digital imaging, digital recording and solid-state x-ray imagers. The current organization and structure of the standard assumes the presence of an x-ray image intensifier as the basis for many of the requirements for fluoroscopic systems. This assumption may be inappropriate for digital fluoroscopy systems that may use new types of digital image receptors. Such systems may not have an image intensifier tube. The structure of the radiographic section of the standard is based on radiographic film as the image receptor and revisions are needed to incorporate technological developments in that area. It would be desirable to the extent possible to use terminology consistent with usage adopted by the International Electrotechnical Commission (IEC).

3. Amendment to incorporate draft Compliance Policy Guide on Information to be Provided to Users (21 CFR 1020.30(h)). This proposal would amend the requirements on the content of information that must be provided to users to include specific information on the air kerma rate for certain fluoroscopic modes of operation. This amendment would incorporate into the standard a draft Compliance Policy Guide that has been developed, but not yet issued, and is intended to interpret § 1020.30(h) for certain ''unique'' modes of fluoroscopic system operation.

4. Amendment to add requirements for minimum half-value layer (HVL) for systems designed for interventional radiology (§ 1020.30(m)). This proposal would increase the minimum half-value layer requirements for fluoroscopic systems designed for interventional radiology. Such a requirement will require definition of a ''fluoroscopic system designed for interventional

fluoroscopy.'' As a concept for discussion, fluoroscopic systems designed for interventional radiology might be defined as systems that permit the beam axis to be positioned at an angle relative to the normal to the table top. Systems in which the x-ray beam direction is fixed with respect to the plane of the tabletop, such as conventional radiographic/ fluoroscopic systems, would not be included in this definition.

5. Amendment to require improved x-ray field limitation (21 CFR 1020.32(b)(2)(v)). This proposal would require improved limitation of the x-ray field for fluoroscopic equipment to match the actual area of the image receptor being used for image capture, thereby reducing the amount of non-useful beam striking the patient.

6. Amendment to clarify the requirements for the minimum source-skin distance for small, mobile, or portable mini C-arm systems (§ 1020.32(g)). This amendment would address numerous requested and granted variances for fluoroscopic systems that have limited source-image receptor distances. The amendment would specify the conditions under which a shorter-than-standard source-skin distance is permitted and would obviate the need for continued variances from the standard.

7. Amendment to require indication of cumulative exposure time on fluoroscopic systems (§ 1020.32(h)). The proposed amendment would require the means to indicate the cumulative time of fluoroscopic irradiation of a patient during an examination or procedure.

8. Amendment to require provision of ''last-image-hold'' feature on fluoroscopic systems (§ 1020.32(j)). This amendment would require that all fluoroscopic x-ray systems be provided with a means to continuously display the last image acquired following termination of any exposure period.

9. Amendment to require indication of air kerma rate and cumulative air kerma on fluoroscopic systems (§ 1020.32(k)). The proposed amendment would require the means to display to the fluoroscopist at the fluoroscopist's working position the cumulative air kerma and the air kerma rate (air kerma per unit time) at which air kerma accrues during irradiation of a patient in an examination or procedure.

III. Electronic Access

The summary of concepts for amendments entitled ''Concepts for Proposed Amendments to the Performance Standard for Diagnostic X-ray Systems, August 1, 1997,'' may be accessed at the CDRH Home Page on the World Wide Web. It is available on the Topic Index page at: http://www.fda.gov/cdrh/topindx under ''Fluoroscopy''. A text-only version of the CDRH site is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there, follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA Home Page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there, select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

The document may also be obtained by fax by calling the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2, and then enter the document number 591 followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

A summary of the TEPRSSC April 8 through 9, 1997, meeting is available on the CDRH Home Page at the same address given above for the concepts for amendments document.

IV. Comments

Interested persons may, on or before March 11, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposed amendment. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons also are invited to participate in the development of proposed amendments by submitting written data, views, or arguments concerning the subject matter of the amendments, or related topics suggested for inclusion in the amendments. In addition to general comments and recommendations, respondents are encouraged to include suggested text for provisions of the proposed amendments that reflect their recommended performance requirements. A statement of rationale should accompany any such proposed text. When a determination is made on the content of the proposed amendments, they will be published as notices of proposed rulemaking with opportunity given for public comment. Information and comments are specifically invited on the following topics:

1. For concepts 4 through 9 in section II of this document, recommendation for whether the amendments should be limited only to equipment designed for interventional procedures or for all fluoroscopic systems. If only for interventional systems, how should ''interventional fluoroscopic systems'' be defined?

2. The desirability and technical feasibility of amendments of the type described in section II of this document.

3. Recommended performance requirements to be included in the proposed amendments, including attendant methods and conditions of measurement.

4. Suggestions and supporting data for other amendments to the performance standard for radiographic or fluoroscopic equipment, including moving towards more outcome-based performance standards, which may be needed to provide for adequate radiation safety.

5. The possible environmental impact of this action, including factors such as radiation exposure reduction or prevention and economic consequences in relation to expected benefits (cost-benefit relationship), and the anticipated costs of providing such features or meeting the requirements.

6. Any additional terms or definitions that are needed to better specify the intent or meaning of the regulations as they apply to the equipment.

This ANPRM is issued under 21 U.S.C. 321 and under the authority of the Commissioner of Food and Drugs.

Dated: October 29, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–32462 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE45

Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for the Gray Wolf

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: On November 22, 1994, the U.S. Fish and Wildlife Service published special rules to establish nonessential experimental populations of gray wolves (*Canis lupus*) in Yellowstone National Park and central Idaho. The nonessential experimental population areas include all of Wyoming, most of Idaho, and much of central and southern Montana. A close reading of the special regulations indicates that, unintentionally, the language reads as though wolf control measures apply only outside of the experimental population area. This proposed revision is intended to amend language in the special regulations so that it clearly applies within the Yellowstone nonessential experimental population area and the central Idaho nonessential experimental population area. This proposed change will not affect any of the assumptions and earlier analysis made in the environmental impact statement or other portions of the special rules.

DATES: Comments must be received by January 12, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Gray Wolf Recovery Program, U.S. Fish and Wildlife Service, 100 North Park, Suite 320, Helena, Montana 59601. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Bangs, Wolf Recovery Coordinator, at the above address, or telephone (406) 449–5202, extension 204.

SUPPLEMENTARY INFORMATION:

Background

1. *Legal:* The Endangered Species Act Amendments of 1982, Public Law 97–304, made significant changes to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), including the creation of section 10(j) which provides for the designation of populations as ''experimental.'' It was under this provision of the Act that on November 22, 1994, the Service by special rule established two areas for nonessential experimental populations of gray wolves (59 FR 60252 and 60266; 50 CFR 17.84(i)). One area was the Yellowstone National Park experimental population area which included all of Wyoming, and parts of Montana, and Idaho. The other area, called the central Idaho experimental population area, included much of Idaho and parts of southwestern Montana. These rules allowed the Service and other cooperating agencies to manage wolf recovery so that conflicts with people were minimized. Under certain circumstances the rules allowed for wolves to be captured, relocated, held in captivity, or killed. Subparts A, B, and C 50 CFR 17.84 (i)(7)(iii) addressed the management of reintroduced wolves that traveled outside the experimental areas or wolves of unknown status outside the experimental population. Subpart D in 50 CFR 17.84 (i)(7)(iii) D, addressed the management of wolves and wolf-like canids of unknown but questionable status. Examples given under 50 CFR 17.84 (I)(7)(iii) D include wolves or wolf-like canids that exhibited behavioral or physical evidence of hybridization with other canids, or wolf-like canids that may have been raised or held in captivity other than as part of a Service approved wolf recovery program. The rule in 50 CFR 17.84 (i)(7)(iii) is currently worded as follows:

All wolves found in the wild within the boundaries of this paragraph (50 CFR 17.84 (i)(7)) after the first releases will be considered nonessential experimental animals. In the conterminous United States, a wolf that is outside an experimental area (as defined in 50 CFR 17.84 (i)(7) of this section) would be considered as endangered (or threatened if in Minnesota) unless it is marked or otherwise known to be an experimental animal; such a wolf may be captured for examination and genetic testing by the Service or Service-designated agency. Disposition of the captured animal may take any of the following courses:

(A) If the animal was not involved in conflicts with humans and is determined to be an experimental wolf, it will be returned to the reintroduction area.

(B) If the animal is determined likely to be an experimental wolf and was involved in conflicts with humans as identified in the management plan for the closest experimental area, it may be relocated, placed in captivity, or killed.

(C) If the animal is determined not likely to be an experimental animal, it will be managed according to any Service-approved plans for that area or will be marked and released near its point of capture.

(D) If the animal is determined not likely to be a wild gray wolf or if the Service or agencies designated by the Service determine the animal shows physical or behavioral evidence of hybridization with other canids, such as domestic dogs or coyotes, or of being an animal raised in captivity, it will be returned to captivity or killed.

The rule in 50 CFR 17.84(i)(7)(iii) was intended to allow the Service, or agencies designated by the Service, management flexibility should experimental wolves travel outside the experimental population areas, and the ability to (1) manage wolves of unknown origin, (2) manage wolves that exhibit abnormal behavior or physical characteristics (indicative of hybridization with other canids), and (3) manage canids suspected of being raised in captivity and released to the wild independently of the Service wolf recovery program. Furthermore, subpart D was intended to allow for management of those rare instances where an individual wild wolf may exhibit abnormal behavior that is not conducive to the recovery and conservation of wild gray wolf populations in the northern Rocky Mountains of Montana, Idaho, and Wyoming. The section was intended to enhance the survival and reproductive potential of wild wolves and to remove canids that could have a negative impact on the survival and reproductive potential of wild wolves.

Through an unintentional oversight in the wording in 50 CFR 17.84 (i)(7)(iii) subpart D appears to apply only to activities conducted outside the experimental population area. This revision is being proposed to correct that oversight and clarify that management of wild wolves and wolf-like canids that exhibit abnormal behavior, wolf hybrids, or wolves that may have been raised in captivity, also applies within each experimental area.

2. *Biological:* This proposed revision of the special regulations is intended to clarify that the management flexibility addressed by 50 CFR 17.84 (i)(7)(iii) subpart D applies to wolves of questionable status or wolf-like canids within the nonessential experimental population areas. As currently written the special regulations could be interpreted to imply that wolf hybrids or captive wolves that were not part of a Service-approved recovery program but that escaped or were released to the wild within the experimental area, would be managed in a manner identical to wild wolves within the experimental population area. Wolves or wolf-like canids that are raised in captivity and released in the wild do not behave like wild wolves. They often associate with people or domestic livestock, raising concerns about human safety and depredations on domestic animals. These types of canids also often cause problems by attacking domestic animals because they usually are not able to survive entirely in the wild. While they have some of the

predatory instincts of wild canids, they are most comfortable around people. They are likely to be dependent on humans for food and this increases the probability that they may attack domestic animals since domestic animals are the most common types of animals near people. The tolerance of captive raised and released canids for people also contributes to the perception that human safety may be in danger from wild wolves. There are numerous documented instances of domesticated wolves and wolf hybrids attacking and killing people. Although unlikely, captive wolves or wolf hybrids associating with wild wolves could teach young wolves or any hybrid offspring these undesirable traits. For these reasons wolves exhibiting the characteristics described above do not contribute to the recovery of wild gray wolf populations in the northern Rocky Mountains.

When local residents believe wild wolves behave like captive wolves or wolf hybrids, public tolerance for wild wolves is likely reduced. This can lead to illegal killing of wolves. It was not the intent of the wolf recovery program to protect or manage captive wolves or wolf hybrids that were not part of a Service approved recovery program. Those types of canids will not contribute to the conservation and recovery of wild gray wolves. The Service intends to manage such canids when necessary, to resolve potential conflicts with humans and to minimize the likelihood that undesirable genetic or behavioral characteristics could be passed on by such animals to wild wolves within the experimental population areas.

Captive wolves that have not been specifically raised for release into the wild, or wolf hybrids, can also carry diseases or parasites that are common in domestic dogs. If released into the wild, such animals can transmit those diseases or parasites to wild gray wolves as well as other wildlife species. Current DNA and other types of testing can not reliably distinguish wild wolves from wolves raised in captivity or from wolf hybrids. Because captive wolves and wolf hybrids may look identical to wild wolves, they can often only be reliably distinguished from wild wolves by their behavior in the wild. Their presence can often confuse the public about what behavior to expect from wild wolves, reduce local human tolerance of wild wolves and lead to an increase in human related wolf mortality. Local tolerance of wolves is important for wolf recovery and conservation since a majority of wolf mortality in Montana is caused by humans.

The presence and management of wolves or wolf-like canids that are not part of an approved recovery program may result in substantial expense and thereby compete for limited gray wolf recovery program resources, particularly if their management requires the same level of effort as that afforded to wild wolves. Because wolf hybrids and captive wolves released into the wild can demand considerable management time and attention at the expense of wild wolf conservation, prompt control of these animals is essential. The selective removal from the wild of captive raised and released wolves, wolf hybrids, and/or wolf-like canids exhibiting behavior considered abnormal for wild gray wolves furthers the conservation and recovery of the gray wolf by minimizing the probability of unresolved conflicts with humans.

Wild wolves were taken from the wild in remote areas of Canada and reintroduced in January of 1995 and 1996 to the Yellowstone and central Idaho experimental population areas and have adapted much better than predicted. As expected, they continue to behave like wild wolves. If current trends continue, it is unlikely that further reintroductions in the experimental population areas will be required. All the wolves that were reintroduced were radio-collared and monitored by means of radio-telemetry, and a number these wolves have successfully reproduced in the wild. Current plans do not call for all of the pups to be individually captured and radio-collared. As the population grows, there will be an increasing number of wolves that have not been marked and it will not be possible to determine where most of these wolves originated. It is also estimated that there may be up to 300,000 captive wolves and wolf/dog hybrids (which in many cases are physically and genetically indistinguishable from wild wolves) in North America. Therefore, the special regulations for establishment of nonessential experimental populations of gray wolves need to clearly address the manner in which wolves, whose origin is unknown or wolves that exhibit abnormal behavior will be managed in the wild when conflicts develop.

In several areas of the northern Rocky Mountains, wolf-like canids have been identified through their behavior or physical characteristics as released or escaped wolves that were not part of Service approved programs or wolf hybrids of captive origin. Such animals usually do not survive in the wild long enough to successfully reproduce and raise young. In several instances these animals have been removed from the wild because they have become a nuisance or potential human or domestic animal safety concerns arose.

All wolves, including wild ones, are individuals, and some wild wolves may exhibit abnormal or other behavior that is inconsistent with the continued survival, reproduction, and recovery of wild gray wolf populations. For example, some individual wolves may attack livestock or domestic pets. The Service recognizes that such individuals must be managed (through removal to another location or placement in captivity, or lethal means) to minimize chronic conflicts with domestic animals if local people are expected to continue to tolerate the presence of a resident wolf population. The Service has determined that removal of such individuals furthers the conservation and recovery of the wild gray wolf population. In a similar although extremely rare situation, individual wolves may on occasion exhibit behaviors that are uncharacteristic of those normally observed in wild wolves. Although highly unlikely, it is possible that a wild wolf may demonstrate physical or behavioral evidence of hybridization with other canids, such as domestic dogs or coyotes. It also is possible that an individual wolf may become a nuisance, or pose a potential risk to people or livestock because of habituation to food sources, human and domestic animal companionship, or other factors. The Service intended that 50 CFR 17.84(i)(7)(iii) subpart D allow for the management and/or removal of all such individuals within the nonessential experimental population areas for the benefit and conservation of the wild gray wolf populations.

Location of the Experimental Population

The Yellowstone experimental population area includes the State of Wyoming, that portion of Idaho east of Interstate Highway 15, and the State of Montana east of Interstate Highway 15 and south of the Missouri River east of Great Falls, Montana, to the Montana/North Dakota border.

The central Idaho experimental population area includes that portion of Idaho west of Interstate 15 and south of Interstate 90, and that portion of Montana south of Interstate 90, Highway 93 and 12 near Missoula, Montana, and west of Interstate 15.

Management

Management of wild wolves would not change from that established by the special rules, except in those rare instances when a wild wolf exhibits

abnormal behavior. This proposed revision would apply 50 CFR 17.84(i)(7)(iii) subpart D within the experimental population areas, which would further the conservation and recovery of wild gray wolves in the northern Rocky Mountains of the United States. The rule in 50 CFR 17.8e(i)(7)(iii) would apply to all wolves and wolf-like canids found within and adjacent to the experimental population areas in Montana, Idaho, and Wyoming.

National Environmental Policy Act

This proposed revision does not significantly change the special regulations or the effect of the special regulations on the human environment. An environmental action statement has been prepared that determined the proposed revision is a categorical exclusion as provided by 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1. No further NEPA documentation will therefore be made.

Required Determinations

This is not a significant rule subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed revision is purely technical in nature and intended to correct a technical oversight in the rule originally adopted in 1994; it will not increase or alter the effects brought by the original rule. The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The Department has determined that this proposed regulation meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive order 12988.

Author: The principle author of this rule is Edward E. Bangs (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law No. 99–625, 100 Statute 3500; unless otherwise noted.

2. Revise § 17.84(i)(7)(iii) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(i) * * *

(7) * * *

(iii) All wolves found in the wild within the boundaries of this paragraph (i)(7) after the first releases will be considered nonessential experimental animals. In the conterminous United States, a wolf that is outside an experimental area (as defined in paragraph (i)(7) of this section) would be considered as endangered (or threatened if in Minnesota) unless it is marked or otherwise known to be an experimental animal. Wolves in the wild may be selectively captured, removed, or killed for examination and genetic testing by the Service or Service designated agency. Disposition of such wolves outside the experimental areas and in the case of subpart D, those both outside of and within the experimental population areas, may take any of the following courses:

(A) If the animal was not involved in conflicts with humans and is determined likely to be a wild experimental wolf, it will be returned to the reintroduction area.

(B) If the animal is determined likely to be a wild experimental wolf and was involved in conflicts with humans as identified in the management plan for the closest experimental area, it may be relocated, placed in captivity or killed.

(C) If the animal is determined not likely to be a wild experimental wolf, it will be managed according to any Service-approved plans for that area or will be marked and released near its point of capture.

(D) If the animal is determined not likely to be a wild gray wolf or if the Service or agencies designated by the Service determine that any wild wolf exhibits abnormal behavior or that any wolf or wolf-like canid shows physical or behavioral evidence of hybridization with other canids, such as domestic dogs or coyotes, or of being an animal raised in captivity other than as part of a Service-approved wolf recovery program, it will be killed, or placed in captivity.

* * * * *

Dated: November 13, 1997.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–32440 Filed 12–8–97; 3:42 pm]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 62, No. 238

Thursday, December 11, 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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Reinstatement and Extension of a Previously Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) to request a reinstatement, without change, of a previously approved information collection for which approval has expired in support of the nonrefundable marketing assessment due CCC on sugar processed from domestically grown sugar beets and sugarcane.

DATES: Comments on this notice must be received on or before February 9, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Walter Porzel, Systems Accountant, Financial Procedures and Systems Branch, Financial Management Division, Farm Service Agency, STOP 0581, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0581, telephone (703) 305–1303; e-mail address wporzel@wdc.fsa.usda.gov; or facsimile (703) 305–1144.

SUPPLEMENTARY INFORMATION: This notice announces the intention of the Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) to request a reinstatement, without change, of a previously approved information collection for which approval has expired in support of the nonrefundable marketing assessment due CCC on sugar processed from domestically grown sugar beets and sugarcane. The regulations concerning this activity are published under the authority of the Agricultural Act of 1949, as amended and the Federal Agriculture Improvement and Reform (FAIR) Act of 1996.

Title: Sugar Processor's Report of Monthly Marketing to Determine Assessment Due Commodity Credit Corporation (CCC).

OMB Control Number: 0560–0134.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information collected under Office of Management and Budget (OMB) Control Number 0560–0134, as indicated above, is needed to determine nonrefundable marketing assessments due CCC from the first processors' marketing of domestically grown sugar beets and sugarcane. The Sugar Processor's Report of Monthly Marketing To Determine Assessment Due the Commodity Credit Corporation (Form CCC–80) is submitted to the FSA, Kansas City Management Office. The information collected is used to classify cash received by CCC, determine who the remitter is, record assessment collected, and determine program compliance. Respondents record the total pounds of raw cane sugar and total beet sugar marketed during the month. These amounts are multiplied by the assessment rate (7 CFR 1435.201) to compute the total assessment due CCC. Interest and penalty amounts due CCC (7 CFR 1435.203) are also included on Form CCC–80. If any fees for dishonored checks are due CCC, the remitter enters this amount also. The total of all the amounts is entered, the responsible official signs Form CCC–80 and submits the report with a check, or uses electronic remittance.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 90 minutes, per response.

Respondents: First processors of domestically grown sugarcane or sugar beets.

Estimated Number of Respondents: 63.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 1,134 hours.

Proposed topics for comments include: (A) Whether the continued 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 agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of the 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 should be sent to Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Walter Porzel at the contact address listed above. Copies of the information collection may be obtained from Walter Porzel at the contact listed above. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Signed at Washington, D.C., on December 3, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–32392 Filed 12–10–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Moose Subwatershed Timber Sales, Willamette National Forest, Linn County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) on a proposal to harvest and regenerate timber, and to construct and reconstruct roads in the Moose

Subwatershed. The legal description of the planning area is: T.13 S., R.3 E., Sections 11–15, 22–27; T.13 S., R.4 E., Sections 7, 17–19. The Forest Service proposal will be in compliance with the 1990 Willamette National Forest Land and Resource Management Plan as amended by the 1994 Northwest Forest Plan, which provides the overall guidance for management of this area. This proposal is tentatively planned for fiscal years 1998–2000.

The Willamette National Forest invites written comments and suggestions on the scope of the analysis in addition to those comments already received as a result of local public participation activities. The agency will also give notice of the full environmental analysis and decision-making process so that interested and affected people are made aware as to how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of the analysis should be received in writing by January 15, 1998.

ADDRESSES: Send written comments and suggestions concerning the management of this area to Darrel Kenops, Forest Supervisor, Willamette National Forest, P.O. Box 10607 Eugene, Oregon 97386.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Donna Short, Integrated Resource Management Assistant or Suzanne Schindler, Project Coordinator, Sweet Home Ranger District, phone 541–367–5168.

SUPPLEMENTARY INFORMATION: The Moose Subwatershed is completely within the Central Cascades Adaptive Management Area (CCAMA) designated in the Northwest Forest Plan (ROD, C21–22). The purpose of AMAs is to encourage the development and testing of technical and social approaches to achieving desired ecological, economic, and other social objectives. AMAs are expected to produce timber as part of their program of activities consistent with their specific direction.

Management objectives for the Moose Lake Block in the CCAMA are described in the ROD, the South Santiam Watershed Analysis (SSWA), and the CCAMA Strategic Guide.

The purpose of this project is to harvest timber in a manner that implements the management objectives, specifically:

- Utilize landscape design processes to understand long term, historic patterns of landscape change created by natural disturbance processes, land management practices and vegetation succession (CCAMA Strategic Guide p. 39).
- Develop approaches for integrating forest and stream management objectives and the implications of natural disturbance regimes. (CCAMA Strategic Guide p. 35, ROD D12–13).
- Manage young and mature stands to accelerate development of late successional conditions (Strategic Guide p. 35, ROD D12–13).

The Forest Service has a need to provide alternative timber harvest to the Mr. Rogers Timber Sale on the Siuslaw National Forest pursuant to Section 2001(k)(3) of the Rescission Act (Pub. L. 104–19) and the September 17, 1996 settlement agreement in *Northwest Resources Council* v. *Glickman and Babbit.* Under the Act and the agreement, such alternative timber volume must be ''an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract'' (or as otherwise acceptable to the purchaser). Designation of alternative timber volume must also be done in consultation and agreement with the purchaser.

The proposal includes harvesting timber by thinning and regeneration methods and constructing road under the Moose Subwatershed Timber Sale. This analysis will evaluate a range of alternatives addressing the Forest Service proposal to harvest approximately 13.0 million board feet of timber from approximately 600 to 1600 acres and anticipate 0.5 miles of road construction.

The Moose Subwatershed is comprised of 13,562 acres, including 4,630 acres of private land. Of the 8,932 acres of Forest Service ownership 1,252 has regenerated. For the most part the remaining 7,680 acres is in second growth and late-successional/old-growth type of vegetative structure. Management areas that provide for timber harvest are Scenic (11a) and General Forest. No harvest allocations in this subwatershed are the Cougar Rock Special Interest Area, 100 acre Late-Successional Reserves, Bald Eagle Management Area, and the Moose Lake Dispersed Recreation Area.

The project area includes a portion of the Moose Lake RARE I area, which was considered but not selected for wilderness designation and is the reason for initiating this EIS.

Preliminary issues identified are roadless area quality, and water quality and anadramous fish habitat.

Initial scoping began in May, 1997. Preliminary analysis is currently being conducted. The Forest Service will be seeking additional information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested or affected by the proposed project. Additional input will be used to help identify key issues and develop alternatives. This input will be used in preparation of the draft EIS. The scoping process includes:

- Identification of potential issues;
- Identification of issues to be analyzed in depth;
- Elimination of insignificant issues or those which have been covered by a relevant previous environmental process;
- Exploration of additional alternatives based on the issues identified during the scoping process; and
- Identification of potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 1998. The comment period on the draft EIS will be January 26, 1998.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, a reviewer of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435, U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits

of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

The final EIS is scheduled to be completed in April 1998. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Darrel L. Kenops, Forest Supervisor, is the responsible official and as responsible official, he will document the Moose Subwatershed Timber Sales decision and rationale in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: December 2, 1997.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 97–32398 Filed 12–10–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Notice of Court Decision: Certain Cased Pencils From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of court decision.

SUMMARY: On November 13, 1997, the United States Court of International Trade (CIT) affirmed the determination made by the Department of Commerce (the Department) pursuant to a voluntary remand of the final determination of sales at less-than-fair value (LTFV) in the investigation of certain cased pencils from the People's Republic of China (PRC). *Writing Instrument Manufacturers Association, Pencil Section, et al.* v. *United States,* Slip Op. 97–151 (CIT November 13, 1997) (*Writing Instrument Manufacturers*). In the remand determination, the Department selected a new source for the surrogate values of the logs and slats used in producing certain cased pencils and changed its methodology for valuing these logs and slats.

EFFECTIVE DATE: November 23, 1997.

FOR FURTHER INFORMATION CONTACT: Roy A. Malmrose, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230; telephone: (202) 482–5414.

SUPPLEMENTARY INFORMATION: In its Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils from the People's Republic of China, 59 FR 55625 (November 8, 1994) (Final Determination), in order to value Chinese lindenwood, the Department used prices charged by U.S. producers of basswood, the wood most similar to the lindenwood used by the Chinese to produce cased pencils. In this remand determination, the Department used publicly-available published information reflecting basswood log prices from 12 U.S. mills to value the lindenwood logs used by two of the Chinese producers, Anhui Stationery Co. (Anhui) and Three Star Stationery Co. (Three Star).

China First Pencil Co. Ltd. (China First), an exporter and producer of the subject merchandise, purchased slats for the production of its pencils. To value this input, the Department relied on the two main publicly-available published sources for sawn basswood prices, the Hardwoood Market Report and the Hardwood Weekly Review.

For its valuation methodology for lindenwood logs, the Department selected the grades of basswood logs most comparable to the lindenwood used by the Chinese producers, including the quality and diameter of the logs. For basswood sawn lumber, the Department selected the lumber most comparable to that used to produce the Chinese slats in terms of grade, thickness, and wood loss.

As a result of the remand determination, the final dumping margins and the PRC country-wide (''all others'') rate are as follows:

Exporter	Margin percent
China First Co. Ltd.	8.60
Shanghai Lansheng Corp.	19.36
Shanghai Foreign Trade Corp.	11.15
Guangdong Stationery/Three Star Stationery	0.00
Guangdong Stationery/all other producers	53.65
PRC country-wide rate	53.65

On November 13, 1997, the CIT affirmed the Department's remand determination.

In its decision in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. section 1516a(e), the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's decision in *Writing Instrument Manufacturers* on November 13, 1997, constitutes a decision not in harmony with the Department's final affirmative determination. Publication of this notice fulfills the *Timken* requirement.

Accordingly, the Department will continue to suspend liquidation pending the expiration of the period of appeal, or, if appealed, until a ''conclusive'' court decision. In addition, pursuant to the affirmed remand results, China First is no longer excluded from the antidumping duty order issued in this case (Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China, 59 FR 66909 (December 28, 1994)). Therefore, liquidation shall be suspended on entries, or withdrawals from warehouse, for consumption of the subject merchandise from China First effective ten days from the date of the decision in *Writing Instrument Manufacturers.* Absent an appeal, or, if appealed, upon a ''conclusive'' court decision affirming the CIT's opinion, the Department will amend the final LTFV determination and the antidumping duty order on certain cased pencils from the PRC to reflect the Department's remand results.

Dated: December 4, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–32467 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Barnard College; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–084. *Applicant:* Barnard College, New York, NY 10027–6598. *Instrument:* Electron Microscope, Model EM208S. *Manufacturer:* Philips,

The Netherlands. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Order Date:* July 4, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–32466 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–076. *Applicant:* University of California, Davis, CA 95616. *Instrument:* Electron Spin Resonance Spectrometer, Model JES–TE100. *Manufacturer:* JEOL, Ltd., Japan. Intended Use: See notice at 62 FR 48811, September 17, 1997. *Reasons:* The foreign instrument provides a weak pitch signal to noise ratio of 400 to 1 and a cavity q-value of 18 000.

Docket Number: 97–078. *Applicant:* University of Missouri at Kansas City, Kansas City, MO 64110. *Instrument:* Free-Flow Electrophoresis Device. *Manufacturer:* Dr. Weber GmbH, Germany. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Reasons:* The foreign instrument provides continuous flow electrophoresis for separation of whole cells from blood or other tissue fluids and separation and purification of subcellular organelles.

Docket Number: 97–082. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Stopped-Flow Reaction Analyzer, Model SX.18MV. *Manufacturer:* Applied Photophysics, Ltd, United Kingdom. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Reasons:* The foreign instrument provides completely anaerobic operation with a sub-millisecond dead time.

Docket Number: 97–083. *Applicant:* Indiana University-Purdue University at Indianapolis, Indianapolis, IN 46202. *Instrument:* Stopped-Flow Spectrometer, Model SX.61DX2. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Reasons:* The foreign instrument provides double mixing stopped flow with compatibility for use by students.

Docket Number: 97–085. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Electron Paramagnetic Resonance Spectrometer, Model E500. *Manufacturer:* Bruker, Germany. *Intended Use:* See notice at 62 FR 52685, October 9, 1997. *Reasons:* The foreign instrument provides measurement of electron spin resonance for characterization of paramagnetic centers in various materials, identification of photo- and redox-active sites and elucidation of reaction mechanisms.

The National Institutes of Health advises in its memoranda dated November 5, 1997 that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–32445 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Urbana-Champaign, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–064. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Reflection High Energy Electron Gun. *Manufacturer:* Focus GmbH, Germany. *Intended Use:* See notice at 62 FR 43710, August 15, 1997. *Reasons:* The foreign instrument provides: (1) Selectable beam diameter, (2) magnetic and electrostatic focusing to reduce size of beam and (3) double octopole defection system for better steering. *Advice received from:* National Institute of Standards and Technology, November 7, 1997.

Docket Number: 97–065. *Applicant:* Princeton University, Princeton, NJ 08544–0033. *Instrument:* (50) Seismometers. *Manufacturer:* Guralp Systems Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 43710, August 15, 1997. *Reasons:* The foreign instrument provides a frequency response from 0.03 to 10 Hz with simplified operational design for use by high school science students. *Advice received from:* The U.S. Geological Survey, November 6, 1997.

The National Institute of Standards and Technology and the U.S. Geological Survey advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent

scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–32446 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Urbana-Champaign; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, DC.

Docket Number: 97–063. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* (2) Gas Composition Analyzers, Model Epison III. *Manufacturer:* Thomas Swan & Co., Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 42237, August 6, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (April 2, 1997). *Reasons:* The foreign instrument provides non-invasive testing of thin film surfaces in feedback control mode.

The National Science Foundation, Center for Interfacial Engineering advised on October 4, 1996 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time of order.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–32463 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of California, Los Alamos; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–055. *Applicant:* University of California, Los Alamos, NM 87545. *Instrument:* Single Axis Measuring Machine, Model SIP–550M. *Manufacturer:* Societe Genevoise d'Instruments de Physique, Switzerland. *Intended Use:* See notice at 62 FR 41361, August 1, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides resolution to 0.01 μm with a measuring uncertainty of (0.2+0.4L) μm, where L = length. The National Institute of Standards and Technology advised on November 4, 1997 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–32464 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Washington; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–077. *Applicant:* University of Washington, Seattle, WA 98195–7940. *Instrument:* Isotope Ratio Mass Spectrometer, Model DELTA^{plus}. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 62 FR 52685, October 9, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a magnetic sector mass analyzer coupled to a gas chromatograph with in-line combustion of the gas effluent for measurement with samples down to the sub-nanomole level. This capability is pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–32465 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce

ACTION: Notice of revocation of Export Trade Certificate of Review No. 92–00005.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to World International Investments Corp. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to World International Investments Corp.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') (Pub. L. 97–290, 15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III (''the

Regulations'') are found at 15 CFR part 325 (1997). Pursuant to this authority, a certificate of review was issued on June 5, 1992 to World International Investments Corp.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (Section 308 of the Act, 15 U.S.C. 4018, Section 325.14 (a) of the Regulations, 15 CFR 325.14 (a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§ 325.14 (b) of the Regulations, 15 CFR 325.14 (b)). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a) (3) and 325.14(c)).

On May 23, 1997, the Department of Commerce sent to World International Investments Corp. a letter containing annual report questions with a reminder that its annual report was due on July 20, 1997. Additional reminders were sent on August 7, 1997 and on September 12, 1997. The Department has received no written response from World International Investments Corp. to any of these letters.

On November 3, 1997, and in accordance with Section 325.10 (c) (1) of the Regulations, (15 CFR 325.10 (c) (1)), the Department of Commerce sent a letter by certified mail to notify World International Investments Corp. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing World International Investments Corp. thirty days to respond was published in the **Federal Register** on November 7, 1997 at 62 FR 60232. Pursuant to 325.10(c) (2) of the Regulations (15 CFR 325.10(c) (2)), the Department considers the failure of World International Investments Corp. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to World International Investments Corp. for its failure to file an annual report. The Department has sent a letter, dated December 8, 1997, to notify World International Investments Corp. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** (325.10(c) (4) and 325.11 of the Regulations, 15 CFR 324.10(c) (4) and 325.11 of the Regulations, 15 CFR 325.10(c) (4) and 325.11).

Dated: December 8, 1997.

Morton Schnabel,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 97–32429 Filed 12–10–97; 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 the Dominican Republic

December 5, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 11, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, 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: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348/647/648 is being increased for swing, reducing the limit for Categories 339/639.

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 62 FR 66263, published on December 17, 1996). Also see 61 FR 65375, published on December 12, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 5, 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 6, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on December 11, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
339/639	748,811 dozen.
347/348/647/648	2,305,935 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 97–32410 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

December 5, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, 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: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Thailand and exported during the period January 1, 1998 through December 31, 1998 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC) and a Memorandum of Understanding (MOU) dated October 28, 1997 between the Governments of the United States and Thailand.

Pursuant to the provisions of the ATC, the second stage of the integration commences on January 1, 1998 (see 60 FR 21075, published on May 1, 1995). Accordingly, certain previously restrained categories may have been modified or eliminated and certain limits may have been revised. Integrated products will no longer be subject to quota. CITA has informed Thailand of its intent to continue the bilateral visa arrangement for those products.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1998 limits.

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 51832, published on October 3, 1997. Information regarding the 1998 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 5, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; the Uruguay Round Agreement on Textiles and Clothing (ATC); and a Memorandum of Understanding dated October 28, 1997, you are directed to prohibit, effective on January 1, 1998, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998, in excess of the following limits:

Category	Twelve-month restraint limit
239pt.[1]	1,820,473 kilograms.
Levels in Group I	
200	1,188,153 kilograms.
218	19,052,219 square meters.
219	6,336,820 square meters.
300	4,752,615 kilograms.
301–P[2]	4,752,615 kilograms.
301–O[3]	950,524 kilograms.
313	22,178,868 square meters.
314	50,694,554 square meters.
315	31,684,096 square meters.
317/326	13,301,290 square meters.
363	20,594,662 numbers.
369–D[4]	226,542 kilograms.
369–S[5]	316,841 kilograms.
603	2,233,000 kilograms.
604	741,300 kilograms of which not more than 475,261 kilograms shall be in Category 604–A[6].
607	3,168,408 kilograms.
611	12,984,460 square meters.
613/614/615	47,884,640 square meters of which not more than 27,882,005 square meters shall be in Categories 613/615 and not more than 27,882,005 square meters shall be in Category 614.
617	17,291,675 square meters.
619	7,128,921 square meters.
620	7,128,921 square meters.
625/626/627/628/629	13,966,353 square meters of which not more than 11,089,433 square meters shall be in Category 625.
669–P[7]	6,682,434 kilograms.
Group II	
237, 331–348, 350–352, 359–H[8], 359pt.[9], 431, 433–438, 440, 442–448, 459pt.[10], 631, 633–652, 659–H[11], 659pt.[12], 831, 833–838, 840–858 and 859pt.[13], as a group.	290,686,162 square meters equivalent.
Sublevels in Group II	
331/631	1,729,340 dozen pairs.
334/634	617,840 dozen.
335/635/835	491,103 dozen.
336/636	316,841 dozen.
338/339	1,909,005 dozen.
340	285,157 dozen.
341/641	673,287 dozen.
342/642	586,156 dozen.
345	300,999 dozen.
347/348/847	827,746 dozen.
351/651	237,630 dozen.
359–H/659–H	1,390,006 kilograms.
433	9,642 dozen.
434	11,902 dozen.
435	54,085 dozen.
438	17,853 dozen.
442	20,732 dozen.
638/639	2,249,899 dozen.
640	522,787 dozen.
645/646	316,841 dozen.
647/648	1,127,954 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[3] Category 301–O: only HTS numbers 5205.21.0020, 5205.21.0090, 5205.22.0020, 5205.22.0090, 5205.23.0020, 5205.23.0090, 5205.24.0020, 5205.24.0090, 5205.26.0020, 5205.26.0090, 5205.27.0020, 5205.27.0090, 5205.28.0020, 5205.28.0090, 5205.41.0020, 5205.41.0090, 5205.42.0020, 5205.42.0090, 5205.43.0020, 5205.43.0090, 5205.44.0020, 5205.44.0090, 5205.46.0020, 5205.46.0090, 5205.47.0020, 5205.47.0090, 5205.48.0020 and 5205.48.0090.

[4] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[5] Category 369–S: only HTS number 6307.10.2005.

[6] Category 604–A: only HTS number 5509.32.0000.

[7] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[8] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[9] Category 359pt.: all HTS numbers except 6505.90.1540, 6505.20.2060 (Category 359–H); and 6406.99.1550.

[10] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[11] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[12] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540.

[13] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1997 shall be charged to the applicable category limits for that year (see directives dated November 4, 1996 and November 3, 1997) to the extent of any unfilled balances. In the event the limits

established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Products for integration in 1998 listed in the **Federal Register** notice published on May 1, 1995 (60 FR 21075) which are exported during 1997 shall be charged to the applicable limits to the extent of any unfilled balances. After January 1, 1998, should those unfilled balances be exhausted, such products shall no longer be charged to any limit, due to integration of these products into GATT 1994.

CITA has informed Thailand of its intent to continue the bilateral visa arrangement for those products. An export visa will continue to be required, if applicable, for products integrated on and after January 1, 1998, before entry is permitted into the United States.

The conversion factors for merged Categories 359–H/659–H and 638/639 are 11.5 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 97–32411 Filed 12–10–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–13]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–13, with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: December 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

9 NOV 1997

In reply refer to:
I-55944/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-13, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Portugal for defense articles and services estimated to cost $185 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 98-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act (U)

(i) Prospective Purchaser: Portugal

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$ 185 million
TOTAL	$ 185 million

(iii) Description of Articles or Services Offered:
Twenty Mid-Life Update (MLU) modification kits for Portuguese Air Force F-16A/B aircraft, installation, support equipment, training and training devices, technical assistance, technical orders, system drawings, U.S. Government and contractor engineering, spare parts, and other logistics elements necessary for full program support.

The MLU is an avionics retrofit program for F-16 aircraft consisting of a Central Core Computer, Block 50 cockpit design, Digital Terrain System, Global Positioning System, APG-66(V2) radar upgrade, Integrated Data Modem, microwave landing system and night capabilities provisions, and an Advanced Identification Friend or Foe (AIFF).

(iv) Military Department: Air Force (NMP)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 9 NOV 1997

* as defined Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Portugal - F-16A/B Mid-Life Update Modification Kits

The Government of Portugal has requested a possible sale of 20 Mid-Life Update (MLU) modification kits for Portuguese Air Force F-16A/B aircraft, installation, support equipment, training and training devices, technical assistance, technical orders, system drawings, U.S. Government and contractor engineering, spare parts, and other logistics elements necessary for full program support. The estimated cost is $185 million.

The MLU production phase is the continuation of the development program notified to the Congress in August 1990. This multi-national effort has included the governments of the United States, Belgium, Denmark, The Netherlands, and Norway who have participated with the United States Air Force in the full scale MLU engineering development and integration effort. The MLU is an avionics retrofit program for F-16 aircraft consisting of a Central Core Computer, Block 50 cockpit design, Digital Terrain System, Global Positioning System, APG-66(V2) radar upgrade, Integrated Data Modem, microwave landing system and night capabilities provisions, and an Advanced Identification Friend or Foe (AIFF).

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Portugal while enhancing weapon system standardization and interoperability with the U.S. forces in the region.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Lockheed Martin Tactical Aircraft systems, Fort Worth, Texas. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this proposed sale will require the assignment of U.S. Government personnel and contractor representatives to Portugal to provide technical and logistics services prior to delivery of the last MLU kit. The number of personnel and types of skills necessary to support the program will be determined jointly between U.S. and Portuguese representatives upon program implementation.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 98-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The F-16A weapon system is unclassified except as mentioned below. The aircraft does contain state-of-the-art technology. Sensitive elements of the F-16A include the F100-PW-200/220 turbofan engine, the FMS version of the AN/ALR-69 radar warning receiver (RWR), the FMS version of the AN/ALQ-131 electronic countermeasures pod, the FMS version of the AN/APG-66 radar, the AIM-7 radar missile capability, the AIM-9 missile capability, the AIM-120 (AMRAAM) missile capability, the ATLIS II laser designator pod capability, and the fly by wire flight control system. The system design notes on software architecture are also critical elements.

2. Classified elements of the F-16A include the F100 engine infrared signature, radar software documentation, the Operational Flight Program (OFP) and the Emitter Identification Data (EID) for the ALR-69, the OFP and EID for the ALQ-131, the OFP for the Fire Control Computer, AIM-9 hardware, AIM-7 hardware, AIM-120 hardware, and 15 operating manuals and maintenance technical orders containing performance information, operating and test procedures, and other information related to support operation and repair at the organizational and intermediate levels. Classified elements of the MLU kit in addition to the above items include: the Advanced IFF (AIFF). The hardware, software, and data identified are classified to protect vulnerabilities, design, and performance parameters, munitions related data, and similar critical information.

3. If a technologically advanced adversary were to obtain knowledge of these specific hardware and software elements, they might be able to develop countermeasures or countertactics which could reduce weapon system effectiveness. Of additional concern, but requiring a much longer exploitation period, is the possibility such information could be used in the development of systems with similar advanced capabilities.

4. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–32359 Filed 12–10–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); FY 98 DRG Updates

AGENCY: Department of Defense.

ACTION: Correction.

SUMMARY: This notice makes corrections to the FY 98 DRG Updates published in the **Federal Register** on October 30, 1997 (62 FR 587110). Change ''discharges'' to read ''admissions'' in the following areas:

Page 58712

First column, second paragraph, section C.

First column, third paragraph, section D.

Second column, first paragraph, section H.

Dated: December 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–32360 Filed 12–10–97; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of Scope of Statement for Programmatic Environmental Impact Statement: Treatment of Non-Stockpile Chemical Warfare Materiel

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Scope of Statement (SoS) for the Programmatic Environmental Impact Statement (PEIS) on the treatment of non-stockpile chemical warfare material (CWM) is available. The SoS is an important component of the PEIS process providing direction for the PEIS preparers.

ADDRESSES: To obtain copies of the SoS, contact Ms. Louise Dyson, Public Outreach and Information Officer, Office of the Project Manager for Non-Stockpile Chemical Material, Aberdeen Proving Ground, Maryland 21010–5401 or by phone at 410–671–3445 or fax at 410–612–8737.

FOR FURTHER INFORMATION CONTACT: Ms. Louise Dyson at the above address and phone number.

SUPPLEMENTARY INFORMATION: The Notice of Intent (NOI) to prepare the PEIS was published in the **Federal Register** on October 18, 1996 (FR 61 54421–54424), with a correction to that notice being published on November 13, 1996 (FR 61 58281). In the NOI, the Army invited interested agencies and the public to assist in determining the scope of the PEIS by providing comments by February 28, 1997, on the alternative strategies and important issues affecting the environment that should be addressed. The SoS describes the scoping process and the determinations reached by the Army's Non-Stockpile Chemical Material Program (NSCMP) as a result of the scoping process. The following items are included on the SoS:

1. Description and discussion of the proposed action and alternative strategies to be evaluated in the Draft PEIS;

2. Description and discussion of the major socioeconomic and environmental issues to be addressed in the Draft PEIS;

3. Preliminary schedule for the PEIS, including the approximate time frame in which the Draft PEIS and Final PEIS are expected to be made available to the public;

4. Discussion of the roles and responsibilities of different organizations involved in preparing, reviewing and approving the Draft PEIS;

5. Preliminary outline of the Draft PEIS that will be used in guiding its preparation;

6. Description of the actions undertaken by the NSCMP to involve interested organizations and the public in the PEIS scoping process; and

7, A summary of the comments received during the public scoping process and the NSCMP's consideration of those comments.

Changes to the proposed action and prelimary alternative strategies identified in the NOI have been made as a result of the public scoping process and these changes are reflected in the SoS.

The PEIS proposed action that will be evaluated is to select one or more strategies for the treatment of non-stockpile CWM utilizing transportable chemical treatment systems. The decision to be made by the Army, and for which the PEIS analysis will address environmentally, is whether transportable chemical treatment systems should be further developed and made available for deployment.

The preliminary alternative strategies identified in the NOI were as follows:

1. On-site chemical treatment of CWM with off-set destruction of the resultant wastes either by thermal destruction or another disposal method;

2. On-site chemical treatment and on-site destruction/disposal of chemical treatment wastes;

3. On-site thermal destruction;

4. Off-site chemical treatment and/or thermal destruction or another disposal method; and

5. No action, which was defined as a continuation of the current methods for handling these types of CWM, including safely packing, shipping and storing CWM at permitted locations.

The alternative strategies that will be analyzed in the PEIS include the following:

1. On-site Strategy—further develop transportable chemical treatment systems and make the systems available for the treatment of non-stockpile CWM at the site where the CWM may be located;

2. Off-site Stragegy—further develop transportable chemical treatment systems, transport non-stockpile CWM from where it is located to an off-site location, and make the systems available for the treatment of CWM at the off-site location; and

3. No Action Strategy—discontinue development of the prototype transportable chemical treatment systems and continue to store non-stockpile CWM until other systems can be made available for treatment of non-stockpile CWM. Storage of non-stockpile CWM will occur on site unless precluded by human health, safety, and environmental regulatory requirements.

The PEIS evaluation will be directed at determining those environmental and socioeconomic conditions under which each of the strategies could be implemented. The revised alternative strategies are those that are applicable to any site with non-stockpile CWM. The application of these strategies will be further considered in subsequent site-specific analyses should the Army decide to proceed with the transportable chemical treatment systems.

The PEIS will be prepared using an approach in which the affected environment will be described in terms of a range of environmental and socioeconomic conditions that could occur at any site or location where non-stockpile CWM may be present or where transportable chemical treatment systems could be utilized. Based on these ranges, the PEIS will evaluate whether or not adverse environmental and socioeconomic impacts could occur. Where such impacts could occur, the PEIS will identify mitigation measures to eliminate, reduce, or compensate any adverse impact.

For the off-site strategy, emphasis will be placed on evaluating the impacts and identifying mitigation measures associated with the potential transport of non-stockpile CWM, as the impacts and mitigation measures for the treatment of non-stockpile CWM would be the same as those to be identified under the on-site strategy. The off-site strategy will indicate that, under current law, non-stockpile CWM can only be transported in state or to the nearest chemical munitions stockpile storage facility that has the necessary permits for receiving and storing them. For the no action strategy, the potential adverse impacts and mitigation measures to be emphasized will be those associated with storage of non-stockpile CWM.

The Draft PEIS will be made available for public review and comment. Its availability will be announced, written comments on the Draft will be solicited, and information about a possible public meeting to comment on the Draft will be published at a later date. The Army expects to release the Draft PEIS in late 1998 and the Final PEIS by early 2000.

Dated: December 4, 1997.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 97–32439 Filed 12–10–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 12, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: December 5, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Study of School Violence Prevention.

Frequency: Two one-time reportings.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 56,400.

Burden Hours: 35,850.

Abstract: The purpose of this study is to increase understanding of school violence and violence prevention efforts, especially efforts funded by the Safe and Drug-Free Schools and Community Act programs, as required by § 4117 of Title IV of the Elementary and Secondary Education Act.

[FR Doc. 97–32391 Filed 12–10–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement Richland, Washington; Public Scoping Period Extension

AGENCY: Department of Energy.

ACTION: Extension of public scoping period.

SUMMARY: The U.S. Department of Energy (DOE) is extending the public scoping period on the Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement to January 30, 1998.

DATES: Written comments on the scope of the Environmental Impact Statement must be submitted by January 30, 1998, to ensure consideration. Comments submitted after that date will be considered to the extent practicable.

ADDRESSES: Comments or requests for copies of the Notice of Intent should be addressed to: Allison Wright, Document Manager, Hanford Site Solid (Radioactive and Hazardous) Waste Program Environmental Impact Statement, U.S. Department of Energy, Richland Operations Office (MSIN S7–55), Post Office Box 550, Richland, WA 99352, Telephone: (509) 372–2346, FAX: (509) 372–1926, EMAIL: solid__waste__eis-doe@rl.gov

FOR FURTHER INFORMATION CONTACT: For further information on the Environmental Impact Statement, contact Allison Wright at the above address. For general information on DOE's National Environmental Policy Act process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy (EH–42), 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: (202) 586–4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION: On October 27, 1997, DOE published a notice in the **Federal Register** (62 FR 55615) announcing its intent to prepare an Environmental Impact Statement for the Solid Waste Program at the Hanford Site in Richland, Washington and to conduct a 45-day public scoping process pursuant to National Environmental Policy Act. DOE subsequently conducted three public scoping meetings—two on November 12, 1997, in Richland, Washington and the other

on November 13, 1997, in Pendleton, Oregon. DOE received a request to extend the public scoping period, which was originally scheduled to end on December 11, 1997. In response to that request and to ensure that all interested parties have adequate time to comment, DOE is extending the public scoping period to January 30, 1998.

Written comments should be addressed to Ms. Wright at the above address by January 30, 1998, to ensure consideration. DOE will consider comments received after January 30, 1998, to the extent practicable.

Issued at Washington, D.C., this 5th day of December, 1997.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 97–32435 Filed 12–10–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EMSSAB), Nevada Test Site.

DATE AND TIME: Wednesday, January 7, 1998: 5:30 p.m.–9:00 p.m.

ADDRESSES: U.S. Department of Energy, Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, Telephone: 702–295–0197. Please contact Kevin Rohrer to confirm the meeting location. It may be subject to change.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

January Agenda

5:30 p.m.—Call to Order
5:40 p.m.—Presentations
7:00 p.m.—Public Comment/Questions
7:30 p.m.—Break
7:45 p.m.—Review Action Items
8:00 p.m.—Approve Meeting Minutes
8:10 p.m.—Committee Reports
8:45 p.m.—Public Comment
9:00 p.m.—Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC on December 5, 1997.

Althea T. Vanzego,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–32436 Filed 12–10–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy

ACTION: Submission for OMB review; comment request

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response × proposed frequency of response per year × estimated number of likely respondents.)

DATES: Comments must be filed on or before January 12, 1998. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426–1103, FAX (202) 426–1081, or e-mail at hmiller@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Forms EIA–411, 826, 861, 867, 900, and NN–417R (to be renumbered EIA–417R), ''Electric Power Surveys''

2. Energy Information Administration and Office of Nonproliferation and National Security; OMB No. 1905–0129 (Form EIA–411 was previously approved with OMB No. 1905–0195 and Form NN–417R was previously approved with OMB No. 1901–0288; both forms will be incorporated into the approval for 1905–0129); Revision; Mandatory

3. The Electric Power Surveys collect information on electric power capacity, generation, fuel consumption, fuel receipts, fuel stocks, prices, electric rates, construction costs, and operating

income and revenue. Form EIA–417R collects data on electric power disturbances. Respondents include electric utilities, nonutility electric power producers, electric reliability council members, and independent electric power system operators. Electric power data collected are used by the Department of Energy for analysis and forecasting. Data are also published in various EIA reports.

Based upon presurvey comments received and further study of the industry, the EIA has revised the changes and modifications originally proposed in the **Federal Register** notice of July 29, 1997. Many of the proposed changes, (principally to the Form EIA–861), have not been included in the package submitted to OMB. Included in the changes submitted to OMB is the deletion of the proposed Form EIA–417A. Four of the questions that were included on the Form EIA–417A regarding outages have been incorporated into the Form EIA–861. Additionally, a question pertaining to alternative fueled vehicles has been added to both the Form EIA–861 (electric utility) and the Form EIA–867 (nonutility). Other modifications are described in the supporting statement that has been submitted to OMB and is available upon request.

With respect to the confidentiality of electric power data collected by EIA, the EIA is proposing no changes in its current confidentiality provisions for its electric power surveys and is requesting approval for these surveys for only one year, rather than the normal three-year approval request. During 1998, the EIA will prepare and publish a **Federal Register** notice seeking input and guidance from both electric power data providers and users on the question of confidentiality of electric power data currently collected and published by the EIA. The EIA will formulate a new policy on confidentiality of its electric power data considering input from all interested parties as well as the deregulation of the industry.

4. Business or other for-profit; Federal government; State, local, or tribal governments

5. 90,697 hours (3.73 average hours per response x 2.7 average responses per year × 8,994 respondents)

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, D.C., December 3, 1997.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–32437 Filed 12–10–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–100–000]

Algonquin, Gas Transmission Company; Notice of Application

December 5, 1997.

Take notice that on November 24, 1997, Algonquin Gas Transmission Company (Algonquin), 5400 Westheimer Court, Houston, Texas 77251–1642, filed an application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity to construct, own, operate, and maintain a pipeline lateral in Norfolk County, Massachusetts, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Algonquin proposes to construct, own operate, and maintain 5,848 feet of 14-inch pipeline lateral extending from an interconnection with its 24-inch and 30-inch mainline system to ANP Bellingham Energy Company's (ANP-Bellingham) proposed electric generating plan in Bellingham, Massachusetts. Algonquin will also construct a metering station at the Bellingham plant and other appurtenant facilities. The estimated cost of the proposed lateral is $4.6 million. The proposed in-service date is October 1, 1999. Algonquin states that it has entered into a Precedent Agreement with ANP-Bellingham to transport up to 110,000 Dth per day, on a firm basis, for a primary term of 20 years. Algonquin states that the transportation service will be performed under Algonquin's existing Part 284 Rate Schedule AFT–CL and that ANP-Bellingham will be assessed an initial incremental demand rate of $0.8399 per Dth.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before December 29, 1997, file with the Federal Energy Regulatory Commission, 888 1st Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 of 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believe that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32379 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Dockets Nos. CP98–107–000 and CP98–109–000]

Continental Natural Gas, Inc.; Notice of Application

December 5, 1997.

Take notice that on December 1, 1997, Continental Natural Gas, Inc. (CNG) filed under Section 7(c) of the Natural Gas Act (NGA) for a Section 7 certificate and also for a blanket certificate under Part 157, Subpart F authorizing conversion and continued operation of an 11 mile pipeline segment under Section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG owns natural gas gathering and processing facilities in Beaver County, Oklahoma. CNG gathers and processes gas using its two natural gas plants, the Beaver Plant and the Mocane Plant along with inlet and outlet facilities. In *Plant Owners* v. *Continental Natural Gas*, 80 FERC ¶ 61,285, the Commission determined that the 11-mile, 10-inch diameter pipeline connecting the Beaver Plant with ANR Pipeline Company (ANR) is a jurisdictional transmission line. As a result, CNG now seeks a Section 7 certificate and blanket certificate authorization. CNG states that it has no intention of changing the manner in which it operates the 11-mile line and that the line will remain dedicated to moving CNG's gas from its Beaver Plant to ANR.

Any person desiring to be heard or to make any protest with reference to this application should, on or before December 29, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and § 385.802 of the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this Application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32380 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–108–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

December 5, 1997.

Take notice that on December 1, 1997, East Tennessee Natural Gas Company (ETNG), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP98–108–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations (18 CFR 157.205, 157.216) under the Natural Gas Act (NGA) for authorization to abandon the Hawkins County Lateral, located in Hawkins County, Tennessee, as a delivery point under ETNG's blanket certificate issued in Docket No. CP82–412–000, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ETNG proposes to abandon the Hawkins County Lateral by sale to the Hawkins County Utility District (HCUD). It is stated that the lateral consists of 5.18 miles of 6-inch pipeline and appurtenant facilities. It is explained that the lateral was installed in 1961 in order to make deliveries to HCUD, formerly the Natural Gas Utility District of Hawkins County, a municipality engaged in the local distribution of natural gas to the public. It is asserted that ETNG and HCUD have negotiated a Purchase and Sales Agreement to transfer ownership of the lateral from HCUD to ETNG and that no facilities would be removed or abandoned in place. It is further asserted that HCUD is the only customer served by the facilities and that HCUD has consented to the abandonment by sale.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32381 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–82–000]

Gas Transport, Inc.; Notice of Proposed Changes in FERC Gas Tariff

December 5, 1997.

Take notice that on December 1, 1997, Gas Transport, Inc. (GTI) tendered for filing revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of January 1, 1998.

GTI states that the purpose of this filing is to conform GTI's tariff to the requirements set forth in Subpart C of Part 154 of the Commission's Regulations and Order No. 582.

Specifically, GTI is: (1) Submitting a title page; (2) revising the Table of Contents to include a brief description of each service; (3) updating the preliminary statement; (4) adding a new General Terms and Conditions (''GT&C'') Section 25 entitled ''Order of Discounts''; (5) adding a new GT&C Section 26 entitled ''Policy With Respect to Fees and Construction of New Facilities''; (6) eliminating the index of customers; and (7) removing the ''Qualification for Service'' section from the EFT, FT, and IT Rate Schedules and placing it in the GT&C as Section 24 thereof.

GTI states that copies of this filing were served upon its firm customers and interested state commissions. Copies were also served on all interruptible customers as of the date of the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32384 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG95–46–000, et al.]

The Hub Power Company, et al.; Electric Rate and Corporate Regulation Filings

December 4, 1997.

Take notice that the following filings have been made with the Commission:

1. The Hub Power Company

[Docket No. EG95–46–000]

Take notice that on December 2,1997, pursuant to Section 365.7 of the Commission's Regulations, 18 CFR 365.7, The Hub Power Company filed notification that it surrenders its status as an exempt wholesale generator under Section 32(a) (1) of the Public Utility Holding Company Act of 1935, as amended.

2. Millennium Power Partners, L.P.

[Docket No. EG98–12–000]

On November 26, 1997, Millennium Power Partners, L.P. (Millennium), a Delaware limited partnership with its principal place of business at 7500 Old Georgetown Road, Bethesda, Maryland 20814, 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.

Millennium proposes to construct a 360 MW natural gas-fired combined cycle power plant in the Town of Charlton, Massachusetts. The proposed power plant is expected to commence commercial operation in the year 2000. All capacity and energy from the plant will be sold exclusively at wholesale.

Comment date: December 24, 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.

3. Nevada Power Company

[Docket No. ER96–447–002]

Take notice that on November 12, 1997, Nevada Power Company (Nevada Power), tendered for filing, in Docket No. OA96–188–000, revised tariff sheets which specify the on-peak and off-peak hours of non-firm point-to-point transmission service in compliance with the Commission's order dated October 17, 1997. Nevada Power requests a waiver of the 60 day notice requirement and requests that the revised tariff sheets be effective as of the date of the filing.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Louisville Gas and Electric Company

[Docket No. ER98–662–000]

Take notice that on November 13, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Hoosier Energy Rural Electric Coop Inc., under Rate GSS.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER98–663–000]

Take notice that on November 13, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Market Responsive Energy Inc., under Rate GSS.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER98–664–000]

Take notice that on November 13, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER98–665–000]

Take notice that on November 13, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and CMS Marketing, Services and Trading under Rate GSS.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Washington Water Power

[Docket No. ER98–666–000]

Take notice that on November 13, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, executed Service Agreement and Certificate of Concurrence under WWP's FERC Electric Tariff First Revised Volume No. 9, TransCanada Power, a division of TransCanada Energy Ltd., formerly doing business as TransCanada Power Corporation. WWP previously filed an unsigned TransCanada Power Corporation Service Agreement dated 12/15/96 with the Commission, noticed under Docket No. ER97–1252–000. The TransCanada Power, a division of TransCanada Energy Ltd., Service Agreement, dated November 1, 1997, therefore replaces the unsigned TransCanada Power Corporation Service Agreement.

Comment date: December 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Houston Lighting & Power Company

[Docket No. ER98–667–000]

Take notice that on November 13, 1997, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Avista Energy, Inc., (Avista) for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of November 13, 1997.

Copies of the filing were served on Avista and the Public Utility Commission of Texas.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Electric & Gas Company

[Docket No. ER98–669–000]

Take notice that on November 13, 1997, South Carolina Electric & Gas Company, tendered for filing a report that summarizes transactions that occurred July 1, 1997, through September 30, 1997, pursuant to the Market-Based Tariff accepted by the Commission in Docket Nos. ER96–1085–000 and ER96–3073–000.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Southwestern Public Service Company

[Docket No. ER98–670–000]

Take notice that on November 14, 1997, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with Western Resources, Inc., (Western). This umbrella service agreement provides for Southwestern's sale and Western's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER98–671–000]

Take notice that on November 14, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Firm Point-to-Point Transmission Service with CNG Power Services Corporation, Sonat Power Marketing L.P., PP&L, Inc., and Progress Power Marketing, Inc., under the Open Access Transmission Tariff to Eligible Purchasers filed July 14, 1997. Under the tendered Service Agreement Virginia Power will provide firm point-to-point service to the Transmission Customers as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon CNG Power Services Corporation, Sonat Power Marketing L.P., PP&L, Inc., Progress Power Marketing, Inc., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER98–672–000]

Take notice that on November 14, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and Bruin Energy, Inc., under the FERC Electric Tariff (Original Volume No. 4), which was accepted by order of the Commission dated September 11, 1997, in Docket No. ER97–3561–000 (80 FERC ¶ 61,275 (1997)). Under the tendered Service Agreement, Virginia Power will provide services to Bruin Energy, Inc., under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of October 21, 1997, for the Service Agreement.

Copies of the filing were served upon Bruin Energy, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Carolina Power & Light Company

[Docket No. ER98–673–000]

Take notice that on November 14, 1997, Carolina Power & Light Company (Carolina), tendered for filing an executed Service Agreement between Carolina and the following Eligible Entity: Columbia Power Marketing Corporation. Service to the Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1, for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Carolina Power & Light Company

[Docket No. ER98–674–000]

Take notice that on November 14, 1997, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service executed between CP&L and the following Eligible Transmission Customer: AIG Trading Corporation; and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with AIG Trading Corporation. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER98–675–000]

Take notice that on November 14, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and American Electric Power Service Corporation (AEP), dated November 13, 1997. This Service Agreement specifies that AEP has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in Jersey Central Power & Light Co., Metropolitan Edison Co., and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU Energy and AEP to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 13, 1997, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Northwest Power Marketing Company, L.L.C.

[Docket No. ER98–676–000]

Take notice that on November 14, 1997, Northwest Power Marketing Company, L.L.C. (Northwest), tendered for filing a Notice of Rate Schedule Cancellation for Northwest's FERC Electric Rate Schedule No. 1, to be effective immediately.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Western Resources, Inc.

[Docket No. ER98–677–000]

Take notice that on November 14, 1997, Western Resources, Inc., acting on behalf of itself and Kansas Gas and Electric Company (collectively, Western Resources), tendered for filing an application for an order accepting its proposed market-based power sales tariff. Western Resources intends to sell electric capacity and energy at market rates mutually agreed to by Western Resources and the customer in arms-length negotiations.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Commonwealth Electric Company

[Docket No. ER98–678–000]

Take notice that on November 14, 1997, Commonwealth Electric Company (Commonwealth), tendered for filing a non-firm point-to-point transmission service agreement between Commonwealth and Constellation Power Source, Inc., (Constellation). Commonwealth states that the service agreement sets out the transmission arrangements under which Commonwealth will provide non-firm point-to-point transmission service to Constellation under Commonwealth's open access transmission tariff accepted for filing in Docket No. ER97–1341–000, subject to refund and issuance of further orders.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Northeast Utilities Service

[Docket No. ER98–679–000]

Take notice that on November 14, 1997, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light & Power Company, tendered for filing pursuant to § 205 of the Federal Power Act and 35.13 of the Commission's Regulations, an Agreement for Alternate Arrangements (Agreement).

The proposed Agreement proposes to supersede all obligations of the parties to the Agreement with respect to the construction of a new substation set forth in the System Power Sales Agreement, Rate Schedule FERC No. 547, and a Memorandum of Understanding, Supplement No. 2, to Rate Schedule FERC No. 547, each dated November 30, 1994.

NUSCO states that a copy of this filing has been mailed to the parties to the Agreement and the affected state utility commissions.

NUSCO requests that the Agreement become effective November 14, 1997.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Westar Electric Marketing, Inc.

[Docket No. ER98–680–000]

Take notice that on November 14, 1997, Westar Electric Marketing, Inc. (Westar), tendered for filing a rate schedule notice of cancellation of Westar's FERC Electric Rate Schedule No. 1, to be effective immediately.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Duquesne Light Company

[Docket No. ER98–681–000]

Take notice that on November 17, 1997, Duquesne Light Company (DLC), filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated November 1, 1997, with Southern Energy Retail Trading & Marketing, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds Southern Energy Retail Trading & Marketing, Inc. as a customer under the Tariff. DLC requests an effective date of November 1, 1997, for the Service Agreement.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Duquesne Light Company

[Docket No. ER98–682–000]

Take notice that on November 17, 1997, Duquesne Light Company (DLC), filed a Service Agreement for Network Integration Transmission Service and a Network Operating Agreement for Transmission Service dated November 11, 1997, with the Borough of Pitcairn under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds the Borough of Pitcairn as a customer under the Tariff. DLC requests an effective date of December 3, 1997, for the Service Agreement.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Duquesne Light Company

[Docket No. ER98–683–000]

Take notice that on November 17, 1997, Duquesne Light Company (DLC), filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated November 1, 1997, with mc2 Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds mc2 Inc., as a customer under the Tariff. DLC requests an effective date of November 1, 1997, for the Service Agreement.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Duquesne Light Company

[Docket No. ER98–684–000]

Take notice that on November 17, 1997, Duquesne Light Company (DLC), filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated November 1, 1997, with West Penn Power Co., d/b/a Allegheny Power under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds West Penn Power Co., d/b/a Allegheny Power as a customer under the Tariff. DLC requests an effective date of November 1, 1997, for the Service Agreement.

Comment date: December 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Duquesne Light Company

[Docket No. ER98–685–000]

Take notice that on November 17, 1997, Duquesne Light Company (DLC), filed a Service Agreement dated November 11, 1997, with DPL Energy, Inc., under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds DPL Energy, Inc., as a customer under the Tariff. DLC requests an effective date of November 11, 1997, for the Service Agreement.

Comment date: December 18, 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. 97–32414 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–373–000]

Koch Gateway Pipeline Company; Notice of Informal Settlement Conference

December 5, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on December 18, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Edith A. Gilmore at (202) 208–2158 or Sandra J. Delude at (202) 208–0583.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32383 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–50–000]

NorAm Gas Transmission Company; Notice of Application

December 5, 1997.

Take notice that on October 28, 1997, as supplemented on December 4, 1997, NorAm Gas Transmission Company (NGT), 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP98–50–000 a request pursuant to Section 7(c) of the Natural Gas Act for approval to construct and operate certain facilities in Arkansas to deliver natural gas to Nucor-Yamato Steel Company (Nucor), an existing customer of NGT's in Blytheville, Arkansas, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

NGT states that it specifically proposes to construct a two-inch delivery tap and six-inch meter and regulating station in Mississippi County, Arkansas. NGT further states that the proposed tap would increase the deliveries of natural gas to Nucor by 2,304 MMBtu per day and 840,960 MMBtu on an annual basis. NGT asserts that the transportation of natural gas to Nucor will occur under NGT's rate schedule FT. NGT indicates that the total cost of construction is estimated to be $38,642, which would be completely reimbursed by Nucor.

Any person desiring to be heard or to make protest with reference to said application should on or before December 12, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that the application is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is requested, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NorAm to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32377 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–14–000]

Southern California Edison Company Notice of Filing

December 5, 1997.

Take notice that on December 3, 1997, Southern California Edison Company (SoCal Edison), filed an amendment to its application in the above-referenced proceeding. The amendment identifies the purchasers of SoCal Edison's generating stations at which reliability must-run units are located. The purchasers are:

Purchaser	Generating station
AES Corporation	Alamitos, Huntington Beach, and Redondo.
Houston Industries, Inc.	Etiwanda and Mandalay.
A consortium consisting of: NRG Energy, Inc. and Destec Energy, Inc.	El Segundo.

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 15, 1997. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make

the protestants parties to the proceeding. Any person wishing to become a party 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. 97–32375 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Environmental Compliance and Applicant Environmental Report Preparation Training Courses

December 5, 1997.

The Office of Pipeline Regulation (OPR) staff will conduct the first of three planned sessions of its Environmental Compliance Training Course and the Environmental Report Preparation Course on January 27–29, 1998.

These courses are a result of the positive response to our outreach training courses held since 1992 and as recently as October of this year. We encourage interested organizations and the public to take advantage of the courses to gain an understanding of the requirements and objectives of the Commission in ensuring compliance with all environmental certificate conditions and meeting its responsibilities under the National Environmental Policy Act and other laws and regulations. We also encourage feedback, either at the courses or in reply to this notice, on how we can improve the courses.

Environmental Report Preparation Course

The Environmental Report Preparation Course presentation and its manual focus primarily on Section 7 filings. However, the course manual will address the following topics:

A. The types of projects that require environmental filings.
   1. Natural Gas Act section 7
   2. Natural Gas Policy Act filings
   3. Section 2.55 replacements
B. The filings required for each type of project.
C. Information to include in each filing.
D. Potential time saving procedures.
   1. Applicant-prepared DEA
   2. Third-party EA or EIS

The staff intends the manual to be a sourcebook for preparing environmental filings under section 7 of the Natural Gas Act.

If you have specific questions related to the subject matter of this course, or if you would like the course to address a particular item, please call Mr. John Leiss at (202) 208-1106.

This one-day Environmental Report Preparation Course will be held on the date and at the location shown below. Attendees must call the number listed for the hotel by the reservation deadline and identify themselves as Federal Energy Regulatory Commission seminar attendees to receive the discounted group rate.

Session: January 27, 1998
Location: Fairmont Hotel, 123 Baronne Street, New Orleans, Louisiana, 70112, 1–800–527–4727, (504) 527–7111
Reservations by: January 5, 1998.

We also intend to have sessions in Chicago and Las Vegas in March and May, respectively. Information on those sessions (and registration forms) should be available by the middle of January through the telephone number given below under Pre-registration.

Environmental Compliance Training Course

The two-day Environmental Compliance Training Course and its manual will include the following topics:

A. Post-certificate clearance filings.
B. Environmental inspection as it relates to:
   1. Right-of-way preparation;
   2. Temporary erosion control;
   3. Cultural resources;
   4. Waterbody crossings;
   5. Wetland construction;
   6. Residential area construction;
   7. Right-of-way restoration; and
   8. Techniques for environmental compliance.

The Environmental Compliance Training Course will be held on the dates and at the location shown below. Attendees must call the numbers listed for the hotels by the reservation deadline and identify themselves as FERC seminar attendees to receive the discounted group rate.

Session: January 28–29, 1998
Location: Fairmont Hotel, 123 Baronne Street, New Orleans, Louisiana, 70112
Information: 1–800–527–4727, (504) 527–7111
Reservations by: January 5, 1998

We also intend to have sessions in Chicago and Las Vegas in March and May, respectively. Information on those sessions (and registration forms) should be available by the middle of January through the telephone number given below under Pre-registration.

Pre-Registration

The OPR staff and Foster Wheeler Environmental Corporation, the Commission's environmental support contractor for natural gas projects, will conduct the training. There is no fee for the courses, but you must pre-register because space is limited.

If you would like to attend either of these courses, please call the telephone number listed below to obtain a pre-registration form.[1] NOTE: IF YOU PLAN TO ATTEND BOTH THE ENVIRONMENTAL REPORT PREPARATION COURSE AND THE SUBSEQUENT ENVIRONMENTAL COMPLIANCE TRAINING COURSE, YOU MUST PRE-REGISTER SEPARATELY FOR EACH (ONLY ONE FORM IS NEEDED). Attendance will be limited to the first 150 people to pre-register in each course. Call or FAX requests for pre-registration forms to: Ms. Donna Connor, c/o Foster Wheeler Environmental Corporation, 470 Atlantic Avenue, Boston, MA 02210, Telephone or FAX (Menu driven): (508) 384–1424.

You will receive confirmation of pre-registration and additional information before the training course(s).

Additional training will be offered in the future. Please indicate whether you would like these courses to be offered again, or if you are interested in any other courses with different topics or audiences. Please indicate your preferences for location and time of year. Suggestions on format are welcome.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32376 Filed 12–10–97; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–97–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Intent To Prepare an Environmental Assessment for the Proposed Carlton Delivery Looping Project and Request for Comments on Environmental Issues

December 5, 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 about 3.9 miles of 36-inch-diameter pipeline

[1] The pre-registration forms referenced in this notice are not being printed in the **Federal Register**. Copies of the forms were sent to those receiving this notice in the mail.

loop and appurtenant facilities proposed in the Carlton Delivery Looping 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

Great Lakes Transmission Limited Partnership (Great Lakes) proposes to expand the capacity of its facilities in Minnesota and Wisconsin to transport an additional 6,500 dekatherms per day of natural gas to the City of Duluth, Minnesota and Northwest Natural Gas Company. Great Lakes seeks authority to construct and operate:

- About 2.1 miles of 36-inch-diameter pipeline loop from mileposts (MP) 22.7 to 24.8 on Great Lake's existing mainline facilities in Kittson County, Minnesota (Loop 1);
- About 1.8 miles of 36-inch-diameter pipeline loop from MPs 226.4 to 228.2 on Great Lake's existing mainline facilities in Itasca County, Minnesota (Loop 2);
- Three downstream crossover assemblies to tie-in the new loop facilities to Great Lake's existing loop and mainline facilities at MPs 24.8, 226.4, and 228.2.
- One new side tap to be located at an existing mainline valve site in Douglas County, Wisconsin at MP 299.28. This sidetap would include two aboveground tees and two aboveground valves, together with piping and supports.

The 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

Construction of the proposed facilities would require about 57.3 acres of land. Operation of the proposed project facilities would permanently affect 12.3 acres of land associated with the new permanent pipeline right-of-way.

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 as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Land use.
- Water resources, fisheries, and wetlands.
- Cultural resources.
- Vegetation and wildlife.
- Public safety.
- 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 EA 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 provided by Great Lakes. This preliminary list of issues may be changed based on your comments and our analysis.

- A total of 7.7 acres of wetlands would be affected during construction of the proposed project.
- A total of 7.0 acres of forest land would be cleared for the proposed project.

No known nonjurisdictional facilities have been identified for this project.

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 carefully follow these instructions to ensure that your comments are received in time 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, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP98–97–000; and
- Mail your comments so that they will be received in Washington, DC on or before January 5, 1998.

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, intervenors 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 Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32378 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Great Lakes Gas Transmission Limited Partnership'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, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File An Application For A Subsequent License

December 5, 1997.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. Type of Application: Notice of Intent to File An Application For a Subsequent License.

b. *Project No.:* 6059.

c. *Date filed:* November 24, 1997.

d. *Submitted By:* Hydro Development Group, Inc., current licensee.

e. *Name of Project:* Fowler #17 Hydroelectric Project.

f. *Location:* On the Oswegatchie River in St. Lawrence County, New York.

g. *Filed Pursuant to:* 18 CFR 16.19 of the Commission's regulations.

h. *Effective date of current license:* April 1, 1962.

i. Expiration date of current license September 30, 2002.

j. The project consists of: (1) Three concrete dam sections spanning the river and connecting two small islands, comprising; (a) a 75-foot-long, 25-foot-high dam equipped with 10-inch-high flashboards; (b) a 192-foot-long, 2-foot-high dam equipped with 22-inch-high flashboards; (c) a 154-foot-long, 15-foot-high dam equipped with 17-inch-high flashboards; (2) a 3-acre reservoir with a normal water surface elevation of 542.0 feet msl; (3) a 55-foot-long, 24-foot-wide, 20-foot-deep flume; (4) a powerhouse containing three generating units with a total installed capacity of 900 kW; (5) 450-foot-long transmission line; and (6) Appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information the project is Available at: Hydro Development Group, Inc., c/o CHI Energy Inc., P.O. Box 58, Route 12F, Airport Road, Dexter, NY 13634, (315) 639–6700.

l. *FERC contact:* Tom Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.9 and 16.20 each application for a new or subsequent license and any competing license applications must be filed with the Commission on least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 2000.

Lois D. Cashell,

Secretary.

[FR Doc. 97–32382 Filed 12–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of September 15 Through September 19, 1997

During the week of September 15 through September 19, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: December 2, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy

Office of Hearings and Appeals

[Decision List No. 51]

Week of September 15 through September 19, 1997

Appeal

William H. Payne, 9/19/97, VFA–0326

The Department of Energy (DOE) issued a Decision and Order (D&O) granting in part a Freedom of Information Act (FOIA) Appeal that was filed by William H. Payne. In his Appeal, Mr. Payne contested a determination made by the DOE's Albuquerque Operations Office that portions of two legal invoices should be withheld pursuant to the attorney work-product privilege component of Exemption 5, and Exemption 4. In the Decision, the OHA found that Albuquerque properly withheld portions of the documents under Exemption 5, but that Albuquerque had failed to adequately explain its reasons for withholding portions of the invoices under Exemptions 4. The OHA therefore remanded the matter to Albuquerque for the issuance of a new determination concerning the information withheld under Exemption 4.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Moore Planting Co., Inc. Parker Transfer	RF272–57035 RF272–98742	9/16/97
Newmann Medical Center Catholic Health Initiatives	RK272–0841 RK272–04577	9/19/97
Pepsi-Cola Bottling Co.	RK272–4581	9/17/97
Roger Zetocha et al	RK272–3097	9/16/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Central Valley Cooperative	VEE–0031
Givaudan-Roure Corp.	RR272–00245
Personnel Security Hearing	VSO–0162
Robert Bruce, Inc.	RF272–57073
Robin Villarreal-Neidner	VFA–0334
Schultz Bottled Gas	VEE–0022

[FR Doc. 97–32434 Filed 12–10–97; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL COMMUNICATIONS COMMISSION

Performance Review Board

As required by the Civil Service Reform Act of 1978 (Pub. L. 95–454), Chairman William E. Kennard appointed the following executives to the Performance Review Board: Ruth Milkman, Michelle Oppenheimer, Mary Beth Richards, Gerald Vaughan, Douglas Webbink.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 97–32448 Filed 12–10–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[DA–97–2567 CC Docket No. 90–571]

Notice of Telecommunications Relay Services (TRS) Applications for State Certification Accepted

Released: December 8, 1997.

Notice is hereby given that the state listed below has 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 January 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–97–52.

Applicant: Arkansas Deaf and Hearing Impaired Telecommunications Services Corporation State of Arkansas.

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.

Magalie Roman Salas,

Secretary.

[FR Doc. 97–32449 Filed 12–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1190–DR]

Nebraska; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nebraska, (FEMA–1190-DR), dated November 1, 1997, and related determinations.

EFFECTIVE DATE: November 20, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Nebraska dated November 1, 1997, is hereby amended to include Category F under the Public Assistance program for the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 1, 1997.

The counties of Cass, Clay, Douglas, Fillmore, Kimball, Lancaster, Nuckolls, Otoe, Saline, Sarpy, Saunders, Seward, Thayer, and Washington for Category F, Utilities, under the Public Assistance program (already designated for Categories A and B).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–32433 Filed 12–10–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[No. 97–N–9]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it is seeking public comments concerning a three-year extension by the Office of Management and Budget (OMB) of the previously approved information collection entitled ''Monthly Survey of Rates and Terms on Conventional, 1-Family, Nonfarm Loans,'' usually referred to as the ''Monthly Interest Rate Survey'' or ''MIRS.''

DATES: Interested persons may submit comments on or before February 9, 1998.

ADDRESSES: Address written comments and requests for copies of the information collection to Elaine L. Baker, Secretary to the Board, 202/408–2837, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Timothy D. Forsberg, Financial Analyst, 202/408–2968, Financial Research Division, Office of Policy, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION

A. Need For and Use of Information Collection

The Finance Board's predecessor, the former Federal Home Loan Bank Board (FHLBB), first provided survey data on mortgage interest rates in 1963. No statutory or regulatory provision explicitly required the FHLBB to conduct the MIRS although references to the MIRS did appear in several Federal and State statutes. Responsibility for conducting the MIRS was transferred to the Finance Board upon dissolution of the FHLBB in 1989. See Financial Institutions Reform, Recovery, and Enforcement Act of 1989

(FIRREA), Pub. L. 101–73, Title IV, sec. 402(e)(3)–(4), 103 Stat. 183, codified at 12 U.S.C. 1437 note, and Title VII, sec. 731(f)(1), (f)(2)(B), 103 Stat. 433 (Aug. 9, 1989). In 1993, the Finance Board promulgated a final rule describing the method by which it conducts the MIRS. See 58 FR 19195 (Apr. 13, 1993), codified at 12 CFR 902.3. Since its inception, the MIRS has provided the only consistent source of information on mortgage interest rates and terms and house prices for areas smaller than the entire country.

Statutory references to the MIRS include the following:

- Pursuant to their respective organic statutes, the Federal National Mortgage Association (also known as Fannie Mae) and the Federal Home Loan Mortgage Corporation (also known as Freddie Mac) use the MIRS results as the basis for allowable annual adjustments to the maximum dollar limits for their purchase of conventional mortgages. See 12 U.S.C. 1454(a)(2), 1717(b)(2). The Fannie Mae and Freddie Mac limits were first tied to the MIRS by the Housing and Community Development Act of 1980. See Public Law 96–399, Title III, section 313(a)–(b), 94 Stat. 1644–1645 (Oct. 8, 1980). At that time, the nearly identical statutes required Fannie Mae and Freddie Mac to base the dollar limit adjustments on ''the national average one-family house price in the monthly survey of all major lenders conducted by the [FHLBB].'' See 12 U.S.C. 1454(a)(2), 1717(b)(2) (1989). When Congress abolished the FHLBB in 1989, it replaced the reference to the FHLBB in the Fannie Mae and Freddie Mac statutes with a reference to the Finance Board. See FIRREA, Title VII, sec. 731(f)(1), (f)(2)(B), 103 Stat. 433.
- Also in 1989, Congress required the Chairperson of the Finance Board to take necessary actions to ensure that indices used to calculate the interest rate on adjustable rate mortgages (ARMs) remain available. See *id.* Title IV, section 402(e)(3)–(4), 103 Stat. 183, codified at 12 U.S.C. 1437 note. At least one ARM index, known as the National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders, is derived from the MIRS data. The statute permits the Finance Board to substitute a substantially similar ARM index after notice and comment only if the new ARM index is based upon data substantially similar to that of the original ARM index and substitution of the new ARM index will result in an interest rate substantially similar to the rate in effect at the time the new ARM index replaces the existing ARM index. See 12 U.S.C. 1437 note.
- Congress indirectly connected the high cost area limits for mortgages insured by the Federal Housing Administration (FHA) of the Department of Housing and Urban Development to the MIRS in 1994 when it statutorily linked these FHA insurance limits to the purchase price limitations for Fannie Mae. See Public Law 103–327, 108 Stat. 2314 (Sept. 28, 1994), codified at 12 U.S.C. 1709(b)(2)(A)(ii).
- The Internal Revenue Service uses the MIRS data in establishing ''safe-harbor'' limitations for mortgages purchased with the proceeds of mortgage revenue bond issues. See 26 CFR 6a.103A–2(f)(5).
- Statutes in several states and U.S. territories, including California, Indiana, Michigan, Minnesota, New Jersey, Wisconsin, and the Virgin Islands, refer to, or rely upon, the MIRS. See, *e.g.*, Cal. Rev. & Tax 439.2 (Deering 1996) (value of owner-occupied single family dwellings for tax purposes); Cal. Civ. 1916.7, 1916.8 (mortgage rates); Ind. Code Ann. 28–1–21.5–1 (Burns 1996) (mortgage instruments); Iowa Code 534.205 (1995) (real estate loan practices); Mich. Stat. Ann. 23.1125(21) (1996) (enforcement of mortgages); Minn. Stat. 92.06 (1996) (payments for state land sales); N.J. Rev. Stat. 31:1–1 (1996) (interest rates); Wis. Stat. 138.056 (1996) (variable loan rates); V.I. Code Ann. tit. 11, section 951 (1996) (legal rate of interest).

The Finance Board uses the information collection to produce the MIRS and for general statistical purposes and program evaluation. Economic policy makers use the MIRS data to determine trends in the mortgage markets, including interest rates, down payments, terms to maturity, terms on ARMs, and initial fees and charges on mortgage loans. Other federal banking agencies use the MIRS results for research purposes. Information concerning the MIRS is regularly published in the popular trade press, in Finance Board releases and on its web-site, and in publications of other federal agencies.

The likely respondents include a sample of 390 savings associations, mortgage companies, commercial banks, and savings banks. The information collection requires each respondent to complete FHFB Form 10–91 or an equivalent electronic submission on a monthly basis.

The OMB number for the information collection is 3069–0001. The OMB clearance for the information collection expires on April 30, 1998.

B. Burden Estimate

The Finance Board estimates the total annual average number of respondents at 390, with twelve annual responses per respondent. The estimate for the average hours per response is 1.0 hours. The estimate for the total annual hour burden is 4,680 hours (390 respondents x 12 responses/respondent x approximately 1.0 hour).

C. Comment Request

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: December 3, 1997.

By the Federal Housing Finance Board.

William W Ginsberg,

Managing Director.

[FR Doc. 97–32395 Filed 12–10–97; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 3791.
Name: Air-Sea International, Inc.
Address: 218 Marsh Island Drive, Chesapeake, VA 23320–9246.
Date Revoked: November 17, 1997.
Reason: Surrendered license voluntarily.

License Number: 3159.
Name: Artpak Transport, Ltd.
Address: c/o Judson, 50 West 57th Street, New York, NY 10019.
Date Revoked: November 25, 1997.
Reason: Surrendered license voluntarily.

License Number: 3593.
Name: Caliber Customs Brokers and Freight Forwarders, Inc.

Address: 1731 Adrian Road, Unit 1, Burlingame, CA 94010.
Date Revoked: October 14, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3404.
Name: Choice Transportation Services, Inc.
Address: 752 Birginal Drive, Bensenville, IL 60106.
Date Revoked: October 17, 1997.
Reason: Surrendered license voluntarily.

License Number: 3786.
Name: Da-Ma's Forwarding, Inc.
Address: 2011 N.W. 89th Place, Miami, FL 33172.
Date Revoked: October 29, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 782.
Name: J.R. Michels, Inc.
Address: 260 Townsend Street, San Francisco, CA 94107.
Date Revoked: October 29, 1997.
Reason: Surrendered license voluntarily.

License Number: 4198.
Name: NG Enterprises, Inc. d/b/a Randy International and NG Enterprises of New York.
Address: 326 Smith Street, Keasbey, NJ 08832.
Date Revoked: October 15, 1997.
Reason: Failed to maintain a valid surety bond.

License Number: 3975.
Name: Southern World International, Inc.
Address: 7975 N.W. 154th Street, Suite 300, Miami Lakes, FL 33016.
Date Revoked: October 2, 1997.
Reason: Surrendered license voluntarily.

License Number: 4057.
Name: Tampa Bay Ocean Services, Inc.
Address: 6001 Jet Port Industrial Blvd., Tampa, FL 33634.
Date Revoked: November 20, 1997.
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 97–32406 Filed 12–10–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Marlins Freight Forwarders, Inc., 16548 SW 97th Street, Miami, FL 33196, Officers: Maria T. Leon, President, Idania Pena, Vice President.

Lloyd International, Inc., 931 Main Street, Norwell, MA 02061, Officer: Lloyd A. Gillis, President.

Provex Inc., 6581 NW 82 Avenue, Miami, FL 33166, Officer: Jose E. Arteaga, President.

Cargo Transport, Inc., 18000 International Blvd., Suite 400, Seattle, WA 98188, Officers: Sonny Joe Sanders, President, Larry K. Stauffer, Vice President.

Dated: December 5, 1997.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–32405 Filed 12–10–97; 8:45 am]

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 December 26, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Suburban Bank & Trust Company, Elmhurst, Illinois, as Trustee for The Damen Financial Corporation Employee Stock Ownership Program; to retain voting shares of Damen Financial Corporation, Schaumburg, Illinois, and thereby indirectly retain shares of Damen National Bank, Chicago, Illinois.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Lester L. Ward, Jr. as Trustee of the Mahlon T. White CRT No. 1, Denver, Colorado; to acquire voting shares of Monte Vista Bank Corp., Monte Vista, Colorado, and thereby indirectly acquire Bank of Monte Vista, Monte Vista, Colorado.

Board of Governors of the Federal Reserve System, December 8, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–32443 Filed 12–10–97; 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 January 5, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Amcore Financial, Inc., Rockford, Illinois; to acquire Midwest Federal Financial Corp., Baraboo, Wisconsin, and thereby indirectly acquire Baraboo Federal Bank, FSB, Baraboo, Wisconsin, and B.T. Financial Services, Inc., Baraboo, Wisconsin, and thereby engage in operating a savings association;

securities brokerage activities; trust company functions, and the sale of credit life insurance, pursuant to §§ 225.28(b)(4), (b)(7), (b)(5), and (b)(11) of the Board's Regulation Y, respectively.

2. National Australia Bank Limited, Melbourne, Australia; to acquire Homeside, Inc., Jacksonville, Florida, and thereby indirectly acquire Homeside Lending, Inc., Jacksonville, Florida, and thereby engage in extending credit and servicing loans and activities related to extending credit, pursuant §§ 225.28(b)(1) and 225.28(b)(2) of the Board's Regulation Y. Comments on this application must be received by December 26, 1997.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Mercantile Bancorporation Inc., St. Louis, Missouri; to acquire HomeCorp, Inc., Rockford, Illinois, and thereby indirectly acquire HomeBanc FSB, Rockford, Illinois, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 8, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–32442 Filed 12–10–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Committee on Employee Benefits of the Federal Reserve System*.

TIME AND DATE: 2:30 p.m., Tuesday, December 16, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals relating to Federal Reserve System benefits.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Office of Employee Benefits employees.
3. Any items carried forward from a previously announced meeting.

* The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement of this meeting. (The Web site also includes procedural and other information about the meeting.)

Dated: December 9, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–32585 Filed 12–9–97; 2:13 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Commission on Consumer Protection and Quality in the Health Care Industry; Notice of Public Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of the meeting of the Advisory Commission on Consumer Protection and Quality in the Health Care Industry. This two-day meeting will be open to the public, limited only by the space available.

Place of meeting: Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008. Exact locations of the sessions will be available at the registration area and on the Commission's web site, ''http://www.hcqualitycommission.gov''.

Times and Dates: The public meeting will span two days. On Tuesday, December 16, 1997, the subcommittee break-out sessions will take place from 8:30 a.m. until 4:30 p.m. On Wednesday, December 17, 1997, the general plenary session will begin at 8:00 a.m. and it will continue until 4:00 p.m.

Purpose/Agenda: To hear testimony and continue formal proceedings of the Commission and the three (3) remaining subcommittees (Subcommittee on Consumer Rights has completed its work). Agenda items are subject to change as priorities dictate.

Contact Person: For more information, including substantive program information and summaries of the meeting, please contact: Edward (Chip) Malin, Hubert Humphrey Building, Room 118F, 200 Independence Avenue, S.W., Washington, DC 20201; (202/205–3333).

Dated: December 3, 1997.

Janet Corrigan,

Executive Director, Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

[FR Doc. 97–32361 Filed 12–10–97; 8:45 am]

BILLING CODE 4110–60–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–06]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. National Hospital Ambulatory Medical Care Survey—(0920–0278)—Extension—The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992 by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The NHAMCS is the principal source of data on the approximately 158 million visits to hospital emergency and outpatient departments and is the only source of nationally representative estimates on the demographic characteristics of outpatients, diagnoses, diagnostic services, medication therapy, and the patterns of use of care in hospitals which differ in size, location, and ownership. Additionally, the NHAMCS is the only source of national estimates on non-fatal causes of injury in the emergency department.

These data complement the data on visits to non-Federal physicians in office-based practices collected through the NHAMCS (0920–0234), together providing data on approximately 90 percent of the ambulatory care provided in the U.S. Data collected through the NHAMCS are essential for the planning of health services, for improving medical education, determining health care work force needs and assessing the health status of the population. Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies such as NIH., various private associations such as the American Heart Association, as well as universities and state health departments. The total cost to respondents is estimated to be $292,223.

Noninstitutional general and short-stay hospital outpatient and emergency departments	Number of respondents (departments)	Number of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Induction forms	440	6	1	2,640
Patient record forms:				
Emergency departments	425	50	0.06666	1,417
Outpatient departments	275	200	0.066666	3,667
Total				7,724

2. Children's Longitudinal Development Study—New—Since 1991, surveillance of children aged three to ten years who have one or more select developmental disabilities (cerebral palsy, mental retardation, hearing impairment, and vision impairment) has been conducted in the five-county Atlanta metropolitan area through the Metropolitan Atlanta Developmental Disabilities Surveillance Program (MADDSP). Children have been identified primarily through the special education programs of the public schools in those five counties. Recently, surveillance has been expanded to identify children with cerebral palsy at younger ages through a broader array of medical facilities where diagnostic evaluations are performed, and to include autism as one of the developmental disabilities routinely under surveillance. An ongoing case-control study is proposed to yearly (1) contact parents of all children with any of the five developmental disabilities who are newly identified in the surveillance data base and who were born in the metro Atlanta area (approximately 675 children per year) and contact parents of 250 children used as controls in order to request access to both maternal prenatal and labor and delivery hospital records and infant hospital records prior to newborn discharge (all accessed medical records will be reviewed to obtain detailed information on pre- and perinatal risk factors for developmental disabilities; this type of information typically is lacking or incomplete in school records or childhood medical records) and (2) conduct telephone interviews with mothers of approximately 250 children with cerebral palsy or severe mental retardation selected from the larger pool of approximately 675 children, plus interview mothers of the 250 control children. The interviews will supply additional risk factor information relating to the mothers' medical and reproductive histories, prenatal behaviors and exposures, and family histories of developmental problems. Initially, to be cases, children in the interview sample would be under seven years of age at the time they were diagnosed as having cerebral palsy or severe mental retardation. A sample of Atlanta-born children of similar age and birth weight to the interview case children would be randomly identified from vital records and used as controls. Additionally, photographs and head circumference measurements of case and control mothers and children included in the interview sample will be taken either in the home or at a centralized location. The total cost to respondents is $0.

Respondents	Number of respondents	Number of responses/respondents	Average burden/response (in hrs.)	Total burden (in hrs.)
Mothers:				
Contact calls	1,000	1	.33	330
Scheduling call	500	1	.33	165
Telephone interview	500	1	1.50	750
Photography/anthropometry	500	1	.75	375
Total				1,620

3. Cognitive Function and Symptom Patterns in Gulf War Veterans—New—This study will use functional magnetic resonance imaging (fMRI) on previously studied cohorts of Gulf War veterans and Germany-deployed Gulf War-era controls to determine if there are differences in patterns of brain activation between both Gulf War veterans reporting a high level of physical symptoms and Gulf War veterans with fewer symptoms and between those veterans deployed to the Persian Gulf and those deployed to Germany. In addition, an assessment of the relationship between brain activation patterns and levels of cognitive functioning will be completed. Patterns of activation on fMRI will be measured while the subject is presented with a number of challenge paradigms including a finger tapping task and a test of visual working memory. Conventional magnetic resonance imaging scans will also be acquired on all subjects prior to the fMRI in order to rule out subjects with brain pathology

(e.g., stroke, cancer) and also to examine whether there are volumetric differences between the groups within specific neuroanatomical areas. The total cost to respondents is $0.00.

Respondents	Number of respondents	Number of responses/ respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
High-symptom Gulf-deployed veterans	40	1	1.5	60
Low symptom Gulf-deployed veterans	40	1	1.5	60
Normal controls (non-Gulf-deployed veterans)	40	1	1.5	60
Total				180

4. X-ray Examination Program—(0920–0020)—Extension—The X-ray Examination Program is a federally mandated program under the Federal Mine Safety and Health Act of 1977, PL–95–164. The Act provides the regulatory guidance for the administration of the National Coal Workers' X-ray Surveillance Program, a surveillance program to protect the health and safety of underground coal miners. This program requires the gathering of information from coal mine operators, participating miners, participating x-ray facilities and participating physicians. The Appalachian Laboratory for Occupational Safety and Health (ALOSH), National Institute for Occupational Safety and Health (NIOSH) is charged with administration of this program. The total cost to respondents is $47,910.00.

Respondents	Number of respondents	Number of responses/ respondent	Avg. burden/ response (in hrs.)	Total burden (in hrs.)
Physicians/interpretation	20,000	1	0.05	1,000
Physician/certification	350	1	0.166	58
Miners	10,000	1	0.3333	3,333
Mine operators	500	1	0.5	250
Facilities	300	1	0.5	150
Total				4,791

5. National Ambulatory Medical Care Survey—(0920–0234)—Extension—The National Ambulatory Medical Care Survey (NAMCS) was conducted annually from 1973 to 1981, again in 1985, and resumed as an annual survey in 1989. It is directed by the Division of Health Care Statistics, National Center for Health Statistics, CDC. The purpose of NAMCS is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments. The NAMCS target population consists of all office visits within the United States made by ambulatory patients to non-Federal office-based physicians (excluding those in the specialties of anesthesiology, radiology, and pathology) who are engaged in direct patient care. The complement portion of data collection consists of the remaining physicians in the AMA and AOA files; that is, physicians who AMA and AOA classify as being federally employed, or in the three specialties excluded from the traditional NAMCS, or as not spending the majority of their professional time in office based practice. Since more than 80 percent of all direct ambulatory medical care visits occur in physicians' offices, the NAMCS provides data on the majority of ambulatory medical care services. To complement these data, in 1992 NCHS initiated the National Hospital Ambulatory Medical Care Survey (NHAMCS, OMB No. 0920–0278) to provide data concerning patient visits to hospital outpatient and emergency departments. The NAMCS, together with the NHAMCS constitute the ambulatory component of the National Health Care Survey (NHCS), and will provide coverage of more than 90 percent of ambulatory medical care.

The NAMCS provides a range of baseline data on the characteristics of the users and providers of ambulatory medical care. Data collected include the patients' demographic characteristics and medical problems, and the physicians' diagnostic services, therapeutic prescriptions and disposition decisions. These data, together with trend data, may be used to monitor the effects of change in the health care system, provide new insights into ambulatory medical care, and stimulate further research on the use, organization, and delivery of ambulatory care.

Users of NAMCS data include congressional and other federal government agencies (e.g. NIMH, NIAAA, NCI, HRSA), state and local governments, medical schools, schools of public health, colleges and universities, private businesses, nonprofit foundations and corporations, professional associations, as well as individual practitioners, researchers, administrators and health planners. Users vary from the inclusion of a few selected statistics in a large research effort, to an in-depth analysis of the entire NAMCS data set covering several years. The total cost to respondents is estimated to be $153,250.

Respondents	Number of respondents (physicians)	Number of responses/ respondent	Avg. burden/ response (in hrs.)	Total burden (in hrs.)
Office-based physicians	2,500	1	0.25	625
Induction form	2,500	30	0.03333	2,500
Patient record form				

Respondents	Number of respondents (physicians)	Number of responses/ respondent	Avg. burden/ response (in hrs.)	Total burden (in hrs.)
Complement physicians	500	1	0.25	125
Induction form	100	30	0.0333	100
Patient record form	.....	.....	.....	.....
Total	.....	.....	.....	3,350

6. Information Collection to Establish Community Assistance Panels (CAPs)—(0923–0007)—Extension—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and its 1986 Amendments, The Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure of hazardous substances into the environment. To facilitate this effort, ATSDR seeks the cooperation of the community being evaluated through direct communication and interaction. Direct community involvement is required to conduct a comprehensive scientific study and to effectively disseminate specific health information in a timely manner. Also, this direct interaction fosters a clear understanding of health issues that the community considers to be of importance and establishes credibility for the agency. The Community Assistance Panel nomination forms are completed by individuals in the community to nominate themselves or others for participation on these panels. Other than the possible cost of a postage stamp, there is no cost to respondents. This request is for a 3-year extension of the current OMB approval of the Community Assistance Panel nominations form.

Respondents	Number of respondents	Number of responses/ respondents	Avg. burden/response (in hrs.)	Total burden (in hrs.)
General Public	300	1	.1666	50
Total	.....	.....	.....	50

Dated: December 5, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–32399 Filed 12–10–97; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) Announces the Following Meeting

Name: Biomechanical Stress Control in Drywall Installation.

Time and Date: 9 a.m.—12 noon, January 15, 1998.

Location: Suncrest Facility, Large Conference Room, NIOSH, CDC, 3040 University Avenue, Morgantown, West Virginia 26505.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: Participants will provide NIOSH with their individual advice and comments regarding the technical and scientific aspects of the study protocol, ''Biomechanical Stress Control in Drywall Installation,'' being conducted at NIOSH. Participants on the peer review panel will review the study protocol and provide individual advice on the conduct of the study. Viewpoints and suggestions from industry, labor, academia, other governmental agencies, and the public are invited.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Christopher S. Pan, Ph.D., NIOSH, CDC, M/S P119 , 3030 University Avenue, Morgantown, West Virginia 26505, telephone 304/285–5978.

Dated: December 5, 1997.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–32401 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: OCSE–34 Child Support Enforcement Program Quarterly Report of Collections.

OMB No.: 0970–0013.

Description: Used by States to facilitate the reporting of collections under Title IV–D for the purposes of enforcing support obligations owed by absent parents to their children, locating absent parents, establishing paternity and obtaining child and spousal support.

Respondents: State, Local or Tribal Govt.

Annual burden estimates instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–34	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 4, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–32373 Filed 12–10–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project(s):

Title: April 1998 Current Population Survey Supplement on Child Support.

OMB No.: New Collection.

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals or Households.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Supplement	47,000	1	.0241	1,136

Estimatd Total Annual Burden Hours: 1,136.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: Act Reports Clearance Officer. All requests should be identified by the title for the information collection.

The Department specifically requests comments 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 of the proposed collection of information; (c) the qualify, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 4, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–32374 Filed 12–10–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Revised Form OCSE–100, State Plan for Child Support Collection and Establishment of Paternity under Title IV–D of the Social Security Act.

OMB No.: 0970–0017.

Description: The State plan preprint and amendments serve as a contract with OCSE in outlining the activities the States will perform as required by law in order for States to receive federal funds to meet the costs of these activities. Due to enactment of HR2105, technical amendments for PRWORA, we are updating our State plan by revising 7 preprint pages. We are requesting

approval of the revised State plan preprint pages for Section 2.1, Establishing Paternity and Securing Support, Section 2.4, Collection and Distribution of Support Payments, Section 2.5, Services to Individuals Not Receiving Title IV–A and IV–E Foster Care Assistance, Section 2.8, Medical Support Enforcement Activities, Section 2.12–16 State Law Authorizing Suspension of Licenses, Section 2.12–20, Adoption of Uniform State Laws, and Section 3.16, Cooperation by Applicants for and Recipients of Part A Assistance. The information collected on the State plan pages is necessary to enable OCSE to monitor compliance with the requirements in Title IV–D of the Social Security Act and implementing regulations.

Respondents: State governments.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Plan	54	2.32	.717	90

Estimated Total Annual Burden Hours: 90.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer, Robert Driscoll.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–32372 Filed 12–10–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0488]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on continuation of national surveys of prescription drug information provided to patients.

DATES: Submit written comments on the collection of information by February 9, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Years 1998 and 2000 Continuation of National Surveys of Prescription Drug Information Provided to Patients—(OMB Control Number 0910–0279—Extension)

FDA implements the provisions of the Federal Food, Drug, and Cosmetic Act (the act), designed to assure the adequate labeling of prescription (Rx) drugs. Under section 502(a) of the act (21 U.S.C. 352(a)), a drug product is misbranded if its labeling is false or misleading in any particular, and under section 201(n) of the act (21 U.S.C. 321(n)), a drug's labeling is misleading if its labeling or advertising fails to reveal material facts. FDA also has the authority to collect this information under Title VI of Pub. L. 104–180 (Related Agencies and Food and Drug Administration) section 601 (Effective Medication Guides), which directs the development of ''a mechanism to assess periodically * * * the frequency with which the [oral and written prescription] information is provided to consumers.''

To assure that Rx drugs are not misbranded, FDA has historically asserted that adequate labeling requires certain information be provided to

patients. In 1982, when FDA revoked a planned initiative to require mandatory patient package inserts for all Rx drugs in favor of private sector initiatives in this area, the agency indicated that it will periodically conduct surveys to evaluate the availability of adequate patient information on a nationwide basis. Surveys of consumers about their receipt of Rx drug information were carried out in 1982, 1984, 1992, 1994, and 1996. This notice is in regard to continuing the survey in years 1998 and 2000.

The survey is conducted by telephone on a national random sample of adults age 18 and over who received a new prescription for themselves or a household member within the past 4 weeks. The interview assesses the extent to which oral and written information was received from the doctor, the pharmacist, and other sources. Survey respondents are also asked attitudinal questions, and demographic and other background characteristics are also obtained. The survey enables FDA to determine the frequency with which such information is provided to consumers. Without this information, the agency would be unable to assure that adequate Rx labeling and information is provided.

Respondents to this collection of information are adults (18 years or older) in the continental United States who have obtained one or more new (nonrefill) prescriptions at a pharmacy for themselves or a member of their household in the last 4 weeks.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Year	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1998	11,044	1	11,044	.03	331
1999	0	0	0	0	0
2000	11,044	1	11,044	.03	331
Annual average	7,363		7,363		221

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Year	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1998	1,000	1	1,000	.323	20
1999	0	0	0	0	0
2000	1,000	1	1,000	.32	320
Annual average	667		667		213

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This estimate of 434 total annual burden hours is based on the 1996 survey administration, in which 11,044 potential respondents were contacted to obtain 1,000 interviews.

Dated: December 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–32460 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0486]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements governing the registration of producers of drugs and listing of drugs in commercial distribution.

DATES: Submit written comments on the collection of information by February 9, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.39(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed

collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution (21 CFR Part 207)—(OMB Control Number 0910–0045—Extension)

Under section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360), FDA is authorized to establish a system for registration of producers of drugs and for listing of drugs in commercial distribution. To implement section 510 of the act, FDA issued part 207 (21 CFR part 207). The regulations require an initial listing of products and a twice-yearly update. In addition, all registered drug firms are required to re-register annually between January and July. The penalties for failure to register or drug list are potential seizure and injunctions, as well as criminal enforcement actions.

The following are the specific reporting requirements under part 207: (1) Section 207.20 requires that owners and operators of all drug establishments that engage in the manufacture, preparation, propagation, or processing of drugs must register and use Form FDA 2656 (Registration of Drug Establishment) and Form FDA 2658 (Registered Establishments' Report of Private Label Distributors) to submit drug listing information or to request a Labeler Code, or both. (2) Section 207.21 requires that owners and operators must register an establishment within 5 days of beginning operations and shall complete Form FDA 2656e (Annual Registration of Drug Establishment) each year between January and July. Annual registration forms are mailed by the FDA in each calendar year according to a schedule based on the establishment parent company's name and must be completed within 30 days of the receipt. (3) Section 207.22(a) requires that Form FDA 2656 must be submitted when an establishment registers the first time. An establishment whose drug registration is validated under § 207.35(a) is required to make subsequent annual registrations as described in § 207.21(a). (4) Section 207.22(b) requires that Form FDA 2657 must be submitted for the first listing of drugs and subsequent June and December updates. (5) Section 207.25 specifies the information required in the establishment registration and drug listing. (6) Section 207.25(c) specifies the information about the drug that is required to be submitted (name, active ingredients, dosage strength, NDC number, manufacturer or distributor, size, shape, color, code imprint). (7) Section 207.26 specifies the information required in the amendments to the establishment registration. (8) Section 207.30 specifies the information required for updating the drug listing. (9) Section 207.31 specifies additional drug listing information that may be needed beyond that required in §§ 207.25 and 207.30.

The information obtained from the establishment registration forms FDA 2656 and FDA 2656(e) is used by FDA and other government agencies to keep an accurate and current list of all human and animal drug manufacturers, repackers, relabelers and other drug processors located in this country. This list is used by FDA for inspectional purposes as required by the act. In addition, the data is used by the public and private sector as a listing of the names and locations of drug firms. The information obtained from the listing forms FDA–2657 and FDA–2658 is used, through assignment of the National Drug Code numbers, for third party reimbursement payment in Medicare and Medicaid as well as other health care insurance firms.

Respondents to this collection of information are all owners and operators that engage in the manufacture, preparation, propagation, compounding, or processing of drugs and that are not exempt under section 510(g) of the act or subpart D of 21 CFR 207.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	21 CFR Section	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Form FDA–2656 Registration of Drug Establishment	207.20 207.22 207.25 207.26	2,500	1	2,500	.5	1,250
Form FDA–2656(e) Annual Re-registration of Drug Establishments	207.21 207.25 207.26	9,000	1	9,000	.5	4,500
Form FDA–2657 Drug Product Listing Form	207.22 207.30 207.31	45,000	1	45,000	.5	22,500
Form FDA–2658 Registered Establishment's Report of Private Label Distribution	207.20 207.21 207.25 207.26	6,200	1	6,200	.5	3,100
	207.25(c)	1,500	12.04	18,066	.5	9,033
Total						40,383

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on FDA's Center for Drug Evaluation and Research, Product Information Management Branch, and its data and information on drug listing and establishment registration of manufacturers, repackers, relabelers, and other drug processors.

Dated: December 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–32461 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0311]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the following proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on this collection of information by January 12, 1998.

ADDRESSES: Submit written comments on this collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

CGMP and Related Regulations for Blood and Blood Components—(21 CFR Parts 606 and 640)—(OMB Control Number 0910–0116)—Reinstatement

Under the statutory requirements contained in the Public Health Service Act (42 U.S.C. 262), no blood, blood component, or derivative may move in interstate commerce unless: (1) It is propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license; (2) the product complies with regulatory standards designed to ensure safety, purity, and potency; and (3) it bears a label plainly marked with the product's proper name, its manufacturer, and expiration date.

The CGMP and related regulations implement FDA's statutory authority to ensure the safety, purity, and potency of blood and blood components. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to ensure the safety, purity, and potency of blood and blood components. These requirements establish accountability and traceability in the processing and handling of blood and blood components and enable FDA to perform meaningful inspections. The recordkeeping requirements serve preventative and remedial purposes. The disclosure requirements identify the various blood and blood components and important properties of the product, demonstrate that the CGMP requirements have been met, and facilitate the tracing of a product back to its original source. The reporting requirements inform FDA of any deviations that occur and that may require immediate corrective action.

Section 606.100(b) requires that written standard operating procedures (SOP's) be maintained for the collection, processing, compatibility testing, storage and distribution of blood and blood components used for transfusion and manufacturing purposes. Section 606.100(c) requires the review of all pertinent records to a lot or unit of blood prior to release of the lot or unit. Any unexplained discrepancy or failure of a lot or unit of final product to meet any of its specifications must be thoroughly investigated, and the investigation, including conclusions and followup, must be recorded. Section 606.110(a) requires a physician to certify in writing that the donor's health permits plateletpheresis or leukapheresis if a variance from additional regulatory standards for a specific product is used when obtaining the product from a specific donor for a specific recipient. Section 606.151(e) requires that records of expedited transfusions in life-threatening emergencies be maintained. So that all steps in the collection, processing, compatibility testing, storage and distribution, quality control, and transfusion reaction reports and complaints for each unit of blood and blood components can be clearly traced, § 606.160 requires that legible and indelible contemporaneous records of each significant step be made and maintained for no less than 5 years. Section 606.165 requires that distribution and receipt records be maintained to facilitate recalls, if necessary. Section 606.170(a) requires records to be maintained of any reports of complaints of adverse reactions as a result of blood collection or transfusion. Each such report must be thoroughly investigated, and a written report, including conclusions and followup, must be prepared and maintained. Section 606.170(b) requires that fatal complications of blood collections and transfusions be reported to FDA as soon as possible and that a written report shall be submitted within 7 days. In addition to the CGMP's in part 606, there are regulations in part 640 that require additional standards for blood and blood components: §§ 640.3(a) and (f), 640.4(a), 640.25(b)(4) and (c)(1), 640.27(b), 640.31(b), 640.33(b), 640.51(b), 640.53(c), 640.56(b) and (d), 640.61, 640.63(b)(3), (e)(1) and (e)(3), 640.65(b)(2), 640.66, 640.71(b)(1), 640.72, 640.73, and 640.76(a) and (b). The information collection requirements and estimated burdens for these regulations are included in the part 606 burden estimates, as described below.

The recordkeeping requirements for §§ 640.3(a)(1), 640.4(a)(1), and 640.66, which address the maintenance of SOP's, are included in the estimate for § 606.100(b); the recordkeeping requirements for § 640.27(b), which addresses the maintenance of donor health records for plateletpheresis, is included in the estimate for § 606.110(a); and the recordkeeping requirements for §§ 640.3(a)(2), 640.3(f), 640.4(a)(2), 640.25(b)(4) and (c)(1), 640.31(b), 640.33(b), 640.51(b), 640.53(c), 640.56(b) and (d), 640.61, 640.63(b)(3), (e)(1), and (e)(3), 640.65(b)(2), 640.71(b)(1), 640.72, and 640.76(a) and (b), which address the maintenance of various records, are included in the estimate for § 606.160. The reporting requirement in § 640.73, which addresses the reporting of fatal donor reactions, is included in the estimate for § 606.170(b).

Respondents to this collection of information are registered blood establishments. There are an estimated 3,021 FDA registered blood collection facilities in the United States that annually collect an estimated 23,500,000 units of whole blood and source plasma. Of the 3,021 registered establishments, 1,799 establishments perform pheresis collections and 278 establishments perform transfusions.

There are also an estimated 4,500 Health Care Financing Administration registered transfusion services. The recordkeeping chart reflects the estimate that 95 percent of the recordkeepers which collect 98 percent of the blood supply had developed SOP's as part of their normal business practice. Establishments may minimize burdens associated with the CGMP and related regulations by using model SOP's developed by blood organizations. These blood organizations represent almost all of the registered establishments.

FDA estimates the burden of this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
606.170(b)	42	1	42	8	336

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
606.100(b)	151	1	151	24	3,624
606.100(c)	151	3.6	550	3.6	550
606.110(a)	90	5	450	2.5	225
606.151(e)	239	12	2,868	1	239
606.160	151	3,112	470,000	1,556	234,956
606.165	151	3,112	470,000	258	38,958
606.170(a)	376	12	4,512	12	4,512

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–32458 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0453]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by January 12, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Human Tissue Intended for Transplantation (OMB Control Number 0910–0302)—Reinstatement

FDA issued final regulations in the **Federal Register** of July 29, 1997 (62 FR 40429) to prevent the transmission of human immunodeficiency virus (HIV), hepatitis B, and hepatitis C through the use of human tissue for transplantation. The final regulations closely parallel those contained in the interim rule on human tissue intended for transplantation. Both the interim and final rule provide for inspection by FDA of persons and tissue establishments engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue. These facilities are required to meet standards intended to ensure appropriate screening and testing of human tissue donors and ensure that records are kept documenting that the appropriate screening and testing have been completed.

There are approximately 60 tissue establishments with 300 employees that are members of the American Association of Tissue Banks. There are an additional 600 individual members of which 50 percent are performing a tissue banking activity. The Eye Bank Association of America's membership consists of 120 eye banks of which 110 are in the continental United States.

With the rare exceptions noted in the preamble of the rule, FDA believes that all respondents perform donor testing and screening for HIV and hepatitis and these regulations add no additional requirements. 21 CFR 1270.31(c) and (d) require written procedures for the designation and identification of quarantined tissue and to prevent the contamination or cross-contamination of tissue during processing. 21 CFR 1270.35(c) requires documentation of the distribution and receipt of human tissue, completing the accounting of tissue between determination of suitability, and the destruction or disposition of the tissue.

When the interim rule was issued in the **Federal Register** of December 14, 1993 (58 FR 65514), accredited members of the American Association of Tissue Banks and the Eye Bank Association of America were already in compliance with the regulations by adhering to the standards established by these organizations. The requirements in the

final rule do not impose an additional burden since the members will be complying with the current organizations' standards which are comparable to the requirements in the final rule. To account for persons or establishments that may not be a member of an industry organization and, for whom therefore, the extent of compliance with the requirements of the final rule is unknown, FDA will be using 1 percent as an estimation of the information collection burden on the tissue industry.

Industry estimates that in 1994 there were 350,000 bone transplants, 42,000 corneal transplants, 5,000 patellar tendon transplants, and the transplantation of 5,000 square feet of skin. There are approximately 300 persons and 170 tissue banks currently operating in the Untied States affected by the regulations.

The total annual estimated burden imposed by this collection of information is 32,260 hours annually.

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
1270.31 (b)–(d)	11	4	44	28	308
1270.35 (a)–(b)	11	420	4,620	290	3,190
1270.35 (c)	11	2,893	31,823	4,782	52,602
1270.35 (d)	11	17	187	17	187
Total	.....	.....	.....	.....	56,287

There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 5, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–32459 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that published in the **Federal Register** of November 25, 1997 (62 FR 62777). The notice announced a meeting of the Orthopaedics and Rehabilitation Devices Panel of the Medical Devices Advisory Committee that is scheduled for December 11 and 12, 1997. The notice published with an error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 25, 1997 (62 FR 62777), in FR Doc. 97–30914, FDA announced that a meeting of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee would be held on December 11 and 12, 1997. The notice published with an error in the first sentence in the *Agenda* portion of the meeting.

Beginning on page 62777, in the 2d column, under the *Agenda* portion of the meeting, the first sentence should be corrected to read ''On December 11, 1997, the committee will discuss, make recommendations, and vote on one premarket approval application (PMA) for a spinal intervertebral fusion device and a second PMA for a spinal intervertebral fusion system.''

Dated: December 9, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–32584 Filed 12–9–97; 3:03 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1998:

Name: National Advisory Committee on Rural Health.

Dates and Time: February 1–4, 1998.

Place: J.W. Marriott Hotel, 1331 Pennsylvania Avenue, N.W., Washington, D.C. 20004, Phone: (202) 393–2000, FAX: (202) 626–6915.

The meeting is open to the public.

Agenda: The plenary session on Monday morning, February 2, will include a national legislative update, discussion of quality issues, universal service provisions of the Telecommunications Act, definition of rural, and telemedicine payment issues.

Presentations on graduate medical education, the rural minority health project, and long-term care; assisted living housing will be the bases of discussion for the Committee of the Whole on Tuesday.

The final plenary session will be convened on Wednesday, February 4, at 8:00 a.m. During this session there will be an update of the Office of Rural Health Policy activities, a report of the Committee of the Whole regarding the discussions that took place on Tuesday, and information regarding the next agenda and future meeting dates and places will be discussed. The meeting will be adjourned at approximately 11:30 a.m.

Anyone requiring information regarding the subject Committee should contact Dena S. Puskin, Sc.D., Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–0835, FAX (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Arlene A. Granderson or Lilly Smetana, Office of Rural Health Policy, (301) 443–0835.

Agenda items change as priorities dictate.

Dated: December 4, 1997.

Jane M. Harrison,

Committee Management Office, HRSA.

[FR Doc. 97–32409 Filed 12–10–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of 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 meeting:

Name of Committee: National Human Genome Research Institute, Special Emphasis Panel ZHG1 (W2).

Date: December 18, 1997.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Open: December 18, 8:30 am to recess.

Agenda/purpose: To discuss a concept review of a component of NHGRI's five-year plan.

Note: Advanced Registration Required for Open session on December 18.

Closed: December 19, 8:30 am to adjournment.

Contact Person: Jane L. Peterson, National Human Genome Research Institute, National Institutes of Health, Building 38A, Room 614, Bethesda, Maryland 20892, (301) 496–7531.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The applications and/or contract proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet extramural process requirements.

Individuals who plan to attend these meetings and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Jane Peterson, (301) 496–7531, two weeks in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93,172, Human Genome Research)

Dated: December 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–32389 Filed 12–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel (SE) meeting:

Name of SEP: The Effects of Yoga on Peak Rates in Pregnant Asthmatics, (TELECONFERENCE).

Date: December 18, 1997.

Time: 3:30 p.m.–adjournment.

Place:

Contact Person: Norman Chang, Ph. D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, Room 5E01, Rockville, MD 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review research grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, 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 meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institute of Health, HHS)

Dated: December 5, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–32386 Filed 12–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; 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 meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Teleconference).

Date: December 16, 1997.

Time: 10:00 a.m.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Katherine Woodbury, Scientific Review Administrator, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate a grant application.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding office.

The meeting will be closed in accordance with the provisions set forth in sections 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. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: December, 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–32387 Filed 12–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: December 10, 1997.

Time: 12 p.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Jean G. Noronha, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

The meeting will be closed in accordance with the provisions set forth in sections 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 fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: December 5, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–32390 Filed 12–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting of the National Advisory Council for Nursing Research

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council for Nursing Research, National Institute of Nursing Research, National Institutes of Health on January 21–22, 1998, National Institutes of Health, William H. Natcher Building, 45 Center Drive, Conference Room F1 and F2, Bethesda, Maryland 20892.

The Council meeting will be open to the public on January 21 from 1:00 to 5:00 p.m. and January 22 from 9:00 to 10:00 a.m. for discussion of program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. and section 10(d) of Public Law 92–463, the Council meeting will be closed to the public from 10:00 a.m. to adjournment on January 22. These meetings are closed for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting, roster of committee members, and other information may be obtained from the Executive Secretary, Dr. Lynn Amende, NINR, NIH, Building 45, Room 3AN–12, Bethesda, Maryland, 20892, 301/594–5968. Individuals who plan to attend and need special assistance, such as sign language interpretation of other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93–361, Nursing Research, National Institutes of Health)

Dated: December 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–32388 Filed 12–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

SUMMARY: The collection of information described below will be submitted to OMB for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance officer at the address and/or phone numbers listed below.

DATES: Comments must be submitted on or before February 9, 1998.

ADDRESSES: Comments and suggestions on specific requirements should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222 ARLSQ, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Grannemann, Chief, Branch of Visitor Services, Division of Refuges, 703/358–2029; or Phadrea Ponds, Wildlife Biologist, U.S. Geological Survey, Fort Collins, CO, 970/226–9445.

SUPPLEMENTARY INFORMATION: The Service proposes to submit the following information collection clearance requirements to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on 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.

Congress authorized a recreation fee demonstration program in Pub. L. 104–134. The U.S. Fish and Wildlife Service was one of the four agencies mandated to implement the program and evaluate its impact on the visiting public. This study is designed to scientifically evaluate visitor reactions and impact of the fees on visitation to the national wildlife refuges (NWR); it will be conducted by the U.S. Geological Survey Biological Resources Divisions Social Economic and Institutional Analysis Section in Fort Collins, Colorado under a cooperative agreement with the U.S. Fish and Wildlife Service.

To represent the various types of fee changes, as well as fee demonstration refuges, six distinct fee programs and ten refuges were selected for inclusion in the study. These include (1) new entrance fees (Sacramento NWR, CA and Arkansas NWR, TX); (2) increased entrance fees (Dungeness NWR, WA); (3) new annual passes (Chincoteaque NWR, VA and Crab Orchard NWR, IL); (4) new hunt fees (St. Catherine's Creek NWR, MS and Balcones NWR, TX); (5) non-hunt use permits (Buenos Aires NWR, AZ and Fort Niobrara NWR, NE) and (6) non-fee adjustments (Piedmont NWR, GA). Random samples of individuals using these refuges will be surveyed. The Service plans to use as part of the evaluation process a survey questionnaire to assess the different fee programs. An on-site questionnaire will be distributed during the peak season to a random sample of the visiting public. A minimum of 400 completed surveys will be obtained for each fee type. An additional 200 surveys will be obtained from Sacramento NWR to allow for examination of credit card entrances as well as new entrance fees in general. Overall, this will result in a total sample of 2,600 respondents. The margin of error for each fee type is ±5% at the 95% confidence level. The information gained from this survey will provide a scientific basis for evaluating the viability of the fee program among the visiting public. The lead project officer is Dr. Jonathan G. Taylor, Research Social Scientist, phone 970–226–9438, 4512 McMurry Avenue, Fort Collins, CO 80525–3400.

Title: Evaluation of visitor responses to recreation fee demonstration programs.

Bureau form number: None.

Frequency of collection: One time.

Description of respondents: Individuals and households.

Number of respondents: 2,600.

Estimated completion time: 10 minutes.

Burden estimate: 433 hours.

Dated: December 4, 1997.

Jeffery M. Donahoe,

Acting Assistant Director, Refuges and Wildlife.

[FR Doc. 97–32422 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

The following applicants have applied for permits 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.*):

PRT–836697

Applicant: Bernice Constantin, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, Gainesville, Florida

The applicant requests authorization to take (harass or translocate specimens to alleviate depredation of agricultural commodities and reduce hazards to human health or safety) the bald eagle, *Haliaeetus leucocephalus*, wood stork, *Mycteria americana*, peregrine falcon, *Falco peregrinus*, whooping crane, *Grus americana*, Puerto Rican plain pigeon, *Columba inornata wetmorei*, and roseate tern, *Sterna dougallii dougallii*, throughout the species ranges in Florida, Puerto Rico, and the Virgin Islands, for the purpose of enhancement of survival of the species.

PRT–837136

Applicant: Paul J. Marangelo, West Sand Lake, New York

The applicant requests authorization to take (salvage dead shells, and harass during surveys) the dwarf wedge mussel, *Alasmidonta heterodon*, throughout the species range in North Carolina, for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Biologist, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received by January 12, 1998.

Documents and other information submitted with this 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 following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Fax: 404/679–7081.

Dated: November 26, 1997.

Bill A. Grabill,

Acting Regional Director.

[FR Doc. 97–32371 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–55–P

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: James Meehan, Edgewater, MD, PRT–837140.

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: Linda Winkler, University of Pittsburgh, Titusville, PA, PRT–835441.

The applicant requests a permit to import mantled howler monkey (*Alouatta palliata*) blood and feces samples collected at LaSuerte, Costa Rica, for the purpose of scientific research.

Applicant: Carla Cicero, University of California, Berkeley, CA, PRT–836805.

The applicant requests a permit to export hair samples collected from museum specimens of cheetah (*Acononyx jubatus*), Southern sea otter (*Enhydra lutris nereis*), clouded leopard (*Neofelis nebulosa*), and leopard cat (*Felis (Prionailursus*) *bengalensis bengalensis*), to Yeong-Tyi Day, National Pingtung Polytechnic Institute, Taiwan, for the purpose of scientific research.

Applicant: Randy Miller, Acton, CA, PRT–835825.

The applicant requests a permit to export and reimport two captive born 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.

Applicant: Gentle Jungle, Lebec, CA, PRT–837241.

The applicant requests a permit to export and reimport one captive born tiger (*Panthera 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: White River Bison Farm, Anderson, IN, PRT–836462.

The applicant requests a permit to import one male and one female captive born yearling wood bison (*Bison bison athabascae*) for the purpose of enhancement of the species through captive propagation.

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 on or before January 12, 1998.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was 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: Monterey Bay Aquarium, Monterey, CA, PRT–837131.

Permit Type: Take for enhancing the survival or recovery of the species [Sec 104(c)(4)(A) of the Marine Mammal Protection Act].

Name and Number of Animals: Southern sea otter (*Enhydra lutris nereis*). Opportunistic recovery of beached/stranded animals.

Summary of Activity to be Authorized: The applicant proposes to take (rescue, rehabilitate, and display) southern sea otters. Public display of these sea otters will be limited to specially constructed facilities which the applicant proposes allows the public to view normal rehabilitation procedures, while shielding otters undergoing rehabilitation from the sight and sounds of the viewing public. The applicants purpose for this exhibit is enhancement of the species through rehabilitation of stranded specimens and public education.

Source of Marine Mammals: Natural range of southern sea otters in California waters.

Period of Activity: Up to 5 years from issuance date of permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is

forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: George Kalb, Las Vegas, NV, PRT–837107.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

Applicant: Dwight Davis, Houston, TX, PRT–837238.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted prior to April 30, 1994 from the Davis Strait 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 these 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 on or before January 12, 1998. 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 within 30 days of the date of publication of this notice.

Dated: December 5, 1997.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–32403 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On September 17, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 180, Page 48880, that an application had been filed with the Fish and Wildlife Service by Daniel Currier, Fargo, ND for a permit (PRT–834123) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the McClintock Channel population, Northwest Territories, Canada for personal use.

Notice is hereby given that on November 13, 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: December 5, 1997.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–32404 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Operation and Maintenance Rate Adjustment: Fort Belknap Irrigation Project, Montana

ACTION: Notice of proposed irrigation Operation and Maintenance (O&M) rate adjustment.

SUMMARY: On October 2, 1997, a notice was published in the **Federal Register**, Volume 62, Number 191, Page 51680 (62 FR 51680), by the Bureau of Indian Affairs proposing to change the assessment rates for operating and maintaining the Fort Belknap Irrigation Project for 1998, 1999, 2000, 2001, 2002 and subsequent years. See 62 FR 51680 for additional information concerning the proposed rate change. The notice of proposed rate adjustment provided a 30-day period for public comment. At the written request of the Fort Belknap Indian Community, Community Council, a second public comment period is being provided.

DATES: Interested parties may submit comments on the proposed rate adjustment. Comments must be submitted on or before January 12, 1998.

ADDRESSES: All comments concerning the proposed rate change must be in writing and addressed to: Director, Office of Trust Responsibilities, Attn.: Irrigation and Power, MS–4513–MIB, Code 210, 1849 ''C'' Street, NW, Washington, D.C. 20240, Telephone (202) 208–5480.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs pursuant to Part 209 Departmental Manual, Chapter 8.1A, and memorandum dated January 25, 1994, from the Chief of Staff, Department of the Interior, to the Assistant Secretaries and heads of bureaus and offices.

Dated: December 3, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–32396 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Operation and Maintenance Rate Adjustment: Fort Hall Irrigation Project; Idaho

ACTION: Notice of Operation and Maintenance (O&M) rate adjustment.

SUMMARY: The Bureau of Indian Affairs is adjusting the assessment rates for operating and maintaining the Fort Hall Irrigation Project, Michaud Unit, for 1998, 1999, and subsequent years. The following table illustrates the impact of the rate adjustment.

Fort Hall Irrigation Project

Michaud Unit Irrigation Rate Per Assessable Acre

Rate category	Present rate	1998 rate	1999 rate
Basic rate	$25.50	$26.50	$27.50
Pressure rate	37.50	38.50	39.50

COMMENTS: On August 25, 1997, a notice was published in the **Federal Register**, Volume 62, Number 164, Page 44992, by the Bureau of Indian Affairs proposing to adjust the assessment rates for operating and maintaining the Fort Hall Irrigation Project, Michaud Unit, for 1998, 1999 and subsequent years. A 30-day public comment period was provided for the proposed irrigation rate adjustment. No comments were received.

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, telephone (503) 231–6702.

DATES: The new irrigation assessment rates will become effective upon publication of this notice.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 15, 1914 (38 Stat. 583, 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary-Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

This notice is given in accordance with § 171.1(e) of part 171, Subchapter H, Chapter 1, of Title 25 of the Code of Federal Regulations, which provides for the fixing and announcing the rates for annual operation and maintenance assessments and related information for BIA operated and owned irrigation projects.

The purpose of this notice is to announce an adjustment in the Michaud Unit, Fort Hall Irrigation Project, assessment rates proportionate with actual operation and maintenance costs. The change in the assessment rate is based on the electrical energy cost increase imposed by the Bureau of Reclamation (BOR). In September 1996 the BOR notified us they are increasing the electrical energy charge for its users. The rate was set at 12.70 mills per kilowatt hour, an increase of 19.5%. The increased electrical energy cost was absorbed by the project during the 1997 irrigation season.

The assessment rates are based on an estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance means the expenses we incur to provide direct support or benefit to the project's activities for administration, operation, maintenance, and rehabilitation. We must include at least:

(a) Personnel salary and benefits for the project engineer/manager and our employees under his/her management control;

(b) Materials and supplies;

(c) Major and minor vehicle and equipment repairs;

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(d) Capitalization expenses;

(e) Acquisition expenses, and

(f) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

Payments

The irrigation operation and maintenance assessments become due based on locally established payment requirements. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest, penalty, and administrative fees will be assessed, where required by law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, Title 4, part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures. Beginning 30-days after the due date interest will be assessed at the rate of the current value of funds to the U.S. Treasury. An administrative fee of $12.50 will be assessed each time an effort is made to collect a delinquent debt; a penalty charge of 6 percent per year will be charged on delinquent debts over 90-days old and will accrue from the date the debt became delinquent. After 180-days, a delinquent debt will be forwarded to the United States Treasury for further action in accordance with the Debt Collection Improvement Act of 1996 (Public Law 104–134).

Dated: December 3, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–32397 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alaska

[AK–962–1410–00–P; AA–9314]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Calista Corporation for approximately 12.9 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 4 S., R. 97 W.,
Sec. 6.
T. 4 S., R. 98 W.,
Sec. 1.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 12, 1998 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 97–32402 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–12610]

Public Land Order No. 7302; Withdrawal of Public Lands for Addition to the Arapaho National Wildlife Refuge; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws from surface entry and mining 1,720 acres of public lands and transfers administrative jurisdiction to the Fish and Wildlife Service for a 50-year period. This action will allow the Fish and Wildlife Service to administer the lands as a part of the Arapaho National Wildlife Refuge. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: December 11, 1997.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1994)),

but not from leasing under the mineral leasing laws, and administrative jurisdiction transferred to the Fish and Wildlife Service as an addition to the Arapaho National Wildlife Refuge:

Sixth Principal Meridian

T. 7 N., R. 79 W.,
sec. 19, SE¼NE¼.
T. 7 N., R. 80 W.,
sec. 10, NE¼NE¼;
sec. 11, N½NW¼;
sec. 13, SW¼SW¼ and W½SE¼;
sec. 14, NW¼NW¼;
sec. 15, NE¼NE¼.
T. 8 N., R. 79 W.,
sec. 8, S½;
sec. 9, S½;
sec. 17.
T. 8 N., R. 80 W.,
sec. 12, S½NE¼.

The areas described aggregate 1,720 acres in Jackson County.

2. This withdrawal and transfer of administrative jurisdiction places these lands under the management of the Fish and Wildlife Service pursuant to 43 U.S.C. 668dd (1994).

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: November 26, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–32421 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP7–0192; OR–19100, OR–19117]

Public Land Order No. 7303; Revocation of Executive Orders Dated April 30, 1917, and November 26, 1917; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in their entirety, two Executive orders which withdrew 120 acres of public lands for the Bureau of Land Management's Powersite Reserve Nos. 625 and 663. The lands are no longer needed for the purposes for which they were withdrawn. This action will open 120 acres to surface entry, except to the agricultural land laws due to an overlapping withdrawal. All of the lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: March 12, 1998.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated April 30, 1917, which established Powersite Reserve No. 625, is hereby revoked in its entirety:

Willamette Meridian

T. 34 S., R. 1 E.,
sec. 2, SW¼SW¼.
T. 35 S., R. 1 E.,
sec. 18, NW¼SE¼.

The areas described aggregate 80 acres in Jackson County.

2. The Executive Order dated November 26, 1917, which established Powersite Reserve No. 663, is hereby revoked in its entirety:

Willamette Meridian

T. 2 S., R. 7 E.,
sec. 33, SW¼NE¼.

The area described contains 40 acres in Clackamas County.

3. The lands described in paragraphs 1 and 2 are included in a Bureau of Land Management withdrawal made by Public Land Order No. 5490, as modified by Public Land Order Nos. 5542 and 7043 for multiple use, and will remain closed to the agricultural land laws.

4. At 8:30 a.m., on March 12, 1998, the lands described in paragraphs 1 and 2, will be opened to the operation of the public land laws generally, except to the agricultural land laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on March 12, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. The State of Oregon has a preference right, as to the lands described in paragraphs 1 and 2, for public highway right-of-way or material sites for a period of 90 days from the date of publication of this order and any location, entry, selection, or subsequent patent shall be subject to any rights granted the State as provided by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994).

Dated: November 28, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–32419 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–00: G8–0048]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 15 S., R. 1 W., accepted September 18, 1997
T. 20 S., R. 1 W., accepted October 16, 1997
T. 14 S., R. 2 W., accepted November 18, 1997
T. 14 S., R. 7 W., accepted November 12, 1997
T. 23 S., R. 9 W., accepted September 22, 1997
T. 27 S., R. 11 W., accepted October 10, 1997
T. 39 S., R. 13 W., accepted October 20, 1997

Washington

T. 38 N., R. 39 E., accepted November 7, 1997

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: December 1, 1997.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 97–32420 Filed 12–10–97; 8:45 am]

BILLING CODE 4310–33–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–392]

In the Matter of Certain Digital Satellite System (DSS) Receivers and Components Thereof; Notice of Final Commission Determination of No Violation of Section 337 of the Tariff Act of 1930

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has made a final determination of no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205–3107.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.45 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.45).

The Commission instituted this patent-based section 337 investigation on December 11, 1996, based on a complaint filed by Personalized Media Communications (''PMC'') of New York, New York.[1] PMC's complaint named seven respondents: DIRECTV, Inc., United States Satellite Broadcasting Company (''USSB''); Hughes Network Systems (''HNS''); Hitachi Home Electronics (America) Inc. (''Hitachi''); Thomson Consumer Electronics, Inc. (''Thomson''); Toshiba America Consumer Productions, Inc. (''Toshiba''); and Matsushita Electric Corporation of America (''Matsushita''). DIRECTV, USSB, HNS, and Hitachi will be collectively referred to as the ''broadcaster respondents'' or ''broadcasters,'' while Thomson, Toshiba, and Matsushita will be collectively referred to as the ''manufacturing respondents.''

At issue are PMC's allegations that the broadcaster and manufacturing respondents violated section 337 by importing into the United States, selling for importation, and/or selling within the United States after importation certain digital satellite system (''DSS'') receivers and components thereof that infringe claims 6, 7, and/or 44 of U.S. Letters Patent 5,335,277 (''the '277 patent''), owned by PMC. Other claims originally asserted by PMC were either withdrawn (claims 3, 12, and 15) or were found to be invalid as anticipated under 35 U.S.C. 102, on respondents' motion for summary judgment (claim 35).

The presiding administrative law judge (ALJ) held an evidentiary hearing from June 30, 1997, to July 12, 1997. On October 20, 1997, the ALJ issued his final initial determination (''ID''), in which he concluded that there was no violation of section 337, based on his findings that: (a) each of claims 6, 7, and 44 is invalid as indefinite under 35 U.S.C. 112, ¶ 2; (b) each of claims 6, 7, and 44 is invalid as non-enabled under 35 U.S.C. 112, ¶ 1; (c) claim 7 is invalid as anticipated under 35 U.S.C. 102; and (d) PMC failed to show that the accused receivers and components infringed any of claims 6, 7, or 44, either directly or through contributory or induced infringement. The ALJ rejected other invalidity and unenforceability defenses raised by respondents and found that PMC satisfied the domestic industry requirement.

On October 31, 1997, PMC filed a petition for review of the ID, arguing that the ALJ erred in finding that each of claims 6, 7, and 44 is invalid as indefinite and non-enabled, and further erred in finding that the accused receivers and components do not infringe any of the claims at issue. The manufacturing and broadcaster respondents filed separate contingent petitions for review, asserting that the Commission should also review the ALJ's findings rejecting certain invalidity and inequitable conduct arguments, provided the Commission grants PMC's petition for review. The broadcaster respondents also requested that the Commission reverse the ALJ's refusal to allow the testimony of their expert witness David Stewart and his rejection of their offer of proof. The Commission investigative attorney did not file a petition for review and, in his response to the petitions for review, generally supported the major findings in the ID.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined not to review, and thereby adopted, the ALJ's construction of each of the claims at issue, and his findings that: (1) Each of claims 6, 7, and 44 is invalid as indefinite under 35 U.S.C. 112, ¶ 2; (2) the accused receivers and components do not infringe any of the three claims at issue, either directly or through contributory or induced infringement; and (3) there is consequently no violation of section 337. The Commission took no position on the remaining issues addressed in the ID. Finally, the Commission affirmed the decision of the ALJ to refuse to allow the Stewart testimony and to reject the broadcaster respondents' offer of proof.

Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205–2000. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

Issued: December 4, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–32333 Filed 12–10–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[AG Order No. 2131–97]

Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Public Benefits

AGENCY: Department of Justice.

ACTION: Notice of guidance; rescission of prior order.

SUMMARY: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (''PRWORA''), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, provides that certain categories of aliens who have been subjected to battery or extreme cruelty in the United States are

[1] *Notice of Investigation*, 61 F.R. 66,695–96 (Dec. 18, 1996).

''qualified aliens'' eligible for certain federal, state, and local public benefits. To be qualified under this provision, an alien must demonstrate, among other things, that there is a substantial connection between the battery or extreme cruelty and the need for the public benefit sought. As initially enacted, the PRWORA vested in the Attorney General the authority to determine whether a substantial connection exists between the battery or extreme cruelty suffered by the alien or alien's child and the specific benefits sought by the alien. The Attorney General exercised that authority in Attorney General Order No. 2097–97. Subsequent to the issuance of that Order, Congress passed the Balanced Budget Act of 1997, which amended the PRWOR to vest the authority for making substantial connection determinations in benefit providers, rather than the Attorney General. The Balanced Budget Act also requires the Attorney General to issue guidance to benefit providers on the standards and methods to be used in making substantial connection determinations. Pursuant to the Balanced Budget Act, this Notice rescinds Attorney General Order No. 2097–97 and provides guidance to benefit providers regarding substantial connection determinations.

DATES: This Notice is effective November 23, 1997.

FOR FURTHER INFORMATION CONTACT: Diane Rosenfeld, Senior Counsel, The Violence Against Women Office, United States Department of Justice, 950 Pennsylvania Ave., Washington, D.C. 20530, (202) 616–8894.

SUPPLEMENTARY INFORMATION: Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (''PRWORA''), Public Law 104–193, as added by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, and amended by sections 5571–72 and 5581 of the Balanced Budget Act of 1997, Pub. L. 105–33, provides that certain categories of aliens who have been subjected to battery or extreme cruelty in the United States are ''qualified aliens'' eligible for certain federal, state, and local public benefits. To be a qualified alien under this provision, an alien must demonstrate that: (1) The Immigration and Naturalization Service or the Executive Office for Immigration Review has granted a petition or application field by or on behalf of the alien, the alien's child, or the alien child's parent under one of several subsections of the Immigration and Nationality Act (INA), or has found that a pending petition or application sets forth a prima facie case for relief under the applicable provision of the INA; (2) the alien, the alien's child, or the alien child's parent has been battered or subjected to extreme cruelty in the United States: (a) In the case of an abused alien, by the alien's spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consents to or acquiesces in such battery or cruelty; (b) in the case of an alien whose child is abused, by the alien's spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consents to or acquiesces in such battery or cruelty and the alien did not actively participate in the battery or cruelty; (c) in the case of an alien child whose parent is abused, by the parent's spouse or a member of the spouse's family residing in the same household as the parent and the spouse consents to or acquiesces in such battery or cruelty; (3) there is a substantial connection between the battery or extreme cruelty and the need for the public benefit sought and (4) the battered alien, child, or parent no longer resides in the same household as the abuser.

As originally enacted, section 431(c) of the PRWORA vested in the Attorney General the responsibility for determining whether an alien applicant for benefits had demonstrated a substantial connection between the battery or extreme cruelty and the applicant's need for particular benefits. The Attorney General exercised that authority in Attorney General Order No. 2097–97, Determination of Situations that Demonstrate a Substantial Connection Between Battery or Extreme Cruelty and Need for Specific Benefits, 62 FR 39874 (July 24, 1997). In drafting this Determination, the Attorney General consulted with federal benefit-granting agencies that are implementing section 431(c) of PRWORA and with other interested parties.

Subsequently, Congress enacted the Balanced Budget Act of 1997, which amended section 431(c) of the PRWORA to require that benefit providers, rather than the Attorney General, determine whether an applicant for benefits under this section has demonstrated a substantial connection between battery or extreme cruelty and the need for the particular benefit sought. Although section 5571 of the Balanced Budget Act transfers the authority to make substantial connection determinations from the Attorney General to the benefit provider, it directs the Attorney General to issue guidance to benefit providers on the standards and methods for making such determinations.[1] That guidance is set forth below.

This Notice of guidance is an ''interpretive rule'' and therefore is not subject to the notice and comment or delay in effective date requirements of 5 U.S.C. 553. This Determination is not a ''significant regulatory action'' under Executive Order 12866 and is not a ''major rule'' under 5 U.S.C. 804.

Guidance on Standards and Methods for Determining Whether a Substantial Connection Exists Between Battery or Extreme Cruelty and Need for Specific Public Benefits

By virtue of the authority vested in me as Attorney General by law, including section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, I hereby issue the following guidance to federal, state, and local public benefit providers concerning the standards and methods to be used in determining whether an alien applicant for benefits demonstrates that there is a substantial connection between the battery or extreme cruelty suffered by the alien, the alien's child, or (in the case of an alien child) the alien's parent and the need for the public benefit(s) sought. The following list sets forth the circumstances under which I would find the existence of a substantial connection. Although this guidance is not binding upon benefit providers, it is intended to assist benefit providers in developing standards by which to make substantial connection determinations.

(1) Where the benefits are needed to enable the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to become self-sufficient following separation from the abuser;

(2) Where the benefits are needed to enable the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent from the abuser;

(3) Where the benefits are needed due to a loss of financial support resulting from the applicant's, his or her child's, and/or (in the case of an alien child) his or her parent's separation from the abuser;

[1] Section 5571 also requires the Attorney General to issue guidance on the meaning of the terms ''battery'' and ''extreme cruelty'' as employed in the PRWORA, as amended. That information can be found in Exhibit B to Attachment 5 of the Interim Verification Guidance.

(4) Where the benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support or child custody disputes) cause the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to lose his or her job or require the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to leave his or her job for safety reasons;

(5) Where the benefits are needed because the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or cruelty;

(6) Where the benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the applicant's and/or (in the case of an alien child) the applicant's parent's ability to care for his or her children (*e.g.*, inability to house, feed, or clothe children or to put children into day care for fear of being found by the abuser);

(7) Where the benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser;

(8) Where the benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the applicant, the applicant's child, an/or (in the case of an alien child) the applicant's parent and/or to care for any resulting children; or

(9) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant, the applicant's child, and/or (in the case of an alien child) the alien's parent had when living with the abuser.

Dated: November 23, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–32438 Filed 12–10–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities; Existing Collection; Comment Request

ACTION: Revision to existing collection: Summary of sentenced population movement—Annual data collection.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed collection was previously published in the **Federal Register** on September 16, 1997, allowing for a 60-day public comment period. One comment was received by the Bureau of Justice Statistics. Changes were performed where appropriate.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 12, 1998. All comments and/or questions pertaining to this pending request for approval must be directed to OMB, Office of Information and Regulatory Affairs, Attention Ms. Victoria Wassmer, Department of Justice Desk Officer, Washington, DC 20530. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points;

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(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, electronic mechanical, or other technology collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of this Information Collection

(1) *Type of information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Summary of Sentenced Population Movement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* NPS–1. Bureau of Justice Statistics.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Federal, State, and Local or Tribal Government. The National Prisoner Statistics—1 is the only national source of information on the number of persons under jurisdiction or in custody at midyear and yearend; the number and type of admissions and releases; the number of inmate deaths by cause; counts by sex, race and Hispanic origin; number of inmates with HIV/AIDS, and prison capacity and jail backups due to crowding.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond.* Fifty-two respondents at 6.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Three hundred thirty-eight annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instruction, or additional information, please contact Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: December 5, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–32407 Filed 12–10–97; 8:45 am]

BILLING CODE 4410–18–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Committee on Performance Reviews of the President and Inspector General

TIME AND DATE: The Board of Directors Committee on Performance Reviews of the President and Inspector General will meet on December 18, 1997. The meeting will commence at 9 a.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street N.E.—10th Floor, Washington, DC 20002.

STATUS OF MEETING: Except for approval of the committee's agenda and any miscellaneous business that may come before the committee, the meeting will

be closed to the public. The closing is authorized by the relevant provisions of the Government in the Sunshine Act (5 U.S.C. 552b(c)(2) & (6)) and the corresponding provisions of the Legal Services Corporation's implementing regulation (45 CFR 1622.5(a) & (e)). A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.

Closed Session

2. Conduct a performance appraisal of the President of the Corporation.
3. Conduct a performance appraisal of the Inspector General of the Corporation.

Open Session

4. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel and Secretary of the Corporation, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Jean Edwards at (202) 336–8811.

Dated: December 8, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–32547 Filed 12–9–97; 12:23 pm]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Forms 540, 540A, 541, 541A, 542, and 542A, Uniform Low-Level Radioactive Waste Manifest forms.

2. *Current OMB approval number:* NRC Forms 540, 540A: 3150–0164; NRC Forms 541, 541A: 3150–0166; NRC Forms 542, 542A: 3150–0165.

3. How often the collection is required: Forms are used by shippers whenever radioactive waste is shipped. Quarterly reporting or less frequent is made to NRC depending on specific license conditions.

4. *Who is required or asked to report:* All NRC licensed low-level waste facilities. All generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility must complete the appropriate forms.

5. *The number of annual respondents:* NRC Form 540: 8,000; NRC Form 541: 8,000; NRC Form 542: 600.

6. *The number of hours needed annually to complete the requirement or request:* NRC Form 540: 9,380 hours (1.17 hours per response); NRC Form 541: 43,463 hours (5.43 hours per response); NRC Form 542: 260 hours (0.43 hours per response).

7. *Abstract:* NRC Forms 540, 541, and 542, together with their continuation pages, designated by the ''A'' suffix, provide a set of standardized forms to meet Department of Transportation (DOT), NRC, and State requirements. The forms were developed by NRC at the request of low-level waste industry groups. The forms provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of low-level radioactive waste intended for disposal at a land disposal facility. NRC Form 540 contains information needed to satisfy DOT shipping paper requirements in 49 CFR part 172 and the waste tracking requirements of NRC in 10 CFR part 20. NRC Form 541 contains information needed by disposal site facilities to safely dispose of low-level waste and information to meet NRC and State requirements regulating these activities. NRC Form 542, completed by waste collectors or processors, contains information which facilitates tracking the identity of the waste generator. That tracking becomes more complicated when the waste forms, dimensions, or packagings are changed by the waste processor. Each container of waste shipped from a waste processor may contain waste from several different generators. The information provided on NRC Form 542 permits the States and Compacts to know the original generators of low-level waste, as authorized by the Low-Level Radioactive Waste Policy Amendments Act of 1985, so they can ensure that waste is disposed of in the appropriate Compact.

Submit, by February 9, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 5th day of December, 1997.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 97–32416 Filed 12–10–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–89] and [Docket No. 50–163]

Notice of Application for Decommissioning Amendment General Atomics;Triga Mark I Research Reactor and Triga Mark F Research Reactor

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from General Atomics dated April 18, 1997, for a license amendment approving the decommissioning plan for the TRIGA Mark I (Facility License No. R–38) and TRIGA Mark F (Facility License No. R–163) research reactors

located at General Atomics' site in San Diego, California.

A copy of the application is available for public inspection at the Commission's Public Document Room, the Gelman Building, at 2120 L Street, NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 4th day of December 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. 97–32415 Filed 12–10–97; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on December 17, 1997, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion open to the public:

(1) Request to Post a GS–12 District Manager Position for the Little Rock, Arkansas District Office

(2) Federal Ban on Smoking on Federal Property

(3) Proposed Flexitime/Variable Workweek Changes

(4) Strategic IRM Plan—1977–2002

(5) Regulations:

A. Part 209.12, Railroad Employers' Reports and Responsibilities

B. Part 295, Payments Pursuant to Court Decree or Court-Approved Property Settlement

(6) Year 2000 Issues

(7) Labor Member Truth in Budgeting Status Report

Portion closed to the public:

(A) SES Performance Appraisals for FY-1997—Memo from Chairman, PRB.

(B) SES Recertification for 1997.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: December 8, 1997.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–32521 Filed 12–9–97; 10:41 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22925; File No. 912–10606]

Dreyfus Variable Investment Fund, et al.

December 4, 1997.

AGENCY: Securities and Exchange Commission (''SEC'' or the ''Commission'').

ACTION: Notice of application for an amended order under Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'') for exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an amended order to permit shares of the Dreyfus Variable Investment Fund and the Dreyfus Life and Annuity Index Funds, Inc. (d\b\a Dreyfus Stock Index Fund) to be sold to and held by qualified pension and retirement plans outside the separate account context.

APPLICANTS: Dreyfus Variable Investment Fund (''DVIF''), Dreyfus Life and Annuity Index Fund, Inc. (d\b\a Dreyfus Stock Index Fund) (''DSIF'') (together, the ''Funds'') and The Dreyfus Corporation (''Dreyfus'').

FILING DATE: The application was filed on April 4, 1997, and amended and restated on October 10, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on December 29, 1997, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Zandra Y. Bailes, Senior Counsel, or Mark C. Amorosi, Branch Chief, Division of Investment Management, Office of Insurance Products, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. DVIF is a Massachusetts business trust registered under the 1940 Act as an open-end diversified management investment company. It presently consists of eleven classes of stock and may in the future add one or more additional classes of stock.

2. DSIF is a Maryland corporation registered under the 1940 Act as an open-end non-diversified management investment company. DSIF is a single portfolio mutual fund that offers only one class of stock for investment.

3. Dreyfus, an investment adviser registered under the Investment Advisers Act of 1940, serves as the investment adviser for each Fund. Fayez Sarofim & Co. is the subinvestment adviser for DVIF's Capital Appreciation Portfolio. Mellon Equity Associates is DSIF's index fund manager.

4. On December 23, 1987, an order was issued granting exemptive relief to permit shares of DVIF to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (Release No. IC–16188, File No. 812–6698) (the ''DVIF Order''). Similarly, on August 23, 1989, an order was issued to DSIF granting identical exemptive relief (Release No. IC–17118, File No. 812–7253) (the ''DESIF Order'') (together, the DVIF Order and the DSIF Order, the ''Original Orders'').

5. The Original Orders allow DVIF and DSIF to offer their shares to insurance companies as the investment vehicle for their separate accounts supporting variable annuity contracts, schedule premium variable life insurance contracts and flexible premium variable life insurance contracts (collectively, ''Variable Contracts''). Separate accounts owning shares of a Fund and their insurance company depositors are referred to herein as ''Participating Separate Accounts'' and ''Participating Insurance Companies,'' respectively.

6. The Original orders do not expressly address the sale of shares of the Funds to qualified pension and retirement plans outside of the separate account context (''Qualified Plan''). Applicants propose that the Funds be permitted to offer and sell shares of the Funds to Qualified Plans.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an amended order

pursuant to Section 6(c) of the 1940 Act, exempting scheduled premium variable life insurance separate accounts and flexible premium variable life insurance separate accounts of Participating Insurance Companies (and, to the extent necessary, any principal underwriter and depositor of such an account) and the Applicants from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and rules 6e–2(b)(15) and 6e–3(T)(b)(15) (and any comparable rule) thereunder, respectively, to the extent necessary to permit shares of the Funds to be sold to and held by qualified Plans.

2. Section 6(c) of the 1940 Act provides in part that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provisions of the 1940 Act or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions are available, however, only where the management investment company underlying the separate account (''underlying fund'') offers its shares ''to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is referred to as ''mixed funding.'' The use of a common management investment company as the underlying investment medium for variable annuity and/or variable life insurance separate accounts of unaffiliated insurance companies is referred to as ''shared funding/'' Therefore, Rule 6e–2 does not permit either mixed funding or shared funding because the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity or a flexible premium variable life insurance separate account of the same company or of any affiliated life insurance company. Rule 6e–2(b)(15) also does not permit the sale of shares of the underlying fund to Qualified Plans.

4. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–3(T)(b)(15) also provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions, however, are available only where the separate account's underlying fund offers its shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Therefore, Rule 6e–3(T) permits mixed funding but does not permit shared funding and also does not permit the sale of shares of the underlying fund to Qualified Plans. As noted above, the Original Orders granted the Funds exemptive relief to permit mixed and shared funding, but did not expressly address the sale of shares of the Funds to Qualified Plans.

5. Applicants note that if the Funds were to sell their shares only to Qualified Plans, exemptive relief under Rule 6e–2 and Rule 6e–3(T) would not be necessary. The relief provided for under Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) does not relate to qualified pension and retirement plans or to a registered investment company's ability to sell its shares to such plans.

6. Applicants state that changes in the federal tax law have created the opportunity for each Fund to increase its asset base through the sale of shares of each Fund Qualified Plans. Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the assets underlying Variable Contracts. Treasury Regulations provide that, to meet the diversification requirements, all of the beneficial interests in the underlying investment company must be held by the segregated asset accounts of one or more life insurance companies. Notwithstanding this, the Treasury Regulations also contain an exception to this requirement that permits trustees of a Qualified Plan to hold shares of an investment company, the shares of which are also held by insurance company segregated asset accounts, without adversely affecting the status of the investment company as an adequately diversified underlying investment of Variable Contracts issued through such segregated asset accounts (Treas. Reg. 1.817–5(f)(3)(iii)).

7. Applicants state that the promulgation Rules 6e–2(b)(15) and 6e–3(T)(b)(15) under the 1940 Act preceded the issuance of these Treasury Regulations. Thus, the sale of shares of the same investment company to both separate accounts and Qualified Plans was not contemplated at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

8. Section 9(a) provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a) (1) or (2). Rules 6e–2(b)(15) and 6e–3(T)(b)(15) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying portfolio investment company.

9. Applicants state that the relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of Section 9 limits, in effect, the amount of monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that those Rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals involved in an insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies funding the separate accounts.

10. Applicants previously requested and received relief from Section 9(a) and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) to the extent necessary to permit mixed and shared funding. Applicants maintain that the relief previously granted from Section 9(a) will in no way be affected by the proposed sale of shares of the Funds to Qualified Plans. Those individuals who participate in the management or administration of the Funds will remain the same regardless of which Qualified Plans use such Funds. Applicants maintain that the requirements of Section 9(a) because of investment by Qualified Plans would not serve any regulatory purpose. Moreover, Qualified

Plans, unlike separate accounts, are not themselves investment companies, and therefore are not subject to Section 9 of the 1940 Act. Furthermore, it is not anticipated that a Qualified Plan would be an affiliated person of either Fund by virtue of its shareholders.

11. Applicants state that Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming the limitations on mixed and shared funding are observed. Rules 6e-2(b)(15)(iii)(A) and 6e-3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contractowners with respect to the investments of an underlying fund or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of the Rules). Rules 6e-2(b)(15)(iii)(B) and 6e-3(T)(b)(15)(iii)(A)(*2*) provide that the insurance company may disregard contractowner's voting instructions if the contractowners initiate any change in such company's investment policies, principal underwriter or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii)(B) and (C) of the Rules).

12. Applicants assert that Qualified Plans, which are not registered as investment companies under the 1940 Act, have no requirement to pass through the voting rights to plan participants. Applicable law expressly reserves voting rights to certain specified persons. Under Section 403(a) of the Employment Retirement Income Security Act (''ERISA''), shares of a fund sold to a Qualified Plan must be held by the trustees of the Qualified Plan. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions. (1) When the Qualified Plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA, and (2) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two above exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary to a Qualified Plan appoints an investment manager, the investment manager has the responsibility to vote the share held unless the right to vote such shares is reserved to the trustees or the named fiduciary. Where a Qualified Plan does not provide participants with the right to give voting instructions, the Applicants do not see any potential for material irreconcilable conflicts of interest between or among variable contract holders and Qualified Plan investors with respect to voting of the respective Fund's shares. Accordingly, Applicants state that unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to such Qualified Plans since the Qualified Plans are not entitled to pass through voting privileges.

13. Even if a Qualified Plan were to hold a controlling interest in a Fund, the Applicants argue that such control would not disadvantage other investors in such Fund to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, the Applicants submit that investment in a Fund by a Qualified Plan will not create any of the voting complications occasioned by mixed funding or shared funding. Unlike mixed or shared funding, Qualified Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

14. Applicants state that some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants. Where a Qualified Plan provides participants with the right to give voting instructions, the Applicants see no reason to believe that participants in Qualified Plans generally or those in a particular Qualified Plan, either as a single group or in combination with participants in other Qualified Plans, would vote in a manner that would disadvantage Variable Contract holders. The purchase of shares of the Funds by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

15. Applicants state that they do not believe that the sale of the shares of the Funds to Qualified Plans will increase the potential for material irreconcilable conflicts of interest between or among different types of investors. In particular, Applicants see very little potential for such conflicts beyond that which would otherwise exist between variable annuity and variable life insurance contractowners.

16. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable contracts held in an underlying mutual fund. The Code provides that a variable contract shall not be treated as an annuity contract or life insurance, as applicable, for any period (and any subsequent period) for which the investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified.

17. Treasury Department Regulations issued under Section 817(h) provide that, in order to meet the statutory diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations contain certain exceptions to this requirement, one of which allows shares in an underlying mutual fund to be held by the trustees of a qualified pension or retirement plan without adversely affecting the ability of shares in the underlying fund also to be held by separate accounts of insurance companies in connection with their variable contracts (Treas. Reg. 1.817–5(f)(3)(iii)). Thus, Treasury Regulations specifically permit ''qualified pension or retirement plans'' and separate accounts to invest in the same underlying fund. For this reason, Applicants have concluded that neither the Code, nor the Treasury Regulations or revenue rulings thereunder, present any inherent conflicts of interest.

18. Applicants note that while there are differences in the manner in which distributions from Variable Contracts and Qualified Plans are taxed, these differences will have no impact on the Funds. When distributions are to be made, and a Separate Account or Qualified Plan is unable to net purchase payments to made the distributions, the Separate Account and Qualified Plan will redeem shares of the Funds at their respective net asset value in conformity with Rule 22c-1 under the 1940 Act (without the imposition of any sales charge) to provide proceeds to meet distribution needs. A Qualified Plan will make distributions in accordance with the terms of the Qualified Plan.

19. Applicants state that it is possible to provide an equitable means of giving voting rights to Participating Separate Account contractowners and to Qualified Plans. In connection with any meeting of shareholders, the Funds will inform each shareholder, including each Participating Insurance Company and Qualified Plan, of information necessary

for the meeting, including their respective share of ownership in the relevant Fund. Each Participating Insurance Company will then solicit voting instructions in accordance with Rules 6e-2 and 6e-3(T), as applicable, and its participation agreement with the relevant Fund. Shares held by Qualified Plans will be voted in accordance with applicable law. The voting rights provided to Qualified Plans with respect to share of the Funds would be no different from the voting rights that are provided to Qualified Plans with respect to share of funds sold to the general public.

20. Applicants have concluded that even if there should arise issues with respect to a state insurance commissioner's veto powers over investment objectives where the interests of contractowners and the interests of Qualified Plans are in conflict, the issues can be almost immediately resolved since the trustees of (or participants in) the Qualified Plans can, on their own, redeem the shares out of the Funds. Applicants note that state insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually cannot simply redeem their separate accounts out of one fund and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. Conversely, the trustees of Qualified Plans or the participants in participant-directed Qualified Plans can make the decision quickly and redeem their interest in the Funds and reinvest in another funding vehicle without the same regulatory impediments faced by separate accounts or, as is the case with most Qualified Plans, even hold cash pending suitable investment.

21. Applicants also state that they do not see any greater potential for material irreconcilable conflicts arising between the interests of participants under Qualified Plans and contractowners of Participating Separate Accounts from possible future changes in the federal tax laws than that which already exist between variable annuity contractowners and variable life insurance contractowners.

22. Applicants state that the sale of shares of the Funds to Qualified Plans in addition to separate accounts of Participating Insurance Companies will result in an increased amount of assets available for investment by the Funds. This may benefit variable contractowners by promoting economies of scale, by permitting increased safety of investments through greater diversification, and by making the addition of new portfolios more feasible.

23. Applicants assert that, regardless of the type of shareholders in each Fund, Dreyfus is or would be contractually and otherwise obligated to manage each Fund solely and exclusively in accordance with that Fund's investment objectives, policies and restrictions as well as any guidelines established by the Board of Directors of such Fund (the ''Board''). Dreyfus works with a pool of money and does not take into account the identify of the shareholders. Thus, each Fund will be managed in the same manner as any other mutual fund. Applicants therefore see no significant legal impediment to permitting the sale of shares of the Funds to Qualified Plans.

Conditions for Relief

Applicants consent to the following condition:

1. Any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of a Fund (a ''Participant'') shall report any potential or existing conflicts to the applicable Board. A Participant will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. If pass-through voting is applicable, this includes, but is not limited to, an obligation by each Participant to inform the Board whenever it has determined to disregard the voting instructions of its participants. The responsibility to report such conflicts and information, and to assist the Board will be the contractual obligations of the Participant under its agreement governing participation in the Fund and such agreement shall provide that such responsibilities will be carried out with a view only to the interests of participants in such Qualified Plan.

2. Each Board will monitor its respective Fund for the existence of any material irreconcilable conflict among the interests of the contractowners of all the separate accounts investing in the Fund and participants in Qualified Plans investing in the Funds. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Fund are being managed; (e) a difference in voting instructions given by variable life insurance contract-owners; (f) a decision by a Participating Insurance Company to disregard the voting instructions of contractowners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of its participants.

3. If it is determined by a majority of a Board of a Fund, or by a majority of its disinterested trustees or directors, that a material irreconcilable conflict exists, the relevant Qualified Plans shall, at their expense and to the extent reasonably practicable (as determined by a majority of a the disinterested trustees or directors), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict. Such steps could include: (a) Withdrawing the assets allocable to some or all of the Qualified Plans from the Fund or any portfolio thereof and reinvesting such assets in a different investment medium, which may include another portfolio of a Fund; and (b) establishing a new registered management investment company or managed separate account.

4. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard its participants' voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan many be required, at the election of the Funds, to withdraw its investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal. To the extent permitted by applicable law, the responsibility of taking remedial action in the event of a Board determination of a material irreconcilable conflict and bearing the cost of such remedial action, will be a contractual obligation of all Participants under their agreements governing participation in the Fund, and these responsibilities, will be carried out with a view only to the interests of participants in such Qualified Plans. For purposes of this condition, a majority of the disinterested members of the applicable Board will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will the relevant Fund, or Dreyfus be required to establish a new funding medium for any Variable Contract. Further, no Qualified Plan shall be required by this condition to establish a new funding medium for any Qualified Plan if: (a) A majority of its participants materially and adversely affected by the

irreconcilable material conflict vote to decline such offer or (b) pursuant to governing Qualified Plan documents and applicable law, the Qualified Plan makes such decision without a vote of its participants.

5. Any Board's determination of the existence of a material irreconcilable conflict and its implications will be made known promptly and in writing to all Qualified Plans.

6. Each Qualified Plan will vote as required by applicable law governing Qualified Plan documents.

7. All reports of potential or existing conflicts received by a Board and all Board actions with regard or determining the existence of a conflict of interest, notifying Qualified Plans of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

8. Each Fund will disclose in its prospectus that: (a) Shares of the Fund may be offered to insurance company separate accounts on a mixed and shared basis and to Qualified Plans; (b) materials irreconcilable conflicts may arise between the interests of various contractowners participating in the Fund and the interests of Qualified Plans investing in the Fund; and (c) the Board of such Fund will monitor events in order to identify the existence of any material conflict and determine what action, if any, should be taken in response to such material irreconcilable conflict.

9. No less than annually, the Participants shall submit to each Board such reports, materials or data as the Board may reasonably request so that the Board may carry out fully the obligations imposed upon it by the conditions contained in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, material and data shall be a contractual obligation of all Participants under the agreements governing their participation in the Funds.

10. Neither Fund will accept a purchase order from a Qualified Plan if such purchase would make the Qualified Plan shareholder an owner of 10% or more of the assets of such Fund unless such Qualified Plan executes a fund participation agreement with the relevant Fund including the conditions set forth herein to the extent applicable. A Qualified plan will execute a shareholder application containing an acknowledge of this condition at the time of its initial purchase of shares of such Fund.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors of the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32366 Filed 12–10–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22926; File No. 812–10782]

PBHG Insurance Series Fund, Inc., et al.; Notice of Application

December 4, 1997.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'').

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 6(c) of the 1940 Act for exemptions from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit shares of any current or future series of the Fund and shares of any other investment company that is designed to fund variable insurance products and for which the Adviser, or any of its affiliates, may serve now or in the future, as investment adviser, administrator, manager, principal underwriter or sponsor (the Fund and such other investment companies referred to collectively as the ''Insurance Products Funds'') to be offered and sold to, and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (''Participating Insurance Companies'') and qualified pension and retirement plans outside of the separate account context (''Qualified Plans'' or ''Plans'').

APPLICANTS: PBHG Insurance Series Fund, Inc. (the ''Fund'') and Pilgrim Baxter & Associates, Ltd. (the ''Adviser'').

FILING DATE: The application was filed on September 15, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, in person or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 29, 1997, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester'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 Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 1255 Drummers Lane, Suite 300, Wayne, PA 19087–1590.

FOR FURTHER INFORMATION CONTACT: Megan L. Dunphy, Attorney, or Mark Amorosi, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicants' Representations

1. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as the investment adviser for the Fund.

2. The Fund, an open-end management investment company, is a Maryland corporation. The Fund currently consists of six separate series and may in the future issue shares of additional series.

3. Shares of the Fund are currently offered to separate accounts of Participating Insurance Companies to serve as investment vehicles for variable annuity and variable life insurance contracts (including single premium, scheduled premium, modified single premium and flexible premium contracts) (collectively, ''Variable Contracts''). These separate accounts either will be registered as investment companies under the 1940 Act or will be exempt from such registration.

4. The Participating Insurance Companies will establish their own

separate accounts and design their own Variable Contracts. Each Participating Insurance Company will have the legal obligation of satisfying all applicable requirements under the federal securities laws. The role of the Insurance Products Funds will be limited to that of offering their shares to separate accounts of Participating Insurance Companies and to Qualified Plans and fulfilling the conditions set forth in the application and described later in this notice. Each Participating Insurance Company will enter into a fund participation agreement with the Insurance Products Fund in which the Participating Insurance Company invests.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order under Section 6(c) of the 1940 Act granting exemptions from Sections 9(a), 13(a), 15(a) and 15(b) thereof and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Insurance Products Funds to be offered and sold to, and held by (1) variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company (''mixed funding''); (2) separate accounts of unaffiliated life insurance companies (including both variable annuity and variable life separate accounts) (''shared funding''); and (3) qualified pension and retirement plans outside the separate account context.

2. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e-2(b)(15) provides partial exemptions from Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to variable life insurance separate accounts of the life insurer or any affiliated life insurance company. Therefore, the relief granted by Rule 6e-2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of a management investment company that also offers it shares to a variable annuity separate account of the same insurance company or an affiliated insurance company. The relief granted by Rule 6e-2(b)(15) is not available if the scheduled premium variable life insurance separate account owns shares of an underlying management investment company that also offers its shares to a variable annuity separate account of the same insurance company or an affiliated insurance company or to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The relief granted by Rule 6e-2(b)(15) also is not available if the shares of the Insurance Products Funds also are sold to Qualified Plans.

3. In connection with the funding of flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e-3(T)(b)(15) provides partial exemptions from Sections 9(A), 13(a), 15(a) and 15(b) of the 1940 Act. These exemptions are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. Therefore, the exemptions provided by Rule 6e-3(T)(b)(15) are available if the underlying fund is engaged in mixed funding, but are not available if the fund is engaged in shared funding or if the fund sells its shares to Qualified Plans.

4. Applicants state that the current tax permits the Insurance Products Funds to increase their asset base through the sale of shares to Plans. Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the underlying assets of Variable Contracts. The Code provides that such contracts shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) during which the investments are not adequately diversified in accordance with regulations prescribed by the Treasury Department. Treasury regulations provide that, to meet the diversification requirements, all of the beneficial interests in an investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do contain certain exceptions to this requirement, however, one of which permits shares of an investment company to be held by the trustee of a qualified or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. § 1.817.–5(f)(3)(iii)).

5. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) preceded the issuance of these Treasury regulations. Applicants assert that, given the then current tax law, the sale of shares of the same underlying fund to separate accounts and to Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

6. Applicants request relief for a class or classes of persons and transactions consisting of Participating Insurance Companies and their scheduled premium variable life insurance separate accounts and flexible premium variable life insurance separate accounts (and, to the extent necessary, any investment adviser, principal underwriter and depositor of such separate accounts) investing in any of the Insurance Products Funds.

7. Section 6(c) authorizes the Commission to grant exemptions from the provisions of the 1940 Act, and rules thereunder, if and to the extent that an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Disqualification

8. Section 9(a)(3) of the 1940 Act provides that it is unlawful for any company to act as investment adviser to or principal underwriter of any registered opened investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii), and 6e–3(T)(b)(15(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the application of eligibility restrictions to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company.

9. Applicants state that the relief from Section 9(a) provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants assert that it is not necessary for the protection of investors

or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals who do not directly participate in the administration or management of the Insurance Products Funds, who are employed by the various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Insurance Products Funds as the funding medium for Variable Contracts. Applicants do not expect the Participating Insurance Companies to play any role in the management or administration of the Insurance Products Funds. Applicants assert, therefore, that applying the restrictions of Section 9(a) to individuals employed by Participating Insurance Companies serves no regulatory purpose.

10. Applicants state that the relief requested should not be affected by the proposed sale of Insurance Products Funds to Qualified Plans because the Plans are not investment companies and will not be deemed affiliates solely by virtue of their shareholdings.

Pass-Through Voting

11. Applicants submit that Rule 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume the existence of a ''pass-through voting'' requirement with respect to management investment company shares held by a separate account. Applicants state that Rule 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide exemptions from the pass-through voting requirements in limited situations, assuming the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder are observed. More specifically, Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its contract owners in connection with the voting of shares of an underlying investment company if such instructions would require such shares to be voted to cause an underlying investment company to make, or refrain from making, certain investments which would result in changes in the subclassification or investment objectives of such company, or to approve or disapprove any contract between an investment company and its investment adviser, when required to do so by an insurance regulatory authority. In addition, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that an insurance company may disregard contract owners' voting instructions with regard to changes initiated by the contract owners in the investment company's investment policies, principal underwriter or investment adviser, provided that disregarding such voting instructions is based on specific good faith determinations.

12. Shares of the Insurance Products Funds sold to Qualified Plans will be held by the trustees of such Plans as required by Section 403(a) of the Employee Retirement Income Security Act of 1974 (''ERISA''). Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control the Plan with two exceptions: (a) When the Qualified Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA; and (6) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, the Qualified Plan trustees have exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plans may have their trustees or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Where a Qualified Plan does not provide Qualified Plan participants with the right to give voting instructions, Applicants state that they do not see any potential for irreconcilable material conflicts of interest between or among Variable Contract holders and Plan participants with respect to voting of the respective Insurance Products Fund's shares. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to Qualified Plans since the Plans are not entitled to pass-through voting privileges. Even if a Qualified Plan were to hold a controlling interest in an Insurance Products Fund, the Applicants do not believe that such control would disadvantage other investors in such Insurance Products Fund to any greater extent than is the case when any institutional shareholder holds a majority of the voting securities of any open-end management investment company. In this regard, the Applicants submit that investment in an Insurance Products Fund by a Qualified Plan will not create any of the voting complications occasioned by mixed funding or shared funding.

13. Applicants state that some of the Qualified Plans may provide for the trustee(s), an investment adviser(s) or another named fiduciary to exercise voting rights in accordance with instructions from Qualified Plan participants. Applicants state that, in such cases, the purchase of shares by such Qualified Plans does not present any complications not otherwise occasioned by mixed or shared funding.

Conflicts of Interest

14. Applicants state that no increased conflict of interest would be presented by the granting of the requested relief. Applicants that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. In this regard, Applicants note that when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domicile could require action that is inconsistent with the requirements of other insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. The possibility, however, is not different or greater than exists when a single insurer and its affiliates offer their insurance products in several states, as is currently permitted.

15. Applicants state that affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions set forth in the application and later in this notice (which are adapted from the conditions included in Rule 63–3(T)(b)(15)) are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Insurance Products Funds.

16. Applicant's also assert that affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard Variable Contract owner voting instructions. The potential for disagreement is limited by the requirements that disregarding voting instructions be reasonable and based on

specified good faith determinations. However, if the Participating Insurance Company's decision to disregard Variable Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Insurance Products Fund, to withdraw its separate account's investment in that Insurance Products Fund and no charge or penalty will be imposed upon the Variable Contract owners as a result of such withdrawal.

17. Applicants submit that there is no reason why the investment policies of an Insurance Products Fund with mixed funding would or should be materially different from what those policies would or should be if such Insurance Products Fund or series thereof funded only variable annuity or variable life insurance contracts. In this regard, Applicants note that a fund's adviser is legally obligated to manage the fund in accordance with the fund's investment objectives, policies and restrictions as well as any guidelines established by the fund's Board. Applicants submit that no one investment strategy can be identified as appropriate to a particular insurance product or to a Plan. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. A fund supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers. Applicants submit that permitting mixed and shared funding will provide economic support for the continuation of the Insurance Products Funds. In addition, permitting mixed and shared funding also will facilitate the establishment of additional series of Insurance Products Funds serving diverse goals.

18. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation § 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, ''qualified pension or retirement plans'' and insurance company separate accounts to share the same underlying investment company. Therefore, Applicants assert that neither the code, nor the Treasury regulations, nor the revenue rulings thereunder present any inherent conflicts of interest if the Qualified Plans, variable annuity separate accounts, and variable life insurance separate accounts all invest in the same management investment company.

19. While there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Plans, Applicants state that the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account of the Participating Insurance Company or Qualified Plan cannot net purchase payments to make the distributions, the separate account or Qualified Plan will redeem shares of the Insurance Products Funds at their respective net asset values. The Qualified Plan will then make distributions in accordance with the terms of the Plan and the Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract.

20. Applicants submit that the ability of the Insurance Products Funds to sell their respective shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the 1940 Act, with respect to any Variable Contract owner as opposed to a participant under a Qualified Plan. As noted above, regardless of the rights and benefits of participants under the Qualified Plans, or Variable Contract owners under their Variable Contracts, the Qualified Plans and the separate accounts of Participating Insurance Companies have rights only with respect to their respective shares of the Insurance Products Funds. They can redeem such shares at their net asset value. No shareholder of any of the Insurance Products Funds has any preference over any other shareholder with respect to distribution of assets or payments of dividends.

21. Applicants assert that there are no conflicts between the Variable Contract owners and the Plan participants with respect to state insurance commissioners' veto powers over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree with a particular proposal. While time-consuming, complex transactions must be undertaken to accomplish redemptions and transfers by separate accounts, trustees of Qualified Plans can quickly redeem shares from Insurance Products Funds and reinvest in other funding vehicles without the same regulatory impediments or, as in the case with most qualified plans, even hold cash or other liquid assets pending suitable alternative investment. Applicants maintain that even if there should arise issues where the interests of Variable Contract owners and the interests of participants in Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Plans can, on their own, redeem shares out of the Insurance Products Funds.

22. Applicants submit that mixed and shared funding should provide benefits to Variable Contract owners by eliminating a significant portion of the costs of establishing and administering separate funds. Participating Insurance Companies will benefit not only from the investment and administrative expertise of the Adviser and the Subadvisers, but also from the cost efficiencies and investment flexibility afforded by a larger pool of assets. Mixed and shared funding also would permit a greater amount of assets available for investment by the Insurance Products Funds, thereby promoting economies of scale, by permitting increased safety through greater diversification and by making the addition of new series more feasible. Therefore, making the Insurance Products Funds available for mixed and shared funding will encourage more insurance companies to offer Variable Contracts, and this should result in increased competition with respect to both Variable Contract design and pricing, which can be expected to result in more product variation and lower charges.

23. Applicants assert that there is no significant legal impediment to permitting mixed and shared funding. Separate accounts organized as unit investment trusts historically have been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicants do not believe that mixed and shared funding, and sales to Qualified Plans, will have any adverse federal income tax consequences.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of each Insurance Products Fund's Board of Trustees or Directors (each, a ''Board'') shall consist of persons who are not ''interested persons'' thereof, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any Board member, then the operation of this condition shall be suspended: (a) For a period of 45 days, if the vacancy or

vacancies may be filled by the Board; (b) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Insurance Products Fund's Board will monitor the fund for the existence of any material irreconcilable conflict between and among the interests of the Variable Contract owners of all separate accounts and of Plan participants and Qualified Plans investing in the Insurance Products Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance contract owners and trustees of the Plans; (f) a decision by a Participating Insurance Company to disregard the voting instructions of Variable Contract owners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

3. The Adviser (or any other investment adviser of an Insurance Products Fund), any Participating Insurance Company and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% of more of the assets of an Insurance Products Fund (collectively, ''Participants'') will report any potential or existing conflicts to the Board of any relevant Insurance Products Fund. Participants will be obligated to assist the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Variable Contract owner voting instructions are disregarded and, if pass-through voting is applicable, an obligation by each Qualified Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Boards will be contractual obligations of all Participating Insurance Companies and Qualified Plans investing in the Insurance Products Funds under their respective agreements governing participation in the Insurance Products Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of Variable Contract owners and, if applicable, Plan participants.

4. If a majority of an Insurance Products Fund's Board members, or a majority of the disinterested Board members, determine that a material irreconcilable conflict exists, the relevant Participating Insurance Companies and Qualified Plans, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested Board members), shall take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict. Such steps could include: (a) Withdrawing the assets allocable to some or all of the separate accounts from the Insurance Products Fund or any of its series and reinvesting such assets in a different investment medium, which may include another series of the Insurance Products Fund or another Insurance Products Fund; (b) in the case of Participating Insurance Companies, submitting the question as to whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity or variable life insurance contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Variable Contract owners the option of making such a change; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Variable Contract owner voting instructions, and this decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Insurance Products Fund, to withdraw its separate account's investment in such fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Qualified Plan may be required, at the election of the Insurance Products Fund, to withdraw its investment in such fund, and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Insurance Products Funds and these responsibilities shall be carried out with a view only to the interests of the Variable Contract owners and, as applicable, Plan participants.

For purposes of Condition 4, a majority of the disinterested members of the applicable Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but in no event will an Insurance Products Fund or the Adviser (or any other investment adviser of the Insurance Products Funds) be required to establish a new funding medium for any Variable Contract. No Participating Insurance Company shall be required by Condition 4 to establish a new funding medium for any Variable Contract if a majority of Variable Contract owners materially affected by the material irreconcilable conflict vote to decline such offer. No Qualified Plan shall be required by Condition 4 to establish a new funding medium for such Qualified Plan if (a) a majority of Plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer or (b) pursuant to governing plan documents and applicable law, the Plan makes such decision without Plan participant vote.

5. Participants will be informed promptly in writing of a Board's determination of the existence of an irreconcilable material conflict and its implications.

6. Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for Variable Contract owners. Accordingly, such Participating Insurance Companies, where applicable, will vote shares of the Insurance Products Fund held in their separate accounts in a manner consistent with voting instructions timely received from Variable Contract owners. In addition, each Participating Insurance Company will vote shares of the Insurance

Products Fund held in its separate accounts for which it has not received timely voting instructions from contract owners, as well as shares it owns, in the same proportion as those shares for which it has received voting instructions. Participating Insurance Companies will be responsible for assuring that each of their separate accounts investing in an Insurance Products Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to vote an Insurance Products Fund's shares and calculate voting privileges in a manner consistent with all other separate accounts investing in the Insurance Products Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Insurance Products Fund. Each Plan will vote as required by applicable law and governing Plan documents.

7. All reports of potential or existing conflicts received by a Board, and all Board action with regard to (a) determining the existence of a conflict, (b) notifying Participants of a conflict, and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the meetings of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

8. Each Insurance Products Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Insurance Products Fund shall disclose in its prospectus that: (a) Its shares may be offered to insurance company separate accounts that fund both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) differences in tax treatment or other considerations may cause the interests of various Variable Contract owners participating in the Insurance Products Fund and the interests of Qualified Plans investing in the Insurance Products Fund to conflict; and (c) the Board will monitor the Insurance Products Fund for any material conflicts and determine what action, if any, should be taken.

9. Each Insurance Products Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (for these purposes, the persons having a voting interest in the shares of the Insurance Products Funds). In particular, each such Insurance Products Fund either will provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although more of the Insurance Products Funds shall be one of the trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, each Insurance Products Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Board members and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent that Rule 6e–2 or Rule 6e–3(T) under the 1940 Act is amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Insurance Products Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 or Rule 6e–3(T), as amended, or proposed Rule 6e–3 as adopted, to the extent such Rules are applicable.

11. The Participants, at least annually, shall submit to each Board such reports, materials or data as each Board may reasonable request so that such Boards may fully carry out the obligations imposed upon them by the conditions stated in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Boards. The obligations of the Participants to provide these reports, materials and data upon reasonable request of a Board shall be a contractual obligation of all Participants under the agreements governing their participation in the Insurance Products Funds.

12. If a Qualified Plan or Plan participant shareholder should become an owner of 10% or more of the assets of an Insurance Products Fund, such Plan will execute a participation agreement with such fund which includes the conditions set forth herein to the extent applicable. A Qualified Plan or Plan participant will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the share of any Insurance Products Fund.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32365 Filed 12–10–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26790]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

December 4, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 29, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Consolidated Natural Gas Co., et al. (70–8981)

Consolidated Natural Gas Company (''CNG''), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222–3199, a registered holding company, its wholly-owned nonutility subsidiary company, CNG Energy

Services Corporation (''Energy Services''), One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244–0746, and CNG Power Company (''Power''), One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244–0746, a nonutility subsidiary company of Energy Services, have filed an application-declaration under sections 6(a), 7, 12(b), 13 and 32 of the Act and rules 45, 53, 54, 83, 87, 90 and 91 under the Act.

CNG proposes that Power become the vehicle for CNG investments in exempt wholesale generators (''EWGs'') in the U.S. Investments in EWGs would be made with internally generated funds. CNG proposes that intermediate companies be formed to make EWG investments (''Intermediate Companies''). The Intermediate Companies will be special-purpose subsidiaries that may acquire interests in other corporations, joint ventures, partnerships, and other investment entities created to invest in EWGs.

CNG, Energy Services, Power and its subsidiary companies, including the Intermediate Companies, seek Commission authorization to enter into guarantee arrangements, to obtain letters of credit, and otherwise to provide credit support through December 31, 2002 with respect to EWG investments. The maximum aggregate limit on all such credit support would be $150 million.

Energy Services and its affiliates propose to perform services or construction for, or sell goods to, EWGs in which Power has acquired an interest. Services, construction and goods may be market-priced if the EWGs provide no services, construction or goods to CNG utility companies in the U.S.

Energy Services and its affiliates also propose to contract with CNG companies to provide those services, construction and goods to EWGs. Services, construction and goods obtained from U.S. CNG utility companies would be cost-priced but services, construction and goods from CNG non-utility subsidiary companies would be cost-priced or market-priced—provided that services, construction and goods from CNG non-utility subsidiary companies ''substantially'' involved in the provision of services, construction or goods to U.S. CNG utility companies would be cost-priced.

Energy Services has authorized capital of 4,000 shares of common stock, $1.00 par value per share (''Common Stock''). CNG proposes to change the par value of each share of Common Stock from $1.00 to $10,000 and increase the authorized shares to 50,000 shares. CNG states that the issuance of addition Common Stock for $10,000 per share will allow Energy Services to consummate additional equity financing for the proposed transitions and for other authorized or exempt transactions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32368 Filed 12–10–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39389; File No. SR–CBOE–97–60]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Transaction Fees for Options on the Standard & Poor's 100 Stock Index

December 3, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 20, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') 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 by the CBOE. 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 CBOE proposes to modify the Exchange transaction fees applicable to transactions in options on the Standard & Poor's 100 Stock Index (''OEX'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently filed with the Commission a proposed rule change [3] in which the Exchange informed the Commission that Standard & Poor's (''S&P'') intended to reduce the value of its S&P 100 Stock Index (''Index'') to one-half of its present value by doubling the divisor used in calculating the Index.[4] In connection with the ''split'' of the OEX, the Exchange has evaluated the appropriateness of the current fee schedule and has determined to reduce the transaction fees applicable to transactions in OEX. The current and proposed transaction fees absent any reduction or rebate [5] are: (1) For customer trades for options with a premium less than $1—current: $0.20 per contract side; proposed: $0.15 per contract side; (2) for customer trades of options with a premium equal to or greater than $1—current: $0.40 per contract side; proposed: $0.30 per contract side; (3) for member firm proprietary trades—current: $0.10 per contract side: proposal: $0.06 per contract side; and (4) for market-maker trades—current: $.06 per contract side; proposed: $.05 per contract side. The foregoing fee changes are being implemented by the Exchange pursuant to CBOE Rule 2.22. The Exchange will distribute a circular to its members to notify them of these fee changes.

The Exchange is adopting this fee reduction for transactions in OEX options in order to promote trading in these options after the split in OEX. The Exchange believes that the reduction in the fees may encourage more participation in the trading of these options.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved the proposed rule change on November 19, 1997. See Securities Exchange Act Release No. 39338, 62 FR 63209 (November 26,1997) (order approving File No. SR–CBOE–97–48).

[4] According to the Exchange, the value of the Index was reduced by one-half effective November 24, 1997. Telephone conversation between Timothy Thompson, Senior Attorney, CBOE, and Deborah Flynn, Division of Market Regulation, Commission, on December 2, 1997.

[5] The fees may actually be less than these amounts pursuant to the Exchange's Prospective Fee Reduction Schedule, the Customer Large Trade Discount Program, and rebate programs that have been filed with the Commission as part of the Exchange's fee schedule.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (e) of Rule 19b–4[9] thereunder. At any time within 60 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 proposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, 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 Room, 450 Fifth Street NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the CBOE. All submissions should refer to File No. SR–CBOE–97–60 and should be submitted by January 2, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32367 Filed 12–10–97; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 19b–4(e).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39401; File No. SR–Plx 97–48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Extension and Amendment of the Pilot Program for Equity and Index Option Specialist Enhanced Parity Splits

December 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 5, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') 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 by the Exchange. On November 14 1997, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend until December 31, 1998, the Exchange's enhanced parity split pilot program for equity and index option specialists (''Pilot Program''). The Pilot Program is currently scheduled to expire on December 31, 1997. The Exchange also seeks to modify the application of the Pilot Program so that: (i) the enhanced parity split would not apply to all index options, in addition to applying to 50% of each specialist's equity options and all new options allocated to the specialist during the year; and (ii) specialists would be permitted to revise the list of eligible equity options on a quarterly basis, rather than annually. The proposed rule change will revise Exchange Rule 1014(g) ''Equity Option and Index Option Priority and Parity,'' and its corollary Option Floor Procedure Advice B–6.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of an Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

1. Purpose

On August 26, 1994, the Commission approved the Exchange's Pilot Program to provide enhanced specialist participation in parity equity option trades.[3] Initially, the Pilot Program was approved for a one year period ending August 26, 1995. On November 30, 1994, the Commission approved the Exchange's request to include index option specialists in the Pilot Program.[4] The Pilot Program was later revised on March 1, 1995, with respect to situations where less than three controlled accounts are on parity with the specialist.[5] The Pilot Program has subsequently been renewed on three

[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 is a report which discusses the impact of the Exchange's Pilot Program for Equity and Index Option Specialist Enhanced Parity Splits. See Letter from Michele R. Weisbaum, Vice President and Associate General Counsel, Exchange, to Michael Walinskas, Esquire, Division of Market Regulation, Commission, dated November 7, 1997.

[3] Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sept. 2, 1994).

[4] Securities Exchange Act Release No. 35028 (Nov. 30, 1994), 59 FR 63151 (Dec. 7, 1994).

[5] Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995).

occasions,[6] most recently until December 31, 1997.

The Pilot Program works as follows: when an equity or index option specialist is on parity with one controlled account[7] and the order is for more than five contracts, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when dividing up the contracts. In any of these situations, if a customer is on parity, he will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

It should be noted that the application of this enhanced parity split is mandatory. Therefore, with respect to any equity or index options transaction that implicates that enhanced parity split, the specialist is required to accept the preferential allocation and may not decline the enhancement.[8]

Presently, the enhanced parity split is not made available to all equity and index options traded on the Exchange. Rather, the enhanced parity split applies to only 50% of each specialist unit's issues listed as of the renewal date of the pilot each year, and to all option classes listed after that date.[9] The Exchange seeks to continue to study these rules under the auspices of the Pilot Program. However, the Exchange proposes to modify the application of the Pilot Program in the following respects: (i) While equity options would continue to be included in the pool of options from which each specialist chooses 50%, all index options would receive the enhanced parity split; and (ii) specialists would be allowed to revise the list of eligible equity options on a quarterly basis, instead of on an annual basis. It also should be noted that all new option classes listed after the renewal date of the Pilot Program each year will continue to receive the enhanced parity split. The Exchange has represented that these changes were made to better match the enhancement with the options in which specialists are expending the most money, time and effort in making competitive, liquid markets. Accordingly, the Exchange requests that the Pilot Program, as amended, be extended until December 31, 1998.

In connection with the most recent extension of the Pilot Program,[10] it was noted that prior to granting another extension or permanent approval of the Pilot Program, the Commission would require the Exchange to submit a report (''Report'') discussing: (i) Whether the Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general; (ii) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (iii) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter. The Report, which the Exchange filed on November 14, 1997, as Amendment No. 1, is summarized below.

With respect to the issue of competition, the Exchange found that the enhanced parity split as originally proposed was overly burdensome when only one or two controlled accounts were on parity with the specialist. Consequently, the Pilot Program was amended on March 1, 1995, in order to make the enhanced parity split more equitable in those situations.[11] Later that year, the Exchange established a subcommittee composed of four specialists, four Registered Options Traders (''ROTs''), and one floor broker. The composition of the subcommittee was intended to represent all of the different interests on the trading floor and in the market. The subcommittee has met on numerous occasions to analyze the Pilot Program and its effect on competition, investors, and the market in general. The subcommittee members have discussed the operation of the Pilot Program and have concluded there is not evidence of any adverse effects on competition or investors or the market for equity or index options.

As to the second issue concerning complaints about the Pilot Program, the provision requiring the specialist to assure that the customer is not disadvantaged has been strictly enforced without incident and the Exchange has not received any complaints either orally or in writing from investors or Exchange members regarding inequitable splits or the Pilot Program in general.

Finally, as to the third pilot relating to disciplinary actions, investigations, examinations or inquiries; no violations were either investigated or commenced this year. However, two years ago the Exchange did bring one disciplinary case against an equity option specialist for making an inequitable split among himself and the ROTs in the crowd.[12] In that instance, the specialist was censured and suspended for one week as part of a settlement.[13]

The Exchange further notes that its Options Committee is continuing to review the effectiveness of the Pilot Program and the effectiveness of the existing review criteria and system of selecting subject options. The Exchange expects the Options Committee to complete its review during the upcoming year.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[14] in general, and with Section 6(b)(5),[15] in particular, in that it is designed to promote just and equitable principles of trade; to prevent fraudulent and manipulative acts and

[6] Securities Exchange Act Release Nos. 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995); 37524 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996); and 38924 (Aug. 11, 1997), 62 FR 44160 (Aug. 19, 1997).

[7] A controlled account is defined as ''any account controlled by or under common control with a member broker-dealer.'' Customer accounts, which include discretionary accounts, are defined as all accounts other than controlled accounts and specialists accounts. *See* Exchange Rule 1014(g).

[8] The proposed rule change would not alter the mandatory application of the enhanced parity split. Telephone conversation between Michele R. Weisbaum, Vice President and Associate General Counsel, Exchange, and Michael L. Loftus, Attorney, Division of Market Regulation, Commission (November 26, 1997).

[9] The Exchange also has a different enhanced parity split program in place for ''new'' option specialist units trading newly listed options classes where the specialist is on parity with two or more registered options traders. *See* Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994), That program was approved on a permanent basis and, therefore, is not included in the subject of this filing.

[10] Securities Exchange Act Release No. 38924 (Aug. 11, 1997), 62 FR 44160 (Aug. 19, 1997).

[11] Securities Exchange Act Release No. 35499 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995).

[12] Enforcement No. 95–12, Business Conduct Committee, Exchange.

[13] The Commission again notes that in connection with any future request by the Exchange for the Commission to either further extend or permanently approve the Pilot Program, the Exchange will be required to submit a Report discussing: (i) Whether the Pilot Program has generated any evidence of any adverse effect or competition or investors, in particular, or the market for equity or index options, in general; (ii) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (iii) whether the Exchange has taken any disciplinary action against or commenced any investigation, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(5).

practices; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and to protect investors and the public interest. Specifically, the Exchange believes that the proposal balances the competing interests of specialists and market makers while assisting specialists in making tight and liquid markets in assigned issues. The proposal also protects the public interest by requiring quarterly reviews and assuring that a customer's participation is never disadvantaged by the enhanced parity split.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from November 14, 1997, the date on which it was filed,[16] and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(e) (6) [18] thereunder.

At any time within 60 days of the filing of the proposed 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.

[16] The proposed rule change filing is deemed filed as of the date Amendment No. 1 was received by the Commission.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(e)(6).

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, NW., Washington, DC 20549. Copies of the submissions, 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 persons, 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, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–97–48 and should be submitted by January 2, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

[FR Doc. 97–32369 Filed 12–10–97; 8:45 am]

BILLING CODE 8010–01–M

[19] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Senior Executive Service; Performance Review Board Members

ACTION: Standing Roster of Members of this Agency's Senior Executive Service.

SUMMARY: Section 4314(c)(4) of Title 5, requires Federal agencies publish notification of the appointment of individuals who may serve as members of that Agency's Performance Review Boards (PRB). The following is a standing roster:

1. Paul Weech, Chief of Staff:
2. Chris Sale, Chief Operating Officer;
3. John Whitmore, Deputy to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development;
4. Mary K. Swedin, Assistant Administrator for Congressional and Legislative Affairs;
5. John Gray, Associate Deputy Administrator for Economic Development;
6. Carolyn J. Smith, Assistant Administrator for Human Resources;
7. Herbert Mitchell, Deputy Associate Administrator for Disaster Assistance;
8. Mark Stephens, Deputy General Counsel;
9. John Smith, District Director (Chicago);
10. Erline Patrick, Assistant Administrator for Equal Employment Opportunity and Civil Rights Compliance;
11. Darryl Dennis, Counselor to the Administrator;
12. Charles Anderson, District Director (Miami);
13. Monika Harrison, Associate Administrator for Business Initiatives;;
14. Judith Roussel, Associate Administrator for Government Contracting;
15. Mark Quinn, District Director (San Francisco);
16. Larry Wilson, Chief Financial Officer;
17. Jeanne Saddler, Counselor to the Administrator;
18. John T. Spotila, General Counsel;
19. David Kohler, Associate General Counsel for General Law;
20. Eric Benderson, Associate General Counsel for Litigation;
21. Elizabeth Myers; Senior Advisor to the Administrator;
22. Jadine Neilsen, Senior Advisor to the Administrator;
23. Mona Mitnick, Assistant Administrator for Hearings and Appeals;
24. Edward Eugene Carlson, Associate Administrator for Communications and Public Liaison;
25. Gregory Walter, Deputy Chief Financial Officer;
26. Bernard Kulik, Associate Administrator for Disaster Assistance;
27. Jane Butler, Deputy Associate Administrator for Financial Assistance;
28. Arnold Rosenthal, Assistant Administrator for Borrower and Lender Servicing;
29. Don Christensen, Associate Administrator for Investment;
30. Robert Moffitt, Associate Administrator for Surety Guarantees;
31. Johnnie Albertson, Associate Administrator for Small Business Development Centers;
32. Jeanne Scalter, Acting Deputy to the Associate Deputy Administrator for Economic Development;;
33. James Van Wert, Senior Advisor for Policy and Planning;
34. Lawrence Barrett, Acting Associate Deputy Administrator for Management and Administration;

35. Robert Lineberry, Deputy Chief Information Officer;
36. Thomas Dumaresq, Assistant Administrator for Administration;
37. Calving Jenkins, Acting Associate Deputy Administrator for Government Contracting and Minority Enterprise Development;
38. Aubrey Rogers; District Director (New York);
39. Francisco Marrero, District Director (Newark);
40. Gary Cook, District Director (Charlotte); and
41. Alberto Alvarado, District Director (Los Angeles).

Dated: December 5, 1997.

Aida Alvarez,

Administrator.

[FR Doc. 97–32393 Filed 12–10–97; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Supplementary Agreement on Social Security Between the United States and Canada; Entry Into Force

The Commissioner of Social Security gives notice that a supplementary agreement entered into force on October 1, 1997, which amends the Social Security agreement between the United States (U.S.) and Canada that has been in effect since August 1, 1984. The supplementary agreement, which was signed on May 28, 1996, was concluded pursuant to section 233 of the Social Security Act.

The supplementary agreement amends the original agreement to update and clarify several provisions. Its primary purpose, however, is to provide Canada with explicit legal authorization to enter into a mutual assistance arrangement on Social Security with the United States. A mutual assistance arrangement will allow the Social Security Administration and the Canadian Social Security agency to assist each other in projects that will enhance the integrity of each country's payments to its beneficiaries in the other country.

Individuals who wish to obtain copies of the supplementary agreement or want general information about its provisions may write to the Social Security Administration, Office of International Policy, Post Office Box 17741, Baltimore, Maryland 21235. Anyone who wants information about the Canadian social security system should write to: International Operations Directorate, Income Security Programs Branch, Department of Human Resources Development, Ottawa, Ontario, Canada K1A OL4.

Dated: November 7, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 97–32418 Filed 12–10–97; 8:45 am]

BILLING CODE 4190–29–U

SOCIAL SECURITY ADMINISTRATION

Supplementary Agreement on Social Security Between the United States and the United Kingdom; Entry Into Force

The Commissioner of Social Security gives notice that on September 1, 1997 a supplementary agreement entered into force which amends the Social Security agreement between the United States (U.S.) and the United Kingdom (U.K.) that has been in effect since January 1, 1985. The supplementary agreement, which was signed on June 6, 1996, was concluded pursuant to section 233 of the Social Security Act.

The supplementary agreement amends the original agreement to update and clarify several of its provisions. Its primary purpose, however, is to remove certain restrictions in the original agreement on the payment of U.K. disability benefits to residents of the United States.

Individuals who wish to obtain copies of the supplementary agreement or want general information about its provisions may write to the Social Security Administration, Office of International Policy, Post Office Box 17741, Baltimore, Maryland 21235. Anyone who wants information about U.K. benefits should write to: Pensions and Overseas Benefits Directorate, Tyneview Park, Whitley Road, Benton, Newcastle upon Tyne, NE98 1BA, England.

Dated: November 7, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 97–32417 Filed 12–10–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Reports, Form and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extensions of two currently approved information collections. The ICRs describes the nature of the information collection and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on both ''Special Notice for Repairs'' OMB Control Number 2130–0504 and ''Designation of Qualified Persons'' OMB Control Number 2130–0511 was published in 62 FR 4745–44746, August 22, 1997.

DATES: Comments must be submitted on or before January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Trigonoplos, RAD–20, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590 (telephone: (202) 632–3221). (This telephone number is not toll-free.)

SUPPLEMENTARY INFORMATION:

Federal Railroad Administration

Title: Special Notice for Repairs (49 CFR 216).

OMB Number: 2130–0504.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): FRA F6180.8 and 8a.

Abstract: FRA and State inspectors have the authority to immediately order the cessation of use of unsafe equipment, reduce the authorized operating speed on a section of track, or recommend that track be removed from service when they are found to be immediately unsafe for service. The railroad may, within 5 days after receiving such notice, appeal to FRA.

Burden Estimate: The estimated burden is 25 hours annually.

Title: Designation of Qualified Persons (49 CFR 215).

OMB Control Number: 2130–0511.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Under the Federal Railroad Safety Act of 1970, the Federal Railroad Administration promulgated the Freight Car Safety Standards—49 CFR part 215. These standards require each railroad to conduct regular inspections and take necessary remedial action relative to repairs or movement for repairs of defective railroad freight cars.

Under part 215.11, railroads are required to designate persons qualified to inspect freight cars for compliance with part 215 and persons who shall determine restrictions on movements of defective cars. Inspectors are designated as qualified to inspect freight cars to ensure that the cars receive a full and accurate inspection for compliance with part 215. Under ''Movement of Defective Cars for Repair'' designated inspectors

are necessary to determine what repairs are necessary for defective freight cars. Repairs to railroad freight cars are divided into two categories. ''Running'' or light repairs are confined to defects to freight cars requiring movement of equipment and repair personnel to the freight car's location. The freight car's defect or damage repairs can be performed at that location.

The second category is specialized or heavy repairs. The freight car must be moved to a location where specialized equipment is located. This type of movement for repairs involves freight cars that may not be safely moved without precaution. The movement must be authorized by an employee knowledgeable about equipment limitations which might include speed, track structure, curvature or other conditions that normally would not be of concern.

Estimated Total Annual Burden Hours: 50 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, ATTN: FRA Desk Officer. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions or the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on December 5, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–32456 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on collection number 2132–0544 was published in 62 FR 45286, August 26, 1997, and collection number 2132–0555 was published in 62 FR 46548, September 3, 1997.

DATES: Comments must be submitted on or before January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Sylvia Barney, (202) 366–6680 and refer to the OMB Control Number(s).

SUPPLEMENTARY INFORMATION:

Federal Transit Administration (FTA)

Title: Pre-Award, Post-Delivery Review Requirements under Buy America.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2132–0544.

Form(s): N/A.

Affected Public: State and local government, business or other for-profit institutions, non-profit institutions, and small business organizations.

Abstract: Under the Federal Transit Laws, at 49 U.S.C. 5323(l), grantees must certify that pre-award and post-delivery reviews will be conducted when using FTA funds to purchase revenue service vehicles. FTA regulations 49 CFR Part 663 implements this law by specifying the actual certificates that must be submitted by each bidder to assure compliance with the Buy American, contract specification, and vehicle safety requirements for rolling stock. The information collected on the certification forms is necessary for FTA grantees to meet the requirements of 49 U.S.C. 5323(l).

Estimated Annual Burden Hours: 3,024.

Title: American with Disabilities Act.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2132–0555.

Form Number: N/A.

Affected Public: State and local government, business or other-for-profit institutions, non-profit institutions, and small business organizations.

Abstract: On July 26, 1990, the President signed into law civil rights legislation entitled, ''The Americans with Disabilities Act of 1990'' (ADA) (Pub.L. 101–336). It contains sweeping changes for individuals with disabilities in every major area of American life. One key area of the legislation addresses transportation services provided by public and private entities. Some of the requirements under the ADA are: (1) No transportation entity shall discriminate against an individual with a disability in connection with the provision of transportation service; (2) All new vehicles purchased by public and private entities after August 25, 1990, must be readily accessible to and usable by persons with disabilities, including individuals who use wheelchairs; (3) Public entities that provide fixed route transit must provide complementary paratransit service for persons with disabilities, who are unable to use the fixed route system, that is comparable to the level of service provided to individuals without disabilities; and (4) Transit authorities who are able to substantiate that compliance with all service criteria of the paratransit provisions would cause undue financial burden, may request a temporary time extension in implementing ADA complementary paratransit service. On September 6, 1991, DOT issued a final rule implementing the transportation provisions of ADA (Title 49 CFR parts 27, 37 and 38), which includes the requirements for complementary paratransit service by public entities operating a fixed route system and the provision of nondiscriminatory accessible transportation service. The regulation sets forth the changes needed to fulfill the Congressional mandate to substantially improve access to mass transit service for persons with disabilities. Effective January 26, 1997, paratransit plans are no longer required. However, if FTA reasonably believes that an entity may not be complying with all service criteria, FTA may require an annual update to the entity's plan. In addition, all other ADA compliance requirements must still be satisfied. The information collected provides FTA with a basis for monitoring compliance. The public entities, including recipients of FTA funds, are required to provide information during triennial reviews, complaint investigations, resolutions of complaints, and compliance reviews.

Estimated Annual Burden Hours: 75,000.

ADDRESS: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FTA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance

of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 5, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–32457 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 97–9–32 established the currently effective two-month SFFL applicable through November 30, 1997.

In establishing the SFFL for the two-month period beginning December 1, 1997, we have projected non-fuel costs based on the year ended September 30, 1997 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 97–12–12 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic	1.3697
Latin America	1.4426
Pacific	1.5339

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation:

Dated: December 8, 1997.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–32454 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from January 12–15, 1998, from 9 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Island Club Catering and Conference Center, Naval Air Station North Island, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Mr. Benny Lee McGlamery, Executive Director, ATPAC, Strategic Operations/Procedures Division, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3725.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.2), notice is hereby given of a meeting of the ATPAC to be held January 12 through January 15, 1998, at the Island Club catering and Conference Center, Naval Air Station North Island, San Diego, California.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1, Approval of Minutes.

2. Submission and Discussion of Areas of Concern.

3. Discussion of Potential Safety Items.

4. Report from Executive Director.

5. Items of Interest.

6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than January 9, 1998. The next quarterly meeting of the FAA ATPAC is planned to be held from April 27–30, 1998, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on December 5, 1997.

Benny Lee McGlamery,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 97–32452 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Traffic Advisory System (TAS) Airborne Equipment

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to traffic advisory system (TAS) airborne equipment. The proposed TSO prescribes the minimum operational performance standards that traffic advisory system (TAS) airborne equipment must meet to be identified with the marking ''TSO–C147.''

DATES: Comment must identify the TSO file number and be received on or before February 20, 1998.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comment must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire

to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

This TSO is proposed for a new system of airborne equipment designated TAS. TAS is an airborne traffic advisory system that interrogates ATC transponders in nearby aircraft and uses computer processing to identify and advise the crew of potential and predicted collision threats. The system is designed to protect a volume of airspace around the TAS equipped aircraft by assisting pilots in the visual acquisition of intruder traffic. TAS is similar to TCAS I with changes in the power output and display requirements that make it more encomical, and therefore more appealing, to the General Aviation community. There are two classes of TAS equipment:

Class A. Traffic Display and Aural Alerting

Class A systems provide a flight deck traffic display that indicates the relative position and altitude of ATC transponder-equipped aircraft. Class A systems will provide appropriate aural and visual advisories to assist the flightcrew in visually acquiring the threat aircraft when TAS predicts a penetration of the protected airspace. TAS assist the flightcrew in visually acquiring the intruding aircraft. Traffic advisories indicate the relative positions of intruding aircraft that meet certain range and altitude criteria and are approximately 30 seconds from the closest point of approach. Traffic advisories can be generated for aircraft with operative Mode S, Mode C or Mode A (non-altitude reporting) transponders. The aural alert message ''Traffic-Traffic,'' spoken once, shall be used to inform the crew of a Traffic Advisory (TA). The TAS equipment is viewed as a supplement to the pilot who, with the aid of the ATC system, has the primary responsibility for avoiding mid-air collisions. The TAS system provides no indication of aircraft without operative transponders.

Class B. Aural Alerting and Annunciation Only

Class B systems do not include a cockpit traffic display. Class B systems will provide appropriate aural advisories and visual annunciations to assist the flightcrew in visually acquiring the threat aircraft when TAS predicts a penetration of the protected airspace. Traffic advisories indicate the relative positions of intruding aircraft that meet certain range and altitude criteria and are approximately 30 seconds from the closest point of approach. They assist the flightcrew in visually acquiring the intruding aircraft. The aural alert message ''Traffic-Traffic,'' spoken once, shall be used to inform the crew of a Traffic Advisory (TA). This aural alert message will be accompanied by a discrete visual annunciation indicating that a TA is currently active. This annunciation will remain as long as the TA is active and will extinguish when no TAs are active. TAs will, upon crew command, generate an aural message defining the relative position of ATC transponder-equipped aircraft. Traffic advisories can be generated for aircraft with operative Mode S, Mode C, or Mode A (non-altitude reporting) transponders. The TAS equipment is viewed as a supplement to the pilot who, with the aid of the ATC system, has the primary responsibility for avoiding mid-air collisions. The TAS system provides no indication of aircraft without operative transponders. RTCA Document No. DO–160C sets forth the environmental standards for the Traffic Advisory System. RTCA Document DO–178B sets forth the minimum performance requirements for software for the Traffic Advisory System and requires that each article be marked with the appropriate software level. Because the proposed TSO calls for 2 classes of equipment, the TSO also requires that each article be marked as equipment Class A or Class B, as applicable.

The minimum performance standards for this Traffic Advisory System TSO differ slightly from those standards in RTCA DO–197 (TCAS 1). This TSO was developed specifically, but not exclusively for the general aviation market. The Traffic Advisory System has a lower radiated power output than TCAS 1 and gives an alert as to the presence of intruder aircraft. However, TCAS 1 has resolution alert that gives the pilot directional commands when intruder aircraft are present. These differences make the Traffic Advisory System more economical for the general aviation community. The exceptions to RTCA DO–197A are detailed in the Appendix 1 of this TSO. In order to comply with TSA–C147, the applicant must also meet the performance standards set forth in RTCA Document No. DO–197A, with the stated exceptions in Appendix 1.

How To Obtain Copies

A copy of the proposed TSO–C147 may be obtained via Internet (http://www.faa.gov/avr/air/100home.htm) or on request from the office listed under ''For Further Information Contact.'' Copies of RTCA, Inc. Document No. DO–197A, ''Minimum Operational Performance Standards for An Active Traffic Alert and Collision Avoidance System I (ACTIVE TCAS 1),'' dated September 12, 1994. RTCA Document No. 160D, ''Environmental Conditions and Test Procedures for Airborne Equipment,'' dated July 29, 1997; and RTCA Document No. DO–178B, ''Software Considerations in Airborne Systems and Equipment Certification,'' dated 1, 1992, may be purchased from the RTCA Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Issued in Washington, DC, on December 5, 1997.

Henri P. Branting,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 97–32451 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33524]

Southwest Ohio Regional Transit Authority—Acquisition Exemption—Certain Assets of the Indiana & Ohio Railway Company

Southwest Ohio Regional Transit Authority (SORTA), a noncarrier, has filed a verified notice of exemption under 49 CFR part 1150, subpart D—*Exempt Transactions* to acquire an approximately 9.84-mile line of railroad known as the Blue Ash Line from the Indiana & Ohio Railway Company (I&O). The Blue Ash Line is located northeast of Cincinnati, between milepost 49.6, north of McCullough Yard, and milepost 39.76, near Fields-Ertel Road, in Hamilton County, OH. SORTA will not acquire the right to operate any rail freight service on the Blue Ash Line; I&O will retain the exclusive right and obligation to provide rail freight service on the Blue Ash Line.[1] SORTA will

[1] SORTA simultaneously filed a motion to dismiss the notice of exemption. The entire Board

acquire certain physical assets to allow construction and operation of a passenger rail transit system. The notice states that the transaction would be consummated no sooner than the December 1, 1997 effective date of the exemption. The accompanying motion to dismiss indicates that the transaction is expected to be consummated by December 31, 1997.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* A petition 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 Finance Docket No. 33524, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, Oppenheimer Wolff & Donnelly, 1020 Nineteenth Street, N.W. Suite 400, Washington, DC 20036–6105.

Decided: December 3, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–32268 Filed 12–10–97; 8:45 am]

BILLING CODE 4915–00–P

will address the jurisdictional issue raised by the motion to dismiss in a subsequent decision.

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Report of Passengers Denied Confirmed Space, BTS Form 251

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Pub. L. 104–13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need for and usefulness of DOT requiring U.S. and foreign air carriers that operate scheduled passenger service with over 60-seat aircraft to submit reports on their oversales practices. Such carriers must submit the quarterly Form 251 ''Report of Passengers Denied Confirmed Space.'' However, carriers do not report data from inbound U.S. international flights because the protection of Part 250 ''Oversales'' do not apply to these flights. The Department uses Form 251 data to monitor the compliance by U.S and foreign air carriers to the oversales provisions of Part 250.

DATES: Written comments should be submitted by February 9, 1998.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

COMMENTS: Comments should identify the OMB # 2138–0018 and a duplicate copy should be submitted to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0018. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION: OMB Approval No. 2138–0018.

Title: Report of Passengers Denied Confirmed Space Part 250.

Form No.: 251.

Type of Review: Extension of a currently approved requirement.

Respondents: Large U.S. and foreign passenger air carriers.

Number of Respondents: 140.

Total Annual Burden: 2,438 hours.

Needs and Uses: BTS Form 251 is a one-page report on the number of passengers denied boarding voluntarily or involuntarily, whether the bumped passengers were provided alternate transportation and/or compensation, and the amount of the payment. The report allows the Department to monitor the effectiveness of its oversales rule and take enforcement action when necessary. The involuntary denied-boarding rate has decreased over the years from 4.38 per 10,000 passengers in 1980 to 1.16 per 10,000 passengers for the nine months ended September 1997. These statistics demonstrate the effectiveness of the ''volunteer'' provision, which has reduced the need for more intrusive regulation.

The rate of denied boarding can be examined as an air carrier continuing fitness factor. This rate provides an insight into a carrier's policy on treating overbooked passengers and its compliance disposition. A rapid sustained increase in the rate of denied boarding often is an indicator of operational difficulty.

Because the rate of denied boarding is released quarterly, travelers and travel agents can select carriers with low bumping incidents when booking a trip. This information is made available to the public through the Air Travel Consumer Report, which the Department publishes. The report is sent to newspapers, magazines, and trade journals.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 97–32455 Filed 12–10–97; 8:45 am]

BILLING CODE 4910–FE–P

Corrections

Federal Register
Vol. 62, No. 238
Thursday, December 11, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Temporary Assistance to Needy Families, Medicaid, Aid to Needy Aged, Blind, or Disabled Persons and for the New Children's Health Insurance Programs for October 1, 1998 Through September 30, 1999

Correction

In notice document 97–30832, beginning on page 62613, in the issue of Monday, November 24, 1997 make the following correction:

On pages 62614 and 62615, in the table heading ''September 30, 1996'' should read ''September 30, 1999''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-ANM-13]

Proposed Establishment of Class E Airspace; Hayden, CO

Correction

In proposed rule document 97–30354, beginning on page 61708, in the issue of Wednesday, November 19, 1997, make the following correction:

On page 61708, in the second column, the subject line is corrected to read as set forth above.

BILLING CODE 1505-01-D

Reader Aids

Federal Register

Vol. 62, No. 238

Thursday, December 11, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

E-mail **info@fedreg.nara.gov**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service with a fax machine. There is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list is updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, NW., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, DECEMBER

63441–63626 1
63627–63824 2
63825–64130 3
64131–64262 4
64263–64510 5
64511–64676 8
64677–65004 9
65005–65196 10
65197–65308 11

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7056 64127
7057 64131
7058 65003

Administrative Orders:
Presidential Determinations:
No. 98–4 of November 14, 1997 63823
No. 98–5 of November 17, 1997 63619
No. 96–6 of December 2, 1997 65005

5 CFR

213 63627
315 63627
410 63630
591 63630

7 CFR

17 63606
247 64511
301 ..... 64133, 64263, 64677
319 65007
320 65007
330 65007
352 65007
401 63631
454 63631
457 ..... 63631, 63633, 65130
1412 63441

Proposed Rules:
70 63471
610 64174
729 63678
1301 65226

8 CFR

213a 64048
299 64048

9 CFR

78 64134
91 64265
93 64265

Proposed Rules:
381 64767
441 64767

10 CFR

30 63634
32 63634
50 63825
70 63825
73 63640

Proposed Rules:
40 65039
50 ..... 63892, 63911
70 63911

11 CFR

Proposed Rules:
114 65040

12 CFR

8 64135
226 63441
265 64996
516 64138
543 64138
545 64138
552 64138
556 64138
563 64138
614 63644
703 64146
704 64148
790 65197
791 64266
934 65197
1806 64440

Proposed Rules:
225 64997
226 64769
404 64177
405 64177
708a 64185
708b 64187

14 CFR

39 ..... 63622, 63828, 63830, 63831, 63835, 63836, 64268, 64511, 64513, 64514, 64517, 64519, 64680, 65009, 65011, 65198
71 ..... 64148, 64150, 64151, 64152, 64268, 64268, 64269, 64271, 64272, 64273, 64521, 65012, 65013, 65014, 65015, 65201
95 65016
97 ..... 63447, 63449, 63451
121 65202
255 63837
1260 63452

Proposed Rules:
39 ..... 63473, 63475, 63476, 63624, 63912, 63914, 64523, 64775, 64777, 64779, 64780, 64782, 64784, 64785, 64787, 65227, 65228, 65230, 65231, 65233
71 ..... 63916, 63917, 64321, 64321, 64322, 64323, 64525, 65040, 65041, 65308

15 CFR

295 64682

Proposed Rules:
806 65043

17 CFR

15 65203

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 11, 1997

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Connecticut; correction; published 12-11-97

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards, etc.:

Electrical power generation; transmission and distribution; electrical protective equipment; published 12-11-97

NATIONAL CREDIT UNION ADMINISTRATION

Organization, functions, and authority delegations:

Executive Director and General Counsel; published 12-11-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Digital flight data recorder upgrade requirements

Correction; published 12-11-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Hazelnuts grown in Oregon and Washington; comments due by 12-15-97; published 10-14-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle and bison—

State and area classifications; comments due by 12-15-97; published 10-15-97

Plant-related quarantine, domestic:

Oriental fruit fly; comments due by 12-15-97; published 10-14-97

Plant-related quarantine, foreign:

Tomatoes from Morocco and Western Sahara, etc.; comments due by 12-15-97; published 10-16-97

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Carrageenam, locust bean gum and xanthan gum blend used as binder in cured pork products; comments due by 12-19-97; published 11-19-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Pacific halibut and red king crab; comments due by 12-18-97; published 12-3-97

Marine mammals:

Endangered fish or wildlife—

Atlantic sturgeon; comments due by 12-16-97; published 10-17-97

Incidental taking—

Vandenberg AFB, CA; missile and rocket launches, aircraft flight test operations, and helicopter operations; comments due by 12-15-97; published 11-14-97

DEFENSE DEPARTMENT

Acquisition regulations:

Contract performance reporting outside the United States; comments due by 12-16-97; published 10-17-97

Government property; comments due by 12-16-97; published 10-17-97

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural Gas Policy Act:

Interstate natural gas pipelines—

Business practice standards; comments due by 12-18-97; published 11-18-97

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Florida; comments due by 12-15-97; published 11-13-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 12-19-97; published 11-19-97

FARM CREDIT ADMINISTRATION

Farm credit system:

Leasing activities; comments due by 12-15-97; published 10-15-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Arkansas; comments due by 12-15-97; published 10-31-97

Florida; comments due by 12-15-97; published 10-31-97

Illinois; comments due by 12-15-97; published 10-31-97

Michigan; comments due by 12-15-97; published 10-31-97

Oregon; comments due by 12-15-97; published 10-31-97

FEDERAL DEPOSIT INSURANCE CORPORATION

Interest on deposits:

Payment of interest; exception to prohibition; comments due by 12-15-97; published 10-16-97

FEDERAL LABOR RELATIONS AUTHORITY

Freedom of Information Act; implementation; comments due by 12-15-97; published 11-14-97

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Real Estate Settlement Procedures Act:

Mortgage brokers; disclosure of fees; comments due by 12-15-97; published 10-16-97

INTERIOR DEPARTMENT

Indian Affairs Bureau

Law and order on Indian reservations:

Courts of Indian Offenses and law and order code

Correction; comments due by 12-15-97; published 11-14-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Atlantic sturgeon; comments due by 12-16-97; published 10-17-97

Mobile River Basin, AL; three aquatic snails as endangered and three aquatic snails as threatened; comments due by 12-16-97; published 10-17-97

Newcomb's snail; comments due by 12-15-97; published 11-12-97

St. Andrew Beach mouse; comments due by 12-16-97; published 10-17-97

INTERIOR DEPARTMENT

Conflict of interests:

Ethical conduct for Department of Interior employees; supplemental standards; comments due by 12-15-97; published 10-16-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Louisiana; comments due by 12-19-97; published 11-19-97

Montana; comments due by 12-17-97; published 12-2-97

Ohio; comments due by 12-17-97; published 12-2-97

Surface coal mining and reclamation operations:

Ownership and control, permit application process, and improvidently issued permits; comments due by 12-15-97; published 10-29-97

INTERNATIONAL TRADE COMMISSION

Freedom of Information Act and Privacy Act; implementation; comments due by 12-17-97; published 11-17-97

JUSTICE DEPARTMENT

Drug Enforcement Administration

List I chemicals; manufacturers, distributors, importers and exporters; registration: