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Tuesday
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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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 130

[Docket No. 96–089–2]

Import/Export User Fees; Exemptions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the user fee regulations to provide that user fees are not charged for veterinary diagnostic services in the following cases: When veterinary diagnostic services are provided in connection with Federal programs to control or eradicate diseases or pests of livestock or poultry in the United States (program diseases) or in support of zoonotic disease surveillance when there is a significant risk to human health; and when veterinary diagnostic reagents are distributed within the United States for testing for foreign animal diseases. In addition, we eliminated the user fee for export health certificates that are requested and reviewed, but not endorsed. We made these changes to eliminate confusion, clarify when certain user fees apply, and eliminate an unnecessary user fee.

EFFECTIVE DATE: The interim rule was effective on November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Ford, Section Head, Financial Systems and Services Branch, Budget and Accounting Division, M&B, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective November 7, 1997, and published in the **Federal Register** on November 14, 1997 (62 FR 61005–61007, Docket No. 96–089–1), we amended 9 CFR part 130 (the regulations) to provide that user fees would not be charged for veterinary diagnostic services listed in §§ 130.14 through 130.18 in the following cases: (1) When veterinary diagnostic services are provided in connection with Federal programs to control or eradicate diseases or pests of animals in the United States (program diseases) or in support of zoonotic disease surveillance when there is a significant risk to human health; and (2) when veterinary diagnostic reagents are distributed within the United States for testing for foreign animal diseases. In addition, we eliminated the user fee listed in § 130.20(d) for export health certificates that are requested and reviewed, but not endorsed.

Comments on the interim rule were required to be received on or before January 13, 1998. We received one comment by that date. The commenter supported the interim rule as written and requested a clarification of the policy.

In the interim rule, we explained that veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism or chemical agent is present in body tissues or cells and to identify those organisms or agents. We also explained that we provide veterinary diagnostic services in support of zoonotic disease [1] surveillance. Occasionally, there are zoonotic diseases that pose a significant threat to human health, and a thorough knowledge of the prevalence of the disease in animals will directly benefit control of the disease in humans. In these cases, the cost of the testing related to the zoonotic disease surveillance is covered by appropriated funds.[2] Therefore, we amended our regulations to state that user fees are not charged for veterinary diagnostic services provided in support of zoonotic disease surveillance when the Administrator has determined that there is a significant threat to human health (§ 130.49(a)(3)).

The commenter requested a clarification of our user fee policy for chemical agent testing by the Animal and Plant Health Inspection Service. Specifically, the commenter asked whether user fees would be waived for chemical residue testing in quality assurance programs or when there is an accidental pesticide or other chemical contamination of animals which could cause human illness.

Zoonotic diseases are caused by infectious agents, not chemical agents. For this reason, chemical residue testing in quality assurance programs would not be exempt from user fees. Likewise, toxicologic tests conducted in response to an accidental pesticide or other chemical contamination of animals would not be considered surveillance for a zoonotic disease and would not be exempt from user fees.

Therefore, based on the rationale set forth in the interim rule and in this document, we are affirming the provisions of the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372, and 12988, and the Paperwork Reduction Act.

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

List of Subjects in 9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Tests.

PART 130—USER FEES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 130 and that was published at 62 FR 61005–61007 on November 14, 1997.

Authority: 5 U.S.C. 5542; 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 7 CFR 2.22, 2.80, and 371.2(d).

[1] Zoonotic diseases are those that affect both animals and humans and are communicable from animals to humans. Examples of zoonotic diseases are anthrax, brucellosis, leptospirosis, rabies, salmonellosis, tuberculosis, and vesicular stomatitis.

[2] At this time, salmonellosis is the only zoonotic disease that falls into this category, and user fees are not charged for the salmonella testing that will provide direct benefit to control of disease in humans. User fees are charged for other salmonellosis testing.

Done in Washington, DC, this 8th day of April 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9789 Filed 4–13–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–291–AD; Amendment 39–10465; AD 98–08–16]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A and 340B series airplanes, that requires a one-time inspection to detect discrepancies of the flight idle stop override mechanism, and corrective action, if necessary. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent increased braking distance for landings that require the flight idle stop override, resulting from the combination of failure of the override mechanism and inability of the power levers to be moved below the flight idle position after touchdown.

DATES: Effective May 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 19, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A and 340B series airplanes was published in the **Federal Register** on February 5, 1998 (63 FR 5902). That action proposed to require a one-time inspection to detect discrepancies of the flight idle stop override mechanism, and corrective action, if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 256 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $15,360, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–08–16 Saab Aircraft AB: Amendment 39–10465. Docket 97–NM–291–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers –004 through –159 inclusive; and SAAB 340B series airplanes, serial numbers –160 through –379 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent increased braking distance for landings that require the flight idle stop override, resulting from the combination of failure of the override mechanism and inability of the power levers to be moved below the flight idle position after touchdown, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time inspection of the flight idle stop override mechanism to

detect any discrepancy, in accordance with Saab Service Bulletin 340–76–041, dated May 29, 1997, or Revision 01, dated July 2, 1997. If any discrepancy is found, prior to further flight, replace the control quadrant with a new or serviceable control quadrant in accordance with the service bulletin.

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

(d) The actions shall be done in accordance with Saab Service Bulletin 340–76–041, dated May 29, 1997, or Saab Service Bulletin 340–76–041, Revision 01, dated July 2, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive 1–116, dated June 9, 1997.

(e) This amendment becomes effective on May 19, 1998.

Issued in Renton, Washington, on April 6, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9588 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–39; Amendment 39–10426; AD 98–07–07]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce, plc RB211 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes existing airworthiness directive (AD) 96–13–04, applicable to Rolls-Royce, plc RB211 series turbofan engines, that currently requires removing and replacing a rigid low pressure (LP) fuel system tube assembly with a tube assembly incorporating flexible sections and revised clip points in order to preclude cracking and subsequent fuel leakage. This amendment requires replacing one of the flexible fuel tube assemblies installed in accordance with AD 96–13–04 with an alternate flexible fuel tube assembly that is not prone to rupture. This AD also requires immediate replacement of any rigid fuel tubes not previously removed from service as required by AD 96–13–04. The amendment is prompted by reports of fuel line rupture on one of the flexible fuel tube assemblies installed in accordance with AD 96–13–04. The actions specified by this AD are intended to prevent high volume fuel leaks and reported fuel collection inside the engine nacelle, which could result in an uncontrolled engine fire.

DATES: Effective April 29, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 1998.

Comments for inclusion in the Rules Docket must be received on or before June 15, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 94–ANE–39, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce, plc, P.O. Box 31, Moor Lane, Derby, DE248BJ, United Kingdom; telephone 1332–249428, fax 1332–249423. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On June 11, 1996, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 96–13–04, Amendment 39–9672 (61 FR 36622, July 12, 1996), applicable to Rolls-Royce, plc (R–R) Model RB211–535E4 and –535E4–B turbofan engines, to require removing and replacing the existing rigid low pressure (LP) fuel system tube assembly, part number (P/N) UL16692, with tube assembly, P/N AE709623–1 or P/N 163521538, having flexible sections and revised clip points to preclude cracking and subsequent fuel leakage. That action was prompted by multiple reports of fuel leaks. That condition, if not corrected, could result in a fuel system leak, which could result in rapid atomization of fuel and an engine fire.

Since the issuance of that AD, the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), received 11 reports of fuel leaks from flexible fuel tube assembly, P/N AE709623–1, installed in accordance with AD 96–13–04, including two inflight engine shutdowns, one go-around, and one diversion as of December 16, 1997. A failure of the flexible fuel tube assembly could result in high volume fuel leaks and reported fuel collection inside the engine nacelle, which could result in an uncontrolled engine fire.

This engine model is manufactured in the UK and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, 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.

The FAA has reviewed and approved the technical contents of R–R Service Bulletin (SB) No. RB.211–73–C297, Revision 1, dated January 9, 1998, that describes procedures for replacing flexible fuel tube assembly, P/N AE709623–1, with an alternate flexible fuel tube assembly, P/N 163521538, that is not prone to rupture.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes AD 96–13–04 to require replacing one of the

flexible fuel tube assemblies, P/N AE709623–1, installed in accordance with AD 96–13–04 with an alternate flexible fuel tube assembly, P/N 163521538, that is not prone to rupture. This AD requires full compliance prior to exceeding 60 days after the effective date of the AD. The compliance time was established based upon the risk to flight safety and parts availability. This AD also requires, prior to further flight, replacement of any rigid fuel tubes that have not been removed from service in accordance with AD 96–13–04. These actions are required to be accomplished in accordance with the SB described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–ANE–39.'' 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 is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9672 (61 FR 36622, July 12, 1996), and by adding a new airworthiness directive, Amendment 39–10426, to read as follows:

98–07–07 Rolls-Royce, plc: Amendment 39–10426. Docket 94–ANE–39. Supersedes AD 96–13–04, Amendment 39–9672.

Applicability: Rolls-Royce, plc. (R–R) Models RB211–535E4 and –535E4–B turbofan engines installed on but not limited to Boeing 757 series and Tupolev 204 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 high volume fuel leaks and reported fuel collection inside the engine nacelle, which could result in an uncontrolled engine fire, accomplish the following:

(a) Prior to further flight, remove from service rigid low pressure (LP) fuel system tube assembly, part number (P/N) UL16692, and replace with flexible fuel tube, P/N 163521538.

(b) Remove from service flexible fuel tube assembly, P/N AE709623–1, installed in accordance with AD 96–13–04, and replace it with alternate flexible fuel tube assembly, P/N 163521538, in accordance with R–R Service Bulletin (SB) No. RB.211–73–C297, Revision 1, dated January 8, 1998. Replace all fuel tube assemblies prior to exceeding 60 days after the effective date of this AD, or at the next shop visit, whichever occurs first.

(c) For the purpose of this AD, a shop visit is defined as the induction of an engine into the shop for any reason.

(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, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

(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 aircraft to a location where the requirements of this AD can be accomplished.

(f) The actions required by this AD shall be done in accordance with the following R–R SB:

Document No. RB.211–73–C297.
Pages: 1–8.
Revision: 1.
Date: January 8, 1998.
Total pages: 8.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce, plc, P.O. Box 31, Moor Lane, Derby, DE248BJ, United Kingdom;

telephone 1332–249428, fax 1332–249423. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 29, 1998.

Issued in Burlington, Massachusetts, on April 2, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–9582 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–69–AD; Amendment 39–10466; AD 98–08–17]

RIN 2120–AA64

Airworthiness Directives; Turbo-Propeller Powered General Dynamics (Convair) Model 240, 340, and 440 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to various turbo-propeller powered General Dynamics (Convair) Model 240, 340, and 440 series airplanes, that requires revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight. This amendment is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the ground propeller beta range was used improperly during flight. The actions specified by this AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: May 19, 1998.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Frank Hoerman, Aerospace Engineer, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 527–5371; fax (562) 625–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to various turbo-propeller powered General Dynamics (Convair) Model 240, 340, and 440 series airplanes was published in the **Federal Register** on July 9, 1997 (62 FR 36747). That action proposed to require revising the Airplane Flight Manual (AFM) to modify the limitation that prohibits positioning the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop during flight.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

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

Cost Impact

There FAA estimates that 178 General Dynamics (Convair) Model 240, 340, and 440 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $10,680, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–08–17 General Dynamics (Convair): Amendment 39–10466. Docket 97–NM–69–AD.

Applicability: All turbo-propeller powered Model 240, 340, and 440 series airplanes, including those models commonly referred to as Model 580, 600, and 640 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

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

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

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

(d) This amendment becomes effective on May 19, 1998.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9756 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0004a; FRL–5993–4]

Approval and Promulgation of Air Quality Implementation Plans; Utah; 1993 Periodic Carbon Monoxide Emission Inventories for Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the 1993 periodic carbon monoxide (CO) emission inventories for Ogden City and Utah County (which includes Provo-Orem) that were submitted by the Governor, as a revision to the State Implementation Plan (SIP), to satisfy certain requirements of section 187(a)(5) of the Clean Air Act (CAA), as amended in 1990. This action is being taken under section 110 of the CAA.

DATES: This final rule is effective June 15, 1998 unless within May 14, 1998, relevant adverse comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Richard R. Long, Director, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the State documents relevant to this action are available for public inspection at the following office: Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background

As required by the CAA, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The CAA required States with moderate or serious CO nonattainment areas to initially submit a base year CO inventory that represented actual emissions during the peak CO season by November 15, 1992. This base year inventory was for calendar year 1990. Moderate and serious CO nonattainment areas were also required to submit a revised emissions inventory periodically. The 1990 base year inventory was to serve as the primary inventory from which the periodic inventories were to be derived. As per CAA section 187(a)(5), the submittal of the first periodic emissions inventory, as a revision to the SIP, was required no later than September 30, 1995, and every three years thereafter until the area is redesignated to attainment. This requirement applies to Ogden City and Utah County. Further information on these inventories and their purpose can be found in the document ''Emission Inventory Requirements for Carbon Monoxide State Implementation Plans'', USEPA, Office of Air Quality Planning and Standards, EPA–450/4–91–011, March, 1991, and the September 30, 1994, guidance memorandum entitled ''1993 Periodic Emission Inventory Guidance'', signed by J. David Mobley, Chief of the Emission Inventory Branch (hereafter, the Mobley Memorandum).

The periodic inventories were to be prepared in similar detail as was done with the 1990 base year inventories and were to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO air quality concentrations occur. As winter is the peak CO season for Ogden City and Utah County, the 1993 periodic inventories included the period December through February. The periodic inventories are to address emissions from stationary point, area, on-road mobile, and non-road sources.

II. Analysis of the State's Submittal

A. Review of the 1993 CO Periodic Emissions Inventories (PEI) for Ogden City and Utah County

The September 30, 1994, Mobley memorandum allowed for two options for the approach to developing the 1993 PEI. If the 1993 PEI was to be used for a regulatory purpose (i.e., milestone compliance demonstration, rate of progress, maintenance plan tracking, etc.) a rigorous, comprehensive PEI was to be developed similar in detail and documentation to that which was done for the 1990 base year inventory. If, however, EPA and the State determined that the 1993 PEI would not be used to support a regulatory purpose other than to fulfill the CAA section 187(a)(5) requirement, a less rigorous approach could be appropriate. Utah chose the former option for both the Ogden City and Utah County 1993 PEIs.

EPA has reviewed the 1993 PEIs for Ogden City and Utah County. Summary tables, calculations for all identified sources in each source category, and adequate documentation were provided by the State for both of the PEIs. EPA has determined that the Ogden City and Utah County 1993 PEIs satisfy the requirements of section 187(a)(5) of the CAA.

The 1993 CO emissions from point sources, area sources, on-road mobile

sources, and non-road mobile sources for Ogden City and Utah County are summarized in the following table:

CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY

Non-Attainment Area	Point Source Emissions [1]	Area Source Emissions	On-Road Mobile Emissions	Non-Road Mobile Emissions	Total Emissions
Ogden City	([2])	5.96	54.03	0.95	60.94
Utah County	89.95	26.55	292.10	4.61	413.21

[1] Major CO point sources (i.e., CO emissions equal to or greater than 100 tons per year).
[2] None identified.

All supporting calculations and documentation for these 1993 carbon monoxide periodic inventories are contained in the State's Technical Support Document (TSD) for this action.

B. Procedural Background

The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA provides that each SIP revision (including emission inventories) be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State to EPA.[1]. The September 30, 1994, Mobley memorandum, however, allowed an alternative for the 1993 PEI submittals. Under the section of the Mobley memorandum entitled ''Review and Approval'' EPA stated:

''The review and approval of the 1993 periodic emission inventory is the responsibility of the Regional Office. In accordance with the memorandum of September 29, 1992, on 'Public Hearing Requirements for 1990 Base-Year Emissions Inventories for Ozone and Carbon Monoxide Nonattainment Areas', rulemaking on the 1993 periodic emission inventory can be deferred until it has regulatory significance. In any case, a submittal of a 1993 periodic emission inventory is required to avoid a 'Finding of Failure to Submit' ''.

In view of the guidance provided in the Mobley memorandum, the Utah State Air Director, Russell Roberts, decided to submit the Ogden City and Utah County 1993 PEIs through two letters dated October 6, 1995. (see State correspondence referenced as DAQS–0217–95 and DAQS–0218–95, respectively). This action by the State was sufficient to avoid a ''Finding of Failure to Submit'' letter by EPA. However, EPA was precluded from taking rulemaking action on the 1993 PEIs as they had not gone through a notice and public hearing process, had not been adopted by the Utah Air Quality Board (UAQB), and were not submitted as a revision to the SIP by the Governor.

On December 9, 1996, the Governor submitted a request for redesignation to attainment and a maintenance plan for Ogden City. At this point in time the Ogden City 1993 PEI had reached ''regulatory significance'' because the area must have a fully approved SIP to be redesignated (see CAA section 107(d)(3)(E)(ii)). In a letter dated September 17, 1997, from Richard R. Long, Director, Air Program, Region 8, to Ursula Trueman, Director, Utah Division of Air Quality, EPA stated that in order to fulfill the requirements of sections 187(a)(5) and 107(d)(3)(E)(ii) of the CAA, the Ogden City 1993 PEI would have to go through the State's notice and public hearing process, be approved by the UAQB, and be submitted by the Governor as a revision to the SIP. Following a reasonable notice, the State held a public hearing for both the Ogden City and Utah County 1993 PEIs on October 28, 1997. The inventories were adopted by the UAQB and were formally submitted by the Governor on November 12, 1997. EPA determined the submittal was complete on February 5, 1998.

III. Final Rulemaking Action

EPA is approving the carbon monoxide 1993 periodic emission inventories for Ogden City and Utah County as fulfilling the requirements of section 187(a)(5) of the CAA. These inventories were submitted by the Governor with a letter dated November 12, 1997.

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

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the Proposed Rules Section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This action will be effective June 15, 1998 without further notice unless the Agency receives relevant adverse comments by May 14, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. Any parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 15, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under Section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the

[1] Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I–X, ''Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas,'' September 29, 1992.

nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 15, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the CAA).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 26, 1998.

Jack McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart TT—Utah

2. Section 52.2350 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.2350 Emission inventories.

* * * * *

(b) On November 12, 1997, the Governor of Utah submitted the 1993 Carbon Monoxide Periodic Emission Inventories for Ogden City and Utah County as revisions to the Utah State Implementation Plan. These inventories address carbon monoxide emissions from stationary point, area, non-road, and on-road mobile sources.

[FR Doc. 98–9678 Filed 4–13–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 422

[HCFA–1027–IFC]

RIN 0938–AI60

Medicare Program; Definition of Provider-Sponsored Organization and Related Requirements

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

ACTION: Interim final rule with comment period.

SUMMARY: The Balanced Budget Act of 1997 establishes a new Medicare+Choice program that significantly expands the health care options available to Medicare beneficiaries. Under this program, eligible individuals may elect to receive Medicare benefits through enrollment in one of an array of private health plans that contract with HCFA. Among the new options available to Medicare beneficiaries is enrollment in a provider-sponsored organization (PSO). This interim final rule with comment period defines the term ''provider-sponsored organization'' for purposes of the Medicare program and establishes requirements related to meeting this definition.

We believe that setting forth the definition of a PSO and the related requirements will facilitate the submission of applications to participate in the Medicare program as a PSO.

DATES: *Effective date:* This interim final rule is effective May 14, 1998. *Comment period:* Comments will be considered if received at the appropriate address, as provided below, no later than June 15, 1998.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1027–IFC, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following e-mail address: hcfa1027ifc@hcfa.gov. E-mail comments must include the full name

and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1027–IFC Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Maureen Miller, (410) 786–1097; Phil Doerr, (410) 786–1059.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicare+Choice Program

Health care benefits covered under the Medicare program are divided into two parts: Hospital insurance, also known as ''Part A,'' and supplementary medical insurance, also known as ''Part B.'' Health care services covered under Part A include: inpatient hospital care, skilled nursing facility care, home health agency care, and hospice care. Part B coverage is optional and requires payment of a monthly premium. Part B covers physician services (in both hospital and nonhospital settings) and services furnished by certain nonphysician practitioners. It also covers certain other services, including: clinical laboratory tests, durable medical equipment, most supplies, diagnostic tests, ambulance services, prescription drugs that cannot be self-administered, certain self-administered anticancer drugs, some other therapy services, certain other health services, and blood not supplied by Part A.

Section 4001 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33), enacted August 5, 1997, adds sections 1851 through 1859 to the Social Security Act (the Act) to establish a new Part C of the Medicare program, known as ''Medicare+Choice.'' (The existing Part C of the statute, which included provisions in section 1876 of the Act governing existing Medicare health maintenance organization (HMO) contracts, was redesignated as Part D.) Under the new Medicare+Choice program, every individual entitled to Medicare Part A and enrolled under Part B, except for individuals with end-stage renal disease, may elect to receive benefits through either the existing Medicare fee-for-service program or a Part C Medicare+Choice plan.

B. Medicare+Choice Plan Options

The Medicare+Choice plan options include both the traditional managed care plans (such as HMOs) that have participated in Medicare on a capitated payment basis under section 1876 of the Act as well as a broader range of plans comparable to those now available through private insurance. Specifically, effective January 1, 1999, section 1851(a)(2) of the Act provides for three types of Medicare+Choice plans:

- Coordinated care plans, including HMO plans, provider sponsored organization (PSO) plans, and preferred provider organization (PPO) plans.
- Medical savings account (MSA) plans (that is, combinations of a high deductible, catastrophic insurance plan with a contribution to a Medicare+Choice MSA). This option is a demonstration.
- Private fee-for-service plans.

C. Statutory Requirements

Section 1856(b)(1) of the Act directs the Secretary to publish by June 1, 1998, regulations necessary for overall implementation of the Medicare+Choice program. These regulations will establish a new Part 422 in title 42 of the Code of Federal Regulations and will set forth the basic requirements for all Medicare+Choice plans.

Additionally, section 1856(a) of the Act provides that the Secretary establish through a negotiated rulemaking process, the solvency standards (as described in section 1855(c)(1) of the Act) that entities will be required to meet if they obtain a waiver of the otherwise applicable requirement that they be licensed by the State. (For more information on the negotiated rulemaking process see the HCFA notices published on September 23, 1997, and October 28, 1997, 62 FR 49649 and 62 FR 55773, respectively.)

As we worked on developing procedures to allow PSOs to sign Medicare+Choice contracts in 1998, we determined that interested health plans needed to know the fundamental organizational requirements they had to meet as soon as possible. In addition, in the course of the negotiated rulemaking process, it has become clear to HCFA and the negotiated rulemaking committee that a clear definition of PSO was needed to establish solvency standards. Therefore, in order to assist entities considering applying to become PSOs under the Medicare+Choice program we have developed the definition of a PSO and related requirements for publication in this interim final rule with comment period.

II. Provider-Sponsored Organizations Under the Medicare+Choice Program

In recent years, the term ''provider-sponsored organization'' has been one of several terms applied to health care delivery systems that are owned or controlled and operated by a provider or group of providers within a community. Such systems, also referred to as integrated delivery systems, are most commonly formed by physicians and hospitals and can provide an array of health care services to patients under a variety of payment mechanisms, including risk-sharing arrangements through contracts with HMOs. A few States have passed laws specifically recognizing these types of new entities, and some PSOs have undertaken direct contracting with employers and other payors. Until implementation of the BBA, these types of entities are eligible to participate in the Medicare program only if they meet the requirements for a risk contract under section 1876 of the Act.

Section 4001 of the BBA established new sections 1851 through 1859 of the Act. Section 1851(a)(2) of the Act now explicitly provides for participation of a PSO plan in the Medicare+Choice program. For the most part, a PSO plan is required to meet the same requirements as other coordinated care plans that participate in the program. However, the statute establishes two special rules for PSOs.

First, a fundamental requirement of the Medicare+Choice program, as set forth under new section 1855(a)(1) of the Act, is that a Medicare+Choice organization must be ''organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which it offers a Medicare+Choice plan.'' However, section 1855(a)(2) of the Act establishes an exception to this general rule by allowing a PSO to obtain a Federal waiver from the State licensure requirement if it meets one of three criteria specified in the Act. A PSO that files a request for a Federal waiver can qualify as a Medicare+Choice plan if the Secretary determines that any of the following criteria is met:

- The State failed to complete action on a licensing application within 90 days.
- The State denied the licensing application based on discriminatory treatment.
- The State denied the licensing application based on the organization's failure to meet solvency requirements,

and there is a difference between the State's solvency requirements and the Federal solvency requirements to be established through the negotiated rulemaking process mentioned above.

Application for a waiver of the licensure requirement may be made until November 1, 2002, and the approved waiver is effective for a nonrenewable 36-month period. We will discuss the waiver criteria and application process in a separate rulemaking document on PSO Solvency Standards and Waiver.

The other special rule for PSOs involves the minimum enrollment requirements set forth under new section 1857(b) of the Act. Section 1857(b)(1) specifies that participating Medicare+Choice organizations must have at least 5,000 individuals receiving health benefits through the organization, or at least 1,500 if the organization primarily serves a rural area. For PSOs, though, these minimum enrollment requirements are set at 1,500 for urban areas and 500 for rural areas. These lower minimum enrollment requirements apply to entities that meet the Medicare definition and related requirements for a PSO, including State-licensed PSOs, in addition to PSOs that participate in the Medicare+Choice program under a Federal waiver of the State licensure requirement.

III. Provisions of the Interim Final Rule With Comment Period

A. Overview

The requirements contained in this interim final rule represent the first set of published regulations applicable to the Medicare+Choice program. To accommodate the new regulations needed to implement this program, we are establishing a new Part 422—Medicare+Choice Program, in Title 42 of the Code of Federal Regulations. We intend to set forth the overall framework of part 422 in the comprehensive interim final rule scheduled to be published by June 1, 1998. At this time, we are establishing only Subpart H, the subpart necessary to address Provider-Sponsored Organizations issues.

B. Discussion of PSO Definition and Related Requirements

We are establishing a new § 422.350 Basis, scope and definitions.

Paragraph (a) states that the regulations set forth in subpart H are based on sections 1851 and 1855 of the Act. It also specifies that the scope of the subpart is to (1) authorize PSOs to contract with HCFA as a Medicare+Choice plan; (2) require that a PSO meet certain qualifying requirements; and (3) provide for waiver of State licensure for PSOs under specified conditions.

Paragraph (b) of § 422.350 sets forth the meaning of terms as they are used for purposes of subpart H. The terms defined here are discussed in logical order below; note that they appear in alphabetical order in the regulations text.

Provider-Sponsored Organization

We define in regulations a PSO as it is defined in section 1855(d)(1) of the Act. That is, a PSO is a public or private entity that—

(1) Is established or organized, and operated, by a health care provider or group of affiliated (as defined in § 422.354(a)) health care providers.

(2) Provides a ''substantial proportion'' (as defined in § 422.352(b)) of the health care items and services under its Medicare+Choice contract directly through the provider or affiliated group of providers. ''Substantial proportion'' is discussed below.

(3) In the case of a group of affiliated providers, the providers share, directly or indirectly, substantial financial risk (as defined under § 422.356(a)) for the provisions of items and services under its contract and have at least a majority financial interest (as defined under § 422.356(b)) in the PSO.

This definition focuses on the unique, provider-based nature of this type of entity and lays the groundwork for the requirements that follow. As set out in legislation, providers are the core of a PSO, and must establish, organize, and control the health plan. Further, the definition clearly establishes that providers must have a stake in the PSO enterprise by sharing in the financial risk passed to the health plan by HCFA.

Control—As discussed below, section 1855(d)(4) of the Act sets forth a specific meaning of ''control'' for purposes of determining whether a provider is affiliated with another provider. For all other purposes related to PSOs, however, we define in § 422.350(b) that control exists if an individual, group of individuals, or organization, has the power, directly or indirectly, ''to direct or influence significantly'' the actions or policies of an organization or institution.

This definition is essentially the same as the long-standing definition of control that is used for purposes of providers in the Medicare fee-for-service programs (see 42 CFR 413.17.) The term ''control'' is used in several contexts in relation to PSOs (aside from its specific meaning for purposes of determining affiliation under section 1855(d)(3)), and we believe that this general definition, which results in case-by-case determinations, is appropriate for all these uses.

New section 1855(d)(5) defines the term ''health care provider'' for purposes of PSO requirements. This definition is much broader than the definition of ''provider of service'' found in section 1861(u) of the Act and the definition of ''provider'' found in § 400.202 of our regulations (definitions specific to Medicare). Here, the term can apply to both individuals (such as physicians, nurse practitioners, physician assistants, etc.) and the entities commonly considered to be providers, as well as other types of health care entities.

Pursuant to section 1855(d)(5) of the Act, we are defining ''health care provider'' as:

- Any individual who is engaged in the delivery of health care services in a State and who is licensed or certified by that State to engage in the delivery of such services in the State; and
- Any entity that is engaged in the delivery of health care services in a State provided, if required by the State, the entity is licensed or certified to engage in the delivery of such services in the State.

To meet the terms of this definition, an individual health care practitioner must be licensed or certified by the State to be considered a provider for purposes of the PSO requirements. We believe this complies with the intent of section 1855(d)(5)(A) of the statute. Consistent with section 1855(d)(5)(B) of the Act, all entities that require licensure or certification must be in compliance with these State requirements. As contemplated by the statute, health care entities that are not required to be licensed or certified may meet this definition of ''health care provider'', although individual components of the entity may be required to be licensed or certified. An example, or hypothetical situation of this, is a health care system where, through merger or acquisition, a licensed hospital, a certified home health agency, a licensed rehabilitation facility, and a medical group consisting of individually licensed physicians have formed a corporate entity that provides a wide range of health care services. In this example, each of the component entities would be licensed, as are the individual physicians, but not the health care system as a whole. Thus, the corporate entity could be considered a ''health care provider'' even though it itself is not licensed.

Given the evolving nature of the industry, we recognize that other types

of health care entities may exist that are not addressed by this regulatory definition. We welcome comments or suggestions on these types of arrangements, and will consider whether they would necessitate changes in the definition.

We anticipate that the current requirement for Medicare-contracting HMOs and competitive medical plans to furnish services through providers that comply with conditions of participation and certification, as required by § 417.416 of the regulations, will be incorporated (in the same or similar manner) into the Medicare+Choice standards to be issued June 1.

Engaged in the Delivery of Health Care Services

This phrase is used in both contexts of the statutory definition of a health care provider, that is, both for individual providers and entities. Section 422.350(b) specifies that for an individual, ''engaged in the delivery of health care services'' means that the individual directly furnishes health care services. For an entity, it means that the entity is organized and operated primarily for the purpose of furnishing health care services directly or through its provider members or entities.

We are clarifying the meaning of this phrase in the definitions section of the regulations largely because of the new types of health care organizations that are continuing to be formed. For example, a number of provider entities or institutions that had been organized and operated to furnish health care services have added other types of non-clinical health-related services, such as management services, utilization review services, electronic information services, etc. On the other hand, some health-related companies have ventured into areas associated with direct health care delivery. We believe that PSOs are intended to be established and operated by providers actively furnishing patient care. Thus, in this definition, we clarify the role and importance of furnishing health care services—for both individuals and entities—in order to be considered engaged in the delivery of health care services. If it is necessary for HCFA to make a determination whether an entity can be considered engaged in the delivery of health care services, we will consider the entity's organizational structure, (including lines of business), mission, bylaws and control to determine the predominant nature of the entity. Thus, for example, the extent to which physician members provide services and control an independent practice association (IPA) could be determining factors whether the IPA group is considered to be engaged in the delivery of health care services.

C. Basic Requirements for PSOs (§ 422.352)

New § 422.352 specifies that to be considered a PSO for purposes of the Medicare+Choice program, an organization must comply with the following general requirements.

In paragraph (a) we require the organization to—

- Be licensed by the State or obtain a waiver of licensure as provided for under section 1855(a)(2) of the Act.
- Meet the definition of a PSO set forth in § 422.350 and other applicable requirements of 42 CFR Part 422, subpart H.
- Be controlled by a health care provider or, in the case of a group, by one or more of the affiliated providers that established and operate the PSO.

The requirement that an entity either be licensed by the State or have obtained a Federal waiver, basically restates the two ways in which a PSO can participate in the Medicare+Choice program, as spelled out under section 1855(a) of the Act. The general requirement concerning control explicitly incorporates into the regulations the underlying statutory intent that in PSOs, health care providers must have controlling authority over the organization. The joint conference committee report states: ''A PSO is a term generally used to describe a cooperative venture of a group of providers who *control* its health service delivery and financial arrangements.'' (emphasis added) (H.R. Report 105–217, Conference Report to accompany H.R. 2015, 630). As discussed above, control is defined in the same way as it is used in other Medicare settings, and we intend to make decisions about whether control exists on an individual case basis. In general, we believe that control implies that the providers or groups of affiliated providers that furnish health care services through a PSO must exercise control, not only over clinical decision-making and quality assurance, but also govern the PSO, e.g., direct the administration of the enterprise, maintain control of the governing body, and remain fully accountable for the organization. (See also the discussion of majority financial interest.)

In paragraph (b) we include requirements concerning provision of services. We incorporate the general requirement that a PSO must demonstrate that it is capable of delivering to Medicare enrollees the range of services required under a contract with HCFA. This requirement currently applies to all managed care plans that contract with HCFA under section 1876 of the Act. We intend to establish a similar requirement for network-based organizations that enter into contracts under the Medicare+Choice program, in accordance with the general requirement for provision of services under section 1852(a)(1) of the Act. Thus, this requirement for PSOs will supplement the overall Medicare+Choice requirement that participating health plans (where applicable) be capable of providing all contracted services directly or through arrangement. (These organizations also are responsible for payment of out-of-plan emergency and urgently needed services, as well as care furnished in connection with point-of-service options.)

Another key component of § 422.352(b) involves the requirement that a PSO deliver a substantial proportion of the health care items and services through the provider or affiliated group of providers responsible for operating the PSO, as required under section 1855(d)(1) of the Act. Section 1855(d)(2)(A) of the Act then specifies that in defining what constitutes a ''substantial proportion,'' the Secretary is to take into account the need for a PSO to be responsible for providing ''significantly more than the majority'' of items and services under its contract through its own affiliated providers, with most of the remaining items and services to be furnished through agreements between the PSO and other nonaffiliated providers. The statute clarifies that the intent of the substantial proportion provisions is ''* * * to assure financial stability and to address practical considerations involved in integrating the delivery of a wide range of service providers.''

In establishing the appropriate level for the substantial proportion requirement, our goal was to identify a threshold high enough to comply with the intent of the statute but not so high as to discourage participation in the program. A simple majority being 51 percent, we determined that a PSO must directly provide significantly more than 51 percent of the items and services committed to under its contract in order to meet this requirement. We also recognize that some portion of services will be provided by nonplan providers on an emergency or urgently needed basis. In addition, we did not want to preclude the possibility of a PSO offering a point-of-service option. Therefore, we evaluated and modeled substantial proportion options between

60 and 80 percent of contractually required Medicare services.

We considered both aggregate models, that is, comparisons of total services furnished by affiliated providers with total services furnished by the PSO, as well as hybrid models that compared services in various categories (for example, setting separate substantial proportion requirements for different types of care such as inpatient hospital services or physician services.) However, we determined that the hybrid models were unnecessarily complicated and administratively burdensome for both PSOs and HCFA, without contributing to the objective of assuring the financial stability of the organization. Based on our analysis, and consultation with health care industry and beneficiary representatives, we concluded that setting the substantial proportion requirement at 70 percent appropriately balances two key interests: (1) that we not set the proportion of services so high as to prevent participation by all but the most sophisticated provider organizations and (2) that the substantial proportion threshold be sufficient to ensure that a PSO have a well-developed capacity to deliver services, thus meeting the financial stability objective explicit in the statute and increasing the prospects for successful development and solvent operation of a PSO. Therefore, we are specifying under § 422.352(b)(1) that in general a substantial proportion constitutes not less than 70 percent of Medicare items and services covered under a PSO's contract.

Section 1855(d)(2)(C) of the Act provides that the Secretary may allow for variation in the definition of substantial proportion for rural PSOs. Consistent with this provision, and based upon consultations with rural health care industry representatives and beneficiary representatives, we have established under § 422.352(b)(2), a substantial proportion threshold of 60 percent of Medicare items and services required under contract for rural PSOs. We believe that this requirement reflects the lower proportion of specialty and other medical services that are likely to be available in some rural areas and is necessary to foster the likelihood of PSO development and success in rural areas.

Finally, along with the decision of how to define substantial proportion, we also needed to identify the best method for comparing the proportion of items and services furnished by a PSO's affiliated providers with the overall amount of items and services furnished through the PSO. The two possible approaches involved either the use of Medicare encounter data or Medicare expenditure data. During discussions with health care industry representatives, we learned that using expenditure data generally would not be burdensome for PSOs because it is commonly collected for internal financial management purposes. Furthermore, expenditure data may also produce a measurement more in line with the intent of the substantial proportion requirement. For example, the expenditures associated with an acute hospital visit would reflect a higher draw upon the PSO's resources than a physician office visit. Likewise, with expenditure data, the dollar amounts associated with each physician office visit, home care visit, etc., will reflect resource use and the ability of PSO providers to manage medical utilization. Therefore, based upon its immediate availability and superior meaningfulness, we concluded that use of expenditure data is the better approach at this time for determining compliance with the substantial proportion requirement. We intend to provide guidance on the calculation of substantial proportion in future documents concerning application and compliance procedures.

Paragraph (c) discusses characteristics a PSO must have to be considered rural. For purposes of the substantial proportion requirement, we are adopting the language of current § 412.62(f). This section references a widely accepted Office of Management and Budget methodology for identifying rural areas that is currently in use in the majority of HCFA programs. We considered several alternatives for defining rural areas including one that utilizes census tract data and another that utilizes a United States Department of Agriculture methodology whereby multiple levels of urban and rural definitions can be established through criteria. We concluded that the definitions set forth under § 412.62(f) would appropriately identify those areas that may be eligible for the rural standard for substantial proportion and that this definition would provide consistency in the application of rural definitions among the majority of Medicare programs.

Section 422.352(c) sets forth the standards for qualifying as a rural PSO, and allows non-rural providers to take part in the PSO as an affiliate or a subcontractor. The substantial proportion standards for rural PSOs recognize that non-rural providers are often an important source of care for residents of rural areas. Hence, the percentage of services that must be provided through affiliated providers of a rural PSO is less than the percentage required of a non-rural PSO. The exception for rural PSOs is intended to foster the development of capitated plans that can be available to residents of rural areas, and to permit rural providers to participate in the formation of such plans. Non-rural providers may be components of a PSO eligible for the rural exception to the substantial proportion standard, but we wish to ensure that such a PSO is primarily a rural-based plan, and that the arrangements such a plan makes for the provision of services is consistent with the patterns of care for the rural community. Beneficiaries who enroll in a rural PSO should enjoy the same level of accessibility and availability of care through local providers as non-enrollees residing in the same area. Hence, we are requiring that the PSO must demonstrate that it can render, through affiliated providers located in the rural area, medical services commonly provided to beneficiaries by providers in the rural community. Services provided by providers located in the rural area generally should include primary care, emergency care, and commonly used types of specialty care available in the area, in order to ensure that a basic level of care is available to enrollees of the PSO at the local level. Patients may be referred to non-rural providers for more complex (e.g., tertiary-level) hospital care and for certain types of specialty care, and for other care, to the extent that the PSO can demonstrate that the use of non-rural providers is consistent with referral patterns in the service area. As far as is practicable, services provided outside the rural area should be provided by affiliated providers or by providers that have contracts with the PSO, except for unusual or infrequently used health services.

Another test as to whether the PSO qualifies as rural relates to the Medicare beneficiaries enrolling in the organization. A majority of the PSO's Medicare enrollees must reside within the rural area or areas served by the PSO. We considered higher thresholds for this standard, but, after consultation with rural health care and beneficiary representatives, determined that this was the most workable approach.

We believe that this approach to rural PSOs is balanced. That is, the two standards (in conjunction with the 60 percent threshold for substantial proportion) validate that the PSO is indeed a rural-based health plan yet is flexible enough to promote the development of rural PSOs.

D. Requirements for Affiliated Providers (§ 422.354)

The concept of affiliation is central to the organization of PSOs. Section 1855(d)(3) of the Act sets forth four criteria under which a provider can demonstrate affiliation with another provider for PSO purposes. In this interim final rule, we are incorporating the statutory provisions into § 422.354 by specifying that a provider is affiliated with another provider if, through contract, ownership, or otherwise, any of the following criteria is met:

- One provider, directly or indirectly controls, is controlled by, or is under common control with the other.
- Each provider is a participant in a lawful combination under which each provider shares substantial financial risk (as set forth under § 422.356 of this part) in connection with the PSO's operations.
- Both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code (IRC) of 1986.
- Both providers are part of an affiliated service group under section 414 of the IRC.

As specified under section 1855(d)(4) of the Act, control is presumed to exist for purposes of the first criterion if one party, directly or indirectly, owns, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another. The second criterion (§ 422.354(a)(2)) contains a two-pronged test. It requires that providers affiliate in a lawful combination, which we will interpret as meeting antitrust and other Federal guidelines, as well as applicable Federal and State statutes. However, HCFA's determination that providers are affiliated for purposes of the Medicare+Choice program does not constitute a determination that the arrangement among the affiliated providers is lawful under Federal or State antitrust law. (HCFA does not have authority to make such determinations, and will consult the Federal Trade Commission as necessary.) In addition, each affiliated provider must share substantial financial risk in the operations of the PSO. Our policy with respect to what constitutes substantial financial risk is discussed in detail below.

The last two criteria are based on provisions of the Internal Revenue Code of 1986. We do not intend to make determinations as to whether or not a PSO meets either of these criteria, since this is outside our authority, but will look to evidence provided by the PSO as to its standing under the tax code. (When necessary, we will consult with appropriate officials within the Department of Treasury, as we have done in the development of this interim final rule.)

In general, under these criteria, we believe that an affiliated provider could be, for example, a medical group, an IPA, a hospital, a nursing home, or a home health agency. (We note that an individual provider who is not part of a larger entity also could be considered an affiliated provider of the PSO if the individual provider meets all applicable requirements.) The purpose of these affiliation tests is to distinguish the PSO as an entity made up of separate providers who have combined in an acceptable manner and are bound together in order to contract with the Medicare program. These rules are not intended to limit the structuring, or even the payment arrangements, of individuals, facilities, or other providers who are components of the entity that is the affiliated provider. For example, these rules do not limit an IPA's flexibility in bringing together individual physicians, or its payment arrangements with those physicians. Likewise, if a hospital has purchased a medical practice and a nursing home, the hospital (now a health care system) is considered one affiliated provider of the affiliated model PSO. The concerns addressed in this portion of the regulation are with how the hospital or health care system in this example affiliates with other provider entities outside of its corporate structure for purposes of establishing and operating a PSO, not the individuals or component provider entities within the corporate structure.

In addition to the organizational tests of affiliation under paragraph (a) of § 422.354, paragraph (b) then specifies that a PSO must demonstrate that each of its affiliated providers share, directly or indirectly, substantial financial risk for the provision of items and services under the Medicare contract that are the obligation of the organization. Similarly, we include under § 422.354(c) the requirement that affiliated providers, as a whole or in part, have at least a majority financial interest in the PSO. These requirements stem from section 1855(d)(1)(C) of the statutory PSO definition, and are included in § 422.356 of the regulations, as discussed below.

E. Determining Substantial Financial Risk and Majority Financial Interest (§ 422.356)

The term ''substantial financial risk'' is used twice in section 1855(d) of the Act. First, section 1855(d)(1)(C) stipulates that, where affiliated providers have established the PSO, they must share substantial financial risk for the items and services provided under the contract. The term is used again in section 1855(d)(3)(C), which sets forth one of the four ways in which providers may demonstrate affiliation, i.e. providers must be in a lawful combination and share substantial financial risk in the operation of the PSO.

In recent years, other legislation amending the Social Security Act has used the term ''substantial financial risk'' for purposes which differ from how the term is used here. Section 216 of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191) requires the Secretary to establish, through a negotiated rulemaking process, a new safe harbor from the anti-kickback statute (section 1128B of the Act, 142 U.S.C. 1320a–7b(b)) for certain risk-sharing arrangements that place an individual or entity at ''substantial financial risk for the cost or utilization'' of items or services furnished by those providers. Section 4204 of the Omnibus Reconciliation Act of 1990 (Pub. L.101–508) and the physician incentive plan under our regulations at 42 CFR 417.479 require managed care organizations that place physicians or physician groups at ''substantial financial risk'' to assure that stop loss coverage is in place and to conduct beneficiary satisfaction surveys. Physicians are deemed to be at substantial financial risk if their risk for referral services exceeds 25 percent of the maximum potential payments under the contract (unless the entity serves more than 25,000 patients and certain pooling criteria are met). In addition, financial risk sharing as an indicator of integration among otherwise competing health care providers was addressed by the Federal Trade Commission (FTC) and the Department of Justice (DoJ) in antitrust guidelines issued in August, 1996. Thus a regulatory clarification of this requirement as used for affiliated providers of PSOs is necessary.

In both uses of ''substantial financial risk'' in section 1855(d) of the Act, a provider entity—such as a hospital or medical group—is required to be at financial risk for more than the provider's own items and services. That is, each affiliated provider must have a stake in the PSO. We considered defining a specific level of risk, such as a percentage, or categories of risk, but determined that this would not be workable given the numerous types of providers (ranging from large facilities to small speciality practices), varying capacities of the providers, and various

financial concerns. Establishing categories or levels of risk was too arbitrary given the extent of potential affiliates, and administratively burdensome for us and the health plans. Because each PSO will be unique, we decided that a case-by-case determination would be needed. Thus, in this interim final rule, we establish that HCFA will determine whether the affiliated providers demonstrate substantial financial risk for purposes of section 1855(d)(1)(C) of the Act and for purposes of affiliation in section 1855(d)(3)(C).

To help us provide regulatory clarification on risk-sharing, we looked to the health care provider antitrust guidelines mentioned above for guidance. The antitrust guidelines and the requirement for substantial financial risk in the BBA have different purposes: The antitrust guidelines are concerned with the extent of economic integration among otherwise independently competing health care providers, while the BBA's requirement addresses the extent of the affiliated providers' stake in, and commitment to, the successful operation of the PSO. Because of the different contexts and purposes of the two provisions, we have not adopted the risk-sharing mechanisms outlined in the antitrust guidelines in total for this interim final rule with comment. We adopted with modifications three of the four examples of mechanisms identified by the FTC and DoJ. Through our analysis, we determined that the fourth, global payment rates for certain complex cases, or for case management, was not evidence of an affiliated provider's risk in the overall enterprise of the PSO.

One mechanism that may be acceptable for demonstrating financial risk is capitation; i.e., agreement by an affiliated provider (such as a medical group or IPA) to provide services at a capitated rate of payment from the PSO. A capitated rate is a preset, fixed payment per enrollee in exchange for the provision of a set of services without regard to frequency of use, intensity, or cost of such services for a specified time period. In these regulations, we are not concerned with the capitation or other payments to individual providers within the provider entity, but only the capitation arrangement between the PSO and the affiliated provider. The capitation arrangement must demonstrate that the affiliated providers share significant risk for the PSO enterprise. For example, we may consider a comprehensive, capitated payment rate that covers hospital and physician services as demonstrating substantial financial risk. In this case, a capitated health care system that is providing the bulk of commonly used services to a significant portion of PSO's enrollment would be viewed as sharing in the financial risk of the PSO enterprise. However, more typical capitation arrangements (e.g. whereby an IPA is capitated for the primary and specialty care of its associated physicians) usually will not be adequate to demonstrate that an affiliated provider shares substantial financial risk in the PSO. In the latter case, another mechanism that links the affiliate financially to the overall health plan will likely be necessary because the capitated affiliated provider (such as an IPA or medical group) must demonstrate that it holds risk in the PSO, and is not at risk just for its own services. An example of what may be permissible here is the withholding of a significant amount of an affiliated provider's capitation, to be used to cover the losses of the PSO, if such occur, or to distribute back to the affiliated provider(s) if cost-containment and utilization management goals are met. Another example could be a significant capital investment in the PSO on the part of the capitated affiliate. The amount or level of financial risk borne by each affiliated provider may vary based on factors such as the size or capacity of the provider, the nature of services provided, and financial strength. For example, a well-capitalized hospital affiliate will bear more risk than a nursing home, home health agency, or federally qualified health center affiliates.

In addition to capitation, other possible risk-sharing mechanisms drawn from the antitrust guidelines include agreement by an affiliated provider to provide services for a predetermined percent of the PSO's premium (or revenue), and certain financial incentives considered to be significant, e.g., withholds and preestablished, fixed budgets or utilization targets for the affiliated provider. Again, the PSO must demonstrate that the affiliated provider shares risk in the PSO enterprise through these risk-sharing mechanisms.

We have included also a provision that allows HCFA to consider other means of demonstrating ''substantial financial risk'' in the PSO. This approach allows us the flexibility to consider other financial commitments that could be submitted for consideration, such as significant ownership in a for-profit PSO, significant investments from the affiliated provider, or a guarantee by an affiliated provider to cover the debt or operating expenses of the PSO.

We believe that the approach chosen for this regulation, a determination by HCFA as to the demonstration of substantial financial risk sharing and the outline of mechanisms that will be considered in the assessment, is appropriate at this early stage in the PSO program. We also believe that this approach will work for both provisions regarding the substantial financial risk in section 1855(d). As our experience evaluating risk-sharing arrangements, contractual agreements, and organizational structures for PSOs increases, we may provide further guidance through program issuances.

Paragraph (b) of § 422.356 reflects the requirements of section 1855(d)(1)(C) of the Act that the affiliated providers in a PSO have a majority financial interest in the organization. We considered requiring that all affiliated providers have an ownership interest, membership interest, or voting rights in the PSO. We rejected this alternative because we believed it would unnecessarily restrict the formation and development of PSOs. In addition, such a requirement could result in a nominal ownership interest, such as a $1 stake in the PSO, rendering the requirement meaningless. We also considered establishing thresholds of financial interest, but determined this method to be too arbitrary. We believe, that by nature of the requirement that PSOs must be effectively controlled by the affiliated providers, the affiliated providers must have a majority financial interest in the PSO. Even where one or a portion of the affiliated providers control the PSO (this is permissible under the regulations), we believe that the requirement that all affiliated providers share substantially in the risk borne by the health plan—taken together with the requirements for affiliation—provides the appropriate incentives for provider ''buy-in'' to the PSO as envisioned by the statute. Therefore, § 422.356(b) simply states that majority financial interest means maintaining effective control of the PSO.

Following are two examples of how this requirement may be met:

Example 1. In a for-profit PSO, the affiliated providers (either all or some portion of the affiliated providers) both own(s) not less than 51 percent of the organization and maintain(s) control, including a majority position, in the governance of the PSO (such as control of the board of directors).

Example 2. In a not-for-profit, member-model PSO, the affiliated providers (either all or some portion of the affiliated providers) both control(s) not less than 51 percent of the membership and maintain(s) control,

including a majority position, in the governance of the PSO.

The requirement concerning majority financial interest does not preclude either providers not affiliated with the PSO (but who could have another arrangement to provide services) or nonproviders from ownership, membership, or other formal position in the PSO's organizational structure. However, any restrictions are intended to ensure that effective controlling authority rests with the affiliated providers.

IV. Applicability of These Rules

As noted above, the definition and requirements set forth in this interim final rule pertain only to PSOs and do not apply to any other type of coordinated care plan. However, in order to contract with the Medicare program, a PSO also must meet the general Medicare+Choice program requirements that will be established under Part 422. Until these requirements are established, we suggest that interested parties consult the current Medicare risk contract requirements under Part 417, in the managed care section on HCFA's Homepage on the Internet, in combination with the statutory requirements under the BBA, for guidance. An organization interested in entering into a contract with Medicare as a PSO must first apply to its State for licensure. Only a PSO that is denied licensure by the State based on any of the three criteria set forth under section 1855(a)(2) of the Act may obtain a waiver from HCFA. Following either State licensure or approval of a Federal waiver, the organization then applies to HCFA to participate in the Medicare+Choice program as a PSO. We will review the application first to determine whether the organization meets the PSO definition and related requirements set forth in this interim final rule. We then will determine whether the organization meets the general Medicare+Choice requirements.

An organization that applies under the Federal waiver provision also needs to meet the solvency standards established in regulations in compliance with new section 1856 of the Act. Again, this entire process will be discussed in greater detail in another interim final rule with comment period. This rule also will be used for entities that are licensed by the State but wish to avail themselves of the lower minimum enrollment standards for PSOs. In this situation, no waiver request and only that portion of the PSO application related to this interim final rule will be applied.

V. Regulatory Impact Statement

A. Introduction

Section 804(2) of Title 5, United States Code (as added by section 251 of Pub. L. 104–121), specifies that a ''major rule'' is any rule that the Office of Management and Budget finds is likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

As discussed throughout this interim final rule, the establishment of PSOs should promote competition in the managed care industry and thus will not produce cost or price increases. Although the definitions being established through this rule do not lend themselves to a quantitative impact estimate, we do not believe that they are likely to produce an annual effect on the economy of $100 million or more. Therefore, we have determined that this interim final rule does not constitute a major rule as defined in Title 5, United States Code, section 804(2).

We have examined the impacts of this interim final rule under Executive Order 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses and other small entities. For purposes of the RFA, most hospitals, and most other providers, physicians, and health care suppliers are small entities, either by nonprofit status or by having revenues of less than $5 million annually. Most coordinated care plans are not considered to be small entities within the meaning of the RFA.

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. This rule has no consequential effect on State, local, or tribal governments. We believe that the private sector costs of this rule also fall below the $100 million threshold.

Also, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102 of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside a Metropolitan Statistical Area.

Although we do not believe the aggregate impact of the PSO definitions and requirements set forth in this interim final rule will approach $100 million annually, it is clear that they may have a significant economic impact on certain hospitals, physicians, health plans and other providers. Thus, we have prepared the following analysis that, in combination with the rest of this interim final rule with comment period, constitutes a combined regulatory impact analysis and regulatory flexibility analysis.

B. Background

As discussed in section I of this preamble, we believe that issuing these definitions as an interim final rule at this time is a necessary precursor to the establishment of solvency standards for PSOs through a negotiated rulemaking process, as required under section 1856(a)(1). In addition, publishing the definitional requirements at this time will allow time for interested entities to meet the requirements before submission of a PSO waiver and application in the spring of 1998. This sequence of events is necessary to ensure that all administrative systems will be in place to allow PSOs to begin health care operations by January 1, 1999.

The PSO definition and requirements set forth in this interim final rule incorporate all statutory requirements set forth in section 1855(d) of the Act. In those areas where further clarification of the statute is necessary, we have established requirements consistent with the statutory intent, that is, in a manner that will foster the development of PSOs as a distinct health care option for Medicare beneficiaries without inappropriately limiting competition among the various organizations that can offer Medicare+Choice plans. We have attempted to achieve a balance between these two goals in choosing the best alternative for several of the key issues discussed below.

C. Major Issues

As discussed in section II of this preamble, the statute establishes two exceptions for PSOs to the requirements that apply to other Medicare+Choice organizations. Clearly, the primary benefit to an organization that can meet the definition of a PSO is that for 3 years, a PSO can qualify for a Federal waiver from State licensure requirements. In addition, PSOs are subject to lower minimum enrollment requirements than other Medicare+Choice organizations. We believe that the purpose of these exceptions is to encourage the development of a significantly different health care option for Medicare beneficiaries. Under the PSO option, providers are intended to bear a more direct responsibility for the delivery, management, and associated financial risks of a patient's health care than that borne by providers in other coordinated care plans. Establishing requirements in this interim final rule that allow health plans that are not significantly different from other Medicare+Choice options to contract as PSOs would undermine the intent of the statute by allowing organizations to receive the competitive advantage afforded by a waiver of state licensure and lower minimum enrollments without increasing options for beneficiaries.

1. Definition of a PSO

Section 422.350(b) sets forth the statutory definition of a PSO, including the requirement that a PSO be established or organized, and operated, by a health care provider or group of affiliated providers. We are also including under § 422.350(b) the statutory definition (from section 1855(d)(5) of the Act) of a health care provider, which specifies that a health care provider must be ''engaged in the delivery of health care services.'' We are clarifying in this section that for an individual, ''engaged in the delivery of health care services'' means that the individual directly furnishes health care services. For an entity, it means that the entity is organized and operated primarily for the purpose of directly furnishing health care services.

We believe that this requirement will ensure that PSOs consist of providers that are actively delivering patient care, without arbitrarily prohibiting participation of entities that combined direct patient care services with other nonclinical health-related services. Under this definition, organized groups of providers, such as individual practice associations, physician practice management companies, or multi-specialty medical groups could fall within the definition of a provider, if they meet related requirements concerning affiliation, substantial risk, etc.

2. Substantial Proportion

Section 1855(d)(1)(B) of the Act states that a PSO must provide a ''substantial proportion'' of health care services directly through the provider or affiliated group of providers. Section 1855(d)(2) then provides specific further direction on what the Secretary should take into account in order to define ''substantial proportion'' so as ''* * * to assure financial stability and to address the practical considerations involved in integrating the delivery of a wide range of service providers.'' In particular, the statute directs that a PSO provide ''significantly more than the majority'' of the items and services required under the contract through its own affiliated providers.

In defining the level of services that should constitute a substantial proportion of items and services under section 1855(d) of the Act, we attempted to identify a proportion that would achieve a balance between two competing interests. First, we did not want to set a proportion so high as to preclude participation by all but the most integrated provider organizations. At the same time, we wanted to set a requirement that would ensure that a PSO had a sufficiently well-developed capacity to deliver services so as to meet the intent of the BBA both in terms of (a) providing a distinct and viable health care option for individual beneficiaries and (b) increasing the prospects for successful development and solvent operations of PSOs in general. Another consideration related to the establishment of the substantial proportion threshold percentage surfaced through our discussions with physician groups. They raised the possibility of establishing PSOs without hospitals as affiliates, and suggested that a 60 percent threshold might be low enough to allow such an organization. Finally, we had to take into account the fundamental requirement under section 1855(d)(2)(A)(I) that a substantial proportion consist of ''significantly more than a majority'' of items and services.

Given all these considerations, we evaluated substantial proportion options between 60 and 80 percent of contractually required services. As part of this evaluation, we modeled the various service mixes to attempt to identify the types of provider combinations that might be possible at these various substantial proportion percentage levels. We came to the conclusion that it would be very difficult, if not impossible, to meet the substantial proportion percentage under any of these scenarios (that is, substantial proportion threshold of anywhere from 60–80 percent of services) without some combination of physician and hospital participation in the direct delivery of services as an affiliated provider of the PSO. Thus, under § 422.352(b)(1), we are establishing the substantial proportion threshold at 70 percent of all health care items and services. We believe that this percentage on its face constitutes significantly more than a majority and achieves an appropriate balance among the objectives discussed above, in particular the requirement that the definition of substantial proportion achieve the objective of assuring the financial stability of the PSO. As required by section 1855(d)(2)(A)(ii), the PSO must provide most of the remainder of items and services not provided by the PSO and its affiliates directly through contracts with other health care providers.

We also considered the possibility of specifying the composition of providers constituting the affiliated group of providers as a means of defining substantial proportion. Instead, we opted for the much more flexible approach of allowing PSO organizations to determine service mix within the constraint of meeting the overall substantial proportion requirement.

Section 1855(d)(2)(C) of the Act provides that the Secretary may allow for variation in the definition of substantial proportion for rural PSOs. Consistent with this provision, and based upon consultation with rural health care industry representatives, we have established under § 422.354(b)(2), a substantial proportion threshold of 60 percent of items and services required under contract. We believe that this requirement reflects the lower proportion of specialty and other medical services that are likely to be available in some rural areas and is necessary to promote the likelihood of PSO development and success in rural areas. Consistent with most other Medicare programs (and current § 417.1 of the regulations), we are adopting the widely accepted Office of Management and Budget definition of a rural area.

As noted above, we recognize that the economic effects of the requirements set forth in this interim final rule concerning the substantial proportion threshold will be to require some combination of physician and hospital affiliation in most if not all PSOs. To the extent that this assumption is true, an

argument can be made that in setting the 70 percent substantial proportion threshold, we may be closing off market opportunities for physician groups by in-effect precluding them from establishing PSOs without hospital participation. However, we believe that, in most service areas, sufficient competition exists in the hospital industry to ensure hospital interest in engaging in a risk relationship with physician groups under a PSO; thus, physician groups should not be at an economic disadvantage. For rural areas, where such competition among hospitals is least likely to exist, we have established a lower substantial proportion threshold. We welcome comments on the economic effects of the substantial proportion threshold, particularly any data or statistical analysis relevant to this requirement.

3. Affiliation Status

As described in detail in section II.B.6 of this preamble, section 1855(d)(3) of the Act provides clear direction on the four possible meanings of the term ''affiliation'' as it applies to PSOs. We have adopted the statutory language under § 422.354 of the regulations, and do not believe there is any reasonable alternative to this approach. (See below for related discussions of the meaning of ''substantial risk'' and ''majority financial interest.'')

We considered whether providers would be required to affiliate individually with other providers of the PSO or whether they could affiliate as a group through organizations such as physician practice management companies or individual practice associations. We concluded that such group affiliation arrangements are acceptable where the group is controlled by providers and where all other requirements are met. Requiring individual affiliation would be overly burdensome and could have the effect of unnecessarily restricting the development of, and availability of care under, PSO plans. Thus, as noted above, we believe that an affiliated provider could be a medical group or an independent practice association , as well as a hospital, nursing home, or home health agency, as long as the affiliation tests are met.

In general, the affiliation rules are not intended to constrain the internal organizational structuring of the components of the entity that is the affiliated provider. For example, these rules do not limit an individual practice association's flexibility in bringing together individual physicians or its payment arrangements with those physicians. Similarly, if a hospital has purchased a medical practice and a nursing home, the hospital (in effect, now a health care system) is considered one affiliate provider. The affiliation tests apply to how this hospital or health care system affiliates with other provider entities outside of its corporate structure.

4. Substantial Financial Risk

The term ''substantial financial risk'' is used in two contexts in section 1855(d) of the Act. First, section 1855(d)(1)(C) requires that all affiliated providers within a PSO share substantial financial risk in the provision of health care services. In addition, under section 1855(d)(3)(C), one basis for demonstrating provider affiliation is the sharing of substantial financial risk in connection with the organization's operations. In order to provide additional guidance to organizations considering applying for PSO status, we have clarified the meaning of these terms in this interim final rule. We believe that both of these provisions share the common statutory intent of ensuring that affiliated providers have a financial interest in seeing the PSO and its affiliated providers achieve operational and financial success. This could serve to differentiate PSOs from other coordinated care options because providers in PSOs would have a more direct economic incentive to improve the PSO's delivery of health care.

To satisfy this intent, we needed to determine both what type of financial arrangements were appropriate and whether the same set of arrangements should be considered substantial financial risk for both purposes. We considered allowing only those arrangements where affiliated provider income was based directly on the PSO's performance (for example, the ability of the PSO to ''withhold'' a significant amount of affiliated provider compensation to help pay other expenses). However, we determined that this option would unnecessarily restrict PSO development because a variety of arrangements may exist where affiliated providers have a financial interest in the PSO's performance. Therefore, we decided to consider a wide range of financial arrangements as constituting financial risk, as set forth under § 422.356(a). We believe that this approach can achieve the statutory objective that affiliated providers are financially motivated to improve and maintain PSO performance. At the same time, PSOs can retain sufficient flexibility to tailor their financial arrangements with affiliated providers according to their particular circumstances.

We also considered using different interpretations of substantial financial risk for the two applications of the term. We concluded that the identical use of the term in the statute provides a clear indication that a similar meaning is called for in both applications.

We welcome comments on the potential effects of our interpretation of the term substantial financial risk.

5. Majority Financial Interest

Section 1855(d)(1)(C) of the Act concludes with the requirement that the affiliated providers in a PSO have at least a majority financial interest in the organization. As discussed in detail in section III.E of this preamble, we believe the intent of this requirement is to ensure that affiliated health care providers maintain effective control of the PSO. However, the statute does not specify whether the affiliated providers that are required to have at least a majority financial interest in the PSO must constitute the identical group of affiliated providers that is required to provide a substantial proportion of services as discussed above.

Thus, we considered two basic policy alternatives:

(a) All affiliated providers used for purposes of complying with the substantial proportion requirement must individually meet the majority financial interest requirement. That is, all affiliated providers must have a financial interest in the PSO.

(b) The majority financial interest requirement can be met under any combination of the affiliated providers. That is, at least one of the affiliated providers (or any combination of those providers) must maintain a majority financial interest in the PSO.

We believe that the first option creates unnecessary restrictions on the development of the PSO option and could inhibit the ability of PSOs to compete effectively with other Medicare+Choice plans. In addition, mandating that each affiliated provider maintain a financial interest in the PSO is not practical in view of the dynamic nature of affiliated provider group relationships. Therefore, we are implementing the second and less restrictive option through § 422.356(b), in combination with § 422.354(c). We believe this option meets the intent of the statute by ensuring that PSOs develop a key distinguishing characteristic, provider control, from other Medicare+Choice coordinated care plans, while allowing sufficient organizational flexibility to foster PSO development.

D. Conclusion

Overall, we believe that this interim final rule, as a complement to the statutory provisions regarding PSOs, can ensure that PSOs become a distinct and viable health care option under Medicare+Choice. Thus, this interim final rule should have beneficial effects in terms of providing additional coverage choices for Medicare beneficiaries. However, we are unable to quantify the economic effects of these provisions and recognize that not all of the potential effects can be anticipated. Therefore, we welcome comments on all aspects of this impact analysis, including the degree to which these definitions should promote availability of PSO plans, any effects of these definitions on the amount of interest among beneficiaries in joining these plans, and likely competitive effects (for example, whether the definitions set forth in this rule will promote competition or, alternatively, will unnecessarily created or close off opportunities in the health care market). Given the necessarily subjective nature of much of this impact analysis, we particularly solicit comments offering empirical data on the likely economic impact of the policies discussed here both on PSO health care plans and on competing Medicare+Choice plans.

In accordance with the provisions of Executive Order 12866, this interim final rule with comment period was reviewed by the Office of Management and Budget.

VI. Waiver of Notice of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule are made final. However, section 1871(b) of the Act provides that publication of a notice of proposed rulemaking is not required before issuing a final where ''a statute specifically permits a regulation to be issued in interim final form.'' Section 1851(b)(1), as added by section 4001 of the BBA, expressly authorizes the Secretary to issue standards, other than the PSO solvency requirements, as necessary to carry out Part C and to accomplish this through interim final rulemaking with public comment. We are exercising this authority in issuing this interim final rule with comment on PSO definitions and related requirements.

In addition, we may waive publication of a notice of proposed rulemaking if we find good cause that prior notice and comment are impractical, unnecessary, or contrary to public interest. As discussed in section I of this preamble, HCFA and the negotiated rulemaking committee developing the solvency standards believe that we needed to establish a clear definition of a PSO and the fundamental organizational requirements that a PSO must meet as a prerequisite to the development of appropriate solvency standards. The PSO solvency regulation has a statutory deadline for publication of April 1, 1998. Further, we determined that entities considering applying to become PSOs under the Medicare+Choice program need to know whether and how they can qualify to participate in the program in order to establish the complex organizational structures necessary under the law prior to application. Many of these entities also need to seek State licensure or a federal waiver. Given the time required for these events, and the clear impetus from Congress for implementation of the Medicare+Choice program, we believe that it is impractical and contrary to the public interest to publish a notice of proposed rulemaking before establishing the PSO definitions and related requirements set forth in this interim final rule. We are providing a 60-day period for public comment.

VII. Response to Comments

Because of the large number of comments we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble and will respond to them in a forthcoming rulemaking document.

List of Subjects in 42 CFR Part 422

Health Maintenance organizations (HMO), Medicare+Choice, Provider sponsored organizations (PSO).

For the reasons set forth in the preamble, 42 CFR chapter IV is amended as set forth below:

A new Part 422 is added to read as follows:

PART 422—MEDICARE+CHOICE PROGRAM

Subparts A—G [Reserved]

Subpart H—Provider-Sponsored Organizations

Sec.

422.350 Basis, scope, and definitions.
422.352 Basic requirements.
422.354 Requirements for affiliated providers.
422.356 Determining substantial financial risk and majority financial interest.

Authority: Secs. 1851 and 1855 of the Social Security Act.

Subparts A–G–[Reserved]

Subpart H—Provider-Sponsored Organizations

§ 422.350 Basis, scope, and definitions.

(a) *Basis and scope.* This subpart is based on sections 1851 and 1855 of the Act which, in part,—

(1) Authorize provider sponsored organizations, hereinafter referred to as PSOs, to contract as a Medicare+Choice plan;

(2) Require that a PSO meet certain qualifying requirements; and

(3) Provide for waiver of State licensure for PSOs under specified conditions.

(b) *Definitions.* As used in this subpart (unless otherwise specified)—

Control means that an individual, group of individuals, or entity has the power, directly or indirectly, to direct or influence significantly the actions or policies of an organization or institution.

Engaged in the delivery of health care services means—

(1) For an individual, that the individual directly furnishes health care services, or

(2) For an entity, that the entity is organized and operated primarily for the purpose of furnishing health care services directly or through its provider members or entities.

Health care provider means—

(1) Any individual who is engaged in the delivery of health care services in a State and is licensed or certified by the State to engage in that activity in the State; and

(2) Any entity that is engaged in the delivery of health care services in a State and is licensed or certified to deliver those services if such licensing or certification is required by State law or regulation.

Provider-sponsored organization (PSO) means, for purposes of Medicare Part C, a public or private entity—

(1) That is established or organized, and operated, by

(i) A health care provider, or

(ii) Group of affiliated health care providers;

(2) That provides a substantial proportion (as defined in § 422.352(b)) of the health care items and services under the Medicare+Choice contract directly through the provider or affiliated group of providers; and

(3) In the case of paragraph (1)(ii) of this definition, the affiliated providers

(i) Share, directly or indirectly, substantial financial risk (as defined in § 422.356(a)) for the provision of items and services that are the obligation of the PSO under the Medicare+Choice contract, and

(ii) Have at least a majority financial interest in the PSO.

§ 422.352 Basic requirements.

(a) *General rule.* An organization is considered a PSO for purposes of a Medicare+Choice contract if the organization—

(1) Is licensed by the State or has obtained a waiver of such licensure as provided for under section 1855(a)(2) of the Act;

(2) Meets the definition of a PSO set forth in § 422.350 and other applicable requirements of this subpart; and

(3) Is effectively controlled by the health care provider or, in the case of a group, by one or more of the affiliated providers that established and operate the PSO.

(b) *Provision of services.* A PSO must demonstrate to HCFA's satisfaction that it is capable of delivering to Medicare enrollees the range of services required under a contract with HCFA. Each PSO must deliver a substantial proportion of those services directly through the health care provider or the affiliated providers responsible for operating the PSO. Substantial proportion means—

(1) For a non-rural PSO, not less than 70% of Medicare items and services covered under the contract.

(2) For a rural PSO as defined in § 422.354, not less than 60% of Medicare items and services covered under the contract.

(c) *Rural PSO.* To qualify as a rural PSO, a PSO must demonstrate to HCFA that—

(1) It has available in the rural area (as defined in § 412.62(f) of this chapter) routine services, including but not limited to primary care, routine specialty care, and emergency services, and that the level of use of providers outside the rural area is consistent with referral patterns; and

(2) As the PSO enrolls Medicare beneficiaries, a majority of these enrollees reside within the rural area served by the PSO.

§ 422.354 Requirements for affiliated providers.

A PSO that consists of by two or more health care providers must demonstrate to HCFA'S satisfaction that it meets the following requirements:

(a) The providers are affiliated. For purposes of this subpart, providers are affiliated if, through contract, ownership, or otherwise—

(1) One provider, directly or indirectly, controls (as defined in paragraph (d) of this section), is controlled by, or is under common control with another;

(2) Each provider is part of a lawful combination under which each shares substantial financial risk (as defined in § 422.356(a)) in connection with the PSO's operations;

(3) Both, or all, providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986; or

(4) Both, or all, providers are part of an affiliated service group under section 414 of that Code.

(b) Each affiliated provider of the PSO shares, directly or indirectly, substantial financial risk (as defined in § 422.356(a)) for the provision of items and services under the Medicare contract that are the obligation of the PSO.

(c) Affiliated providers, as a whole or in part, have at least a majority financial interest (as defined in § 422.356(b)) in the PSO.

(d) For purposes of paragraph(a)(1) of this section, control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance right of another.

§ 422.356 Determining substantial financial risk and majority financial interest.

(a) *Determining substantial financial risk.* The PSO must demonstrate to HCFA's satisfaction that it apportions a significant part of the financial risk of the PSO enterprise under the Medicare+Choice contract to each affiliated provider. The PSO must demonstrate that the financial arrangements among its affiliated providers constitute ''substantial'' risk in the PSO for each affiliated provider. The following mechanisms may constitute risk-sharing arrangements, and may have to be used in combination to demonstrate substantial financial risk in the PSO enterprise.

(1) Agreement by a health care provider to accept capitation payment for each Medicare enrollee.

(2) Agreement by a health care provider to accept as payment a predetermined percentage of the PSO premium or the PSO's revenue.

(3) The PSO's use of significant financial incentives for its affiliated providers, with the aim of achieving utilization management and cost containment goals. Permissible methods include the following:

(i) Affiliated providers agree to a withholding of a significant amount of the compensation due them, to be used for any of the following:

(A) To cover losses of the PSO.

(B) To cover losses of other affiliated providers.

(C) To be returned to the affiliated provider if the PSO meets its utilization management or cost containment goals for the specified time period.

(D) To be distributed among affiliated providers if the PSO meets its utilization management or cost-containment goals for the specified time period.

(ii) Agreement by the affiliated provider to preestablished cost or utilization targets for the PSO and to subsequent significant financial rewards and penalties (which may include a reduction in payments to the provider) based on the PSO's performance in meeting the targets.

(4) Other mechanisms that demonstrate significant shared financial risk.

(b) *Determining majority financial interest.* Majority financial interest means maintaining effective control of the PSO.

(Catalog of Federal Domestic Assistance Program Nos. 93.778, Medical Assistance Program; Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 25, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: March 27, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–9810 Filed 4–13–98; 8:45 am]

BILLING CODE 4120–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2510, 2516, 2517, 2519, 2521, and 2540

Administrative Costs for Learn and Serve America and AmeriCorps Grants Programs

AGENCY: Corporation for National and Community Service.

ACTION: Interim final rule.

SUMMARY: The Corporation issues this interim final rule to amend provisions relating to administrative costs in parts 2510, 2516, 2517, 2519, 2521, and 2540. For national service programs assisted by the Corporation that are subject to a statutory limit on the percentage of assistance that may be used to pay for administrative costs, the interim final

rule clarifies the definition of administrative costs, adds an explicit definition of program costs that are not subject to the limitation on administrative costs, and provides additional guidelines for applying the limitation on administrative costs.

DATES: This interim final rule is effective April 14, 1998. Written comments must be received on or before June 15, 1998.

ADDRESSES: Comments may be mailed or delivered to Kenneth L. Klothen, General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW, Washington, D.C. 20525 or sent by facsimile transmission to (202) 565–2796. Copies of all communications received will be available for public inspection at the Corporation.

FOR FURTHER INFORMATION CONTACT: Michael Kenefick, Director of Grants Management, Corporation for National and Community Service, (202) 606–5000, ext. 101.

SUPPLEMENTARY INFORMATION:

Substantive Changes

Under the National and Community Service Act of 1990, as amended (the Act), the Corporation for National and Community Service is authorized to provide assistance to States and other eligible entities to support national and community service programs. The Act provides that not more than five percent of assistance for a fiscal year may be used to pay for administrative costs in the following types of programs: (1) School-based service-learning programs; (2) community-based service-learning programs; (3) higher education innovative programs for community service; and (4) national service programs assisted under sections 121(a) and 121(b) of the Act through grants to State Commissions, Indian Tribes, U.S. Territories, and national nonprofit organizations.

The Act itself does not define ''administrative costs'' but directs the Corporation to prescribe by rule the manner and extent to which assistance provided may be used to pay for administrative costs and the distribution of such costs between grantees and sub-grantees. Based on issues raised in recent audits of several national service programs, the Corporation has reviewed its regulations relating to administrative costs and determined that a revision is desirable. Because programs applying for assistance from the Corporation this year need to have clear guidance as to the rules governing their awards, the Corporation has determined that it would be contrary to the public interest to publish this amendment as a proposed rule. Therefore the amendments are made through an interim final rule that takes effect immediately.

The Corporation seeks to clarify what types of costs are considered subject to the five percent limitation on administrative costs. The interim final rule includes a more explicit itemization of costs that are directly related to programs and projects, and therefore properly excluded from the definition of administrative costs. The interim final rule also provides guidelines for the implementation of the statutory requirements, including the use of indirect cost rates and the use of fixed rates for administrative costs.

Executive Order 12886

The Corporation has determined that this regulatory action is not a ''significant'' rule within the meaning of Executive Order 12866 because it is not likely to result in: (1) An annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Corporation has determined that this regulatory action will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

Other impact analyses

This regulatory action contains no information collection requirements that are subject to review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

List of Subjects

45 CFR Part 2510

Grant programs—social programs, Volunteers.

45 CFR Part 2516

Elementary and secondary education, Grant programs—social programs, Indians, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2517

Community development, Grant programs—social programs, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2519

Colleges and universities, Grant programs—social programs, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2521

AmeriCorps, Grant programs—social programs, Volunteers.

45 CFR Part 2540

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

Dated: April 8, 1998.

Kenneth L. Klothen,

General Counsel.

For the reasons stated in the preamble, parts 2510, 2516, 2517, 2519, and 2540 of chapter 25, title 45 of the Code of Federal Regulations are amended to read as follows:

PART 2510—OVERALL PURPOSES AND DEFINITIONS

1. The authority citation for part 2510 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. In § 2510.20, the definition of ''administrative costs'' is revised and a new definition of ''program costs'' is added in alphabetical order to read as follows:

§ 2510.20 Definitions

* * * * *

Administrative costs. The term *administrative costs* means general or centralized expenses of overall administration of an organization that receives assistance under the Act and does not include program costs.

(1) For organizations that have an established indirect cost rate for Federal awards, administrative costs mean those costs that are included in the organization's indirect cost rate. Such costs are generally identified with the organization's overall operation and are further described in Office of Management and Budget Circulars A–21 (Cost Principles for Educational Institutions), A–87 (Cost Principles for State, Local and Indian Tribal Governments), and A–122 (Cost Principles for Nonprofit Organizations) that provide guidance on indirect cost to Federal agencies. Copies of Office of Management and Budget Circulars are available from the Executive Office of the President, 725 17th Street, NW., room 2200, New Executive Office Building, Washington, D.C. 20503. They may also be accessed on-line at: http://www.whitehouse.gov/WH/EOP/OMB/grants/index.html.

(2) For organizations that do not have an established indirect cost rate for Federal awards, administrative costs include:

(i) Costs for financial, accounting, auditing, contracting, or general legal services except in unusual cases when they are specifically approved in writing by the Corporation as program costs.

(ii) Costs for internal evaluation, including overall organizational management improvement costs (except for independent evaluations and internal evaluations of a program or project).

(iii) Costs for general liability insurance that protects the organization(s) responsible for operating a program or project, other than insurance costs solely attributable to a program or project.

* * * * *

Program costs. The term *program costs* means expenses directly related to a program or project, including their operations and objectives. Program costs include, but are not limited to:

(1) Costs attributable to participants, including: living allowances, insurance payments, and expenses for training and travel.

(2) Costs (including salary, benefits, training, travel) attributable to staff who recruit, train, place, support, coordinate, or supervise participants, or who develop materials used in such activities.

(3) Costs for independent evaluations and internal evaluations to the extent that the evaluations cover only the funded program or project.

(4) Costs, excluding those already covered in an organization's indirect cost rate, attributable to staff that work in a direct program or project support, operational, or oversight capacity, including, but not limited to: support staff whose functions directly support program or project activities; staff who coordinate and facilitate single or multi-site program and project activities; and staff who review, disseminate and implement Corporation guidance and policies directly relating to a program or project.

(5) Space, facility, and communications costs for program or project operations and other costs that primarily support program or project operations, excluding those costs that are already covered by an organization's indirect cost rate.

(6) Other allowable costs, excluding those costs that are already covered by an organization's indirect cost rate, specifically approved by the Corporation as directly attributable to a program or project.

* * * * *

PART 2516—SCHOOL-BASED SERVICE-LEARNING PROGRAMS

1. The authority citation for part 2516 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

Subpart G—Funding Requirements

2. Section 2516.710 is revised to read as follows:

§ 2516.710 Are there limits on the use of funds?

Yes. The following limits apply to funds available under this part:

(a) (1) Not more than five percent of the grant funds provided under this part for any fiscal year may be used to pay for administrative costs, as defined in § 2510.20 of this chapter.

(2) The distribution of administrative costs between the grant and any subgrant will be subject to the approval of the Corporation.

(3) In applying the limitation on administrative costs the Corporation will approve one of the following methods in the award document:

(i) Limit the amount or rate of indirect costs that may be paid with Corporation funds under a grant or subgrant to five percent of total Corporation funds expended, provided that—

(A) Organizations that have an established indirect cost rate for Federal awards will be limited to this method; and

(B) Unreimbursed indirect costs may be applied to meeting operational matching requirements under the Corporation's award;

(ii) Specify that a fixed rate of five percent or less (not subject to supporting cost documentation) of total Corporation funds expended may be used to pay for administrative costs, provided that the fixed rate is in conjunction with an overall 15 percent administrative cost factor to be used for organizations that do not have established indirect cost rates; or

(iii) Utilize such other method that the Corporation determines in writing is consistent with OMB guidance and other applicable requirements, helps minimize the burden on grantees or subgrantees, and is beneficial to grantees or subgrantees and the Federal Government.

(b) (1) An SEA or Indian tribe must spend between ten and 15 percent of the grant to build capacity through training, technical assistance, curriculum development, and coordination activities.

(2) The Corporation may waive this requirement in order to permit an SEA or a tribe to use between ten percent and 20 percent of the grant funds to build capacity. To be eligible to receive the waiver, the SEA or tribe must submit an application to the Corporation.

(c) Funds made available under this part may not be used to pay any stipend, allowance, or other financial support to any participant in a service-learning program under this part except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this part.

PART 2517—COMMUNITY-BASED SERVICE-LEARNING PROGRAMS

1. The authority citation for part 2517 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

Subpart G—Funding Requirements

2. Section 2517.710 is revised to read as follows:

§ 2517.710 Are there limits on the use of funds?

Yes. The following limits apply to funds available under this part:

(a) (1) Not more than five percent of the grant funds provided under this part for any fiscal year may be used to pay for administrative costs, as defined in § 2510.20 of this chapter.

(2) The distribution of administrative costs between the grant and any subgrant will be subject to the approval of the Corporation.

(3) In applying the limitation on administrative costs the Corporation will approve one of the following methods in the award document:

(i) Limit the amount or rate of indirect costs that may be paid with Corporation funds under a grant or subgrant to five percent of total Corporation funds expended, provided that—

(A) Organizations that have an established indirect cost rate for Federal awards will be limited to this method; and

(B) Unreimbursed indirect costs may be applied to meeting operational matching requirements under the Corporation's award;

(ii) Specify that a fixed rate of five percent or less (not subject to supporting cost documentation) of total Corporation funds expended may be used to pay for administrative costs, provided that the fixed rate is in conjunction with an overall 15 percent administrative cost factor to be used for organizations that do not have established indirect cost rates; or

(iii) Utilize such other method that the Corporation determines in writing is consistent with OMB guidance and other applicable requirements, helps minimize the burden on grantees or subgrantees, and is beneficial to grantees or subgrantees and the Federal Government.

(b) (1) An SEA or Indian tribe must spend between ten and 15 percent of the grant to build capacity through training, technical assistance, curriculum development, and coordination activities.

(2) The Corporation may waive this requirement in order to permit an SEA or a tribe to use between ten percent and 20 percent of the grant funds to build capacity. To be eligible to receive the waiver, the SEA or tribe must submit an application to the Corporation.

(c) Funds made available under this part may not be used to pay any stipend, allowance, or other financial support to any participant in a service-learning program under this part except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this part.

PART 2519—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

1. The authority citation for part 2519 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

Subpart G—Funding Requirements

2. Section 2519.710 is revised to read as follows:

§ 2519.710 Are there limits on the use of funds?

Yes. The following limits apply to funds available under this part:

(a) (1) Not more than five percent of the grant funds provided under this part for any fiscal year may be used to pay for administrative costs, as defined in § 2510.20 of this chapter.

(2) The distribution of administrative costs between the grant and any subgrant will be subject to the approval of the Corporation.

(3) In applying the limitation on administrative costs the Corporation will approve one of the following methods in the award document:

(i) Limit the amount or rate of indirect costs that may be paid with Corporation funds under a grant or subgrant to five percent of total Corporation funds expended, provided that—

(A) Organizations that have an established indirect cost rate for Federal awards will be limited to this method; and

(B) Unreimbursed indirect costs may be applied to meeting operational matching requirements under the Corporation's award;

(ii) Specify that a fixed rate of five percent or less (not subject to supporting cost documentation) of total Corporation funds expended may be used to pay for administrative costs, provided that the fixed rate is in conjunction with an overall 15 percent administrative cost factor to be used for organizations that do not have established indirect cost rates; or

(iii) Utilize such other method that the Corporation determines in writing is consistent with OMB guidance and other applicable requirements, helps minimize the burden on grantees or subgrantees, and is beneficial to grantees or subgrantees and the Federal Government.

PART 2521—ELIGIBLE AMERICORPS PROGRAM APPLICANTS AND TYPES OF GRANTS AVAILABLE FOR AWARD

1. The authority citation for part 2521 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. Section 2521.30(h) is revised to read as follows:

§ 2521.30 How will AmeriCorps program grants be awarded?

* * * * *

(h)(1) Not more than five percent of the grant funds provided under this part for any fiscal year may be used to pay for administrative costs, as defined in § 2510.20 of this chapter.

(2) The distribution of administrative costs between the grant and any subgrant will be subject to the approval of the Corporation.

(3) In applying the limitation on administrative costs the Corporation will approve one of the following methods in the award document:

(i) Limit the amount or rate of indirect costs that may be paid with Corporation funds under a grant or subgrant to five percent of total Corporation funds expended, provided that—

(A) Organizations that have an established indirect cost rate for Federal awards will be limited to this method; and

(B) Unreimbursed indirect costs may be applied to meeting operational matching requirements under the Corporation's award;

(ii) Specify that a fixed rate of five percent or less (not subject to supporting cost documentation) of total Corporation funds expended may be used to pay for administrative costs, provided that the fixed rate is in conjunction with an overall 15 percent administrative cost factor to be used for organizations that do not have established indirect cost rates; or

(iii) Utilize such other method that the Corporation determines in writing is consistent with OMB guidance and other applicable requirements, helps minimize the burden on grantees or subgrantees, and is beneficial to grantees or subgrantees and the Federal Government.

PART 2540—GENERAL ADMINISTRATIVE PROVISIONS

1. The authority citation for part 2540 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

Subpart A—Requirements Concerning the Distribution and Use of Corporation Assistance

2. Section 2540.110 is revised to read as follows:

§ 2540.110 Limitation on use of Corporation funds for administrative costs.

(a)(1) Not more than five percent of the grant funds provided under 45 CFR 2516, 2517, 2519, and 2521 for any

fiscal year may be used to pay for administrative costs, as defined in § 2510.20 of this chapter.

(2) The distribution of administrative costs between the grant and any subgrant will be subject to the approval of the Corporation.

(3) In applying the limitation on administrative costs the Corporation will approve one of the following methods in the award document:

(i) Limit the amount or rate of indirect costs that may be paid with Corporation funds under a grant or subgrant to five percent of total Corporation funds expended, provided that—

(A) Organizations that have an established indirect cost rate for Federal awards will be limited to this method; and

(B) Unreimbursed indirect costs may be applied to meeting operational matching requirements under the Corporation's award;

(ii) Specify that a fixed rate of five percent or less (not subject to supporting cost documentation) of total Corporation funds expended may be used to pay for administrative costs, provided that the fixed rate is in conjunction with an overall 15 percent administrative cost factor to be used for organizations that do not have established indirect cost rates; or

(iii) Utilize such other method that the Corporation determines in writing is consistent with OMB guidance and other applicable requirements, helps minimize the burden on grantees or subgrantees, and is beneficial to grantees or subgrantees and the Federal Government.

(b) Costs attributable to administrative functions as well as program functions should be prorated between administrative costs and program costs.

[FR Doc. 98–9761 Filed 4–13–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970523122–8022–02 ; I.D. 041897B]

RIN 0648–AH52

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 9

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). Amendment 9 requires, with limited exceptions, the use of certified bycatch reduction devices (BRDs) in shrimp trawls in the exclusive economic zone (EEZ) in the Gulf of Mexico shoreward of the 100-fathom (fm) (183-m) depth contour west of 85°30' W. long.; sets the bycatch reduction criterion for the certification of BRDs; and establishes an FMP framework procedure for modifying the bycatch reduction criterion, for establishing and modifying the BRD testing protocol and its specifications, and for certifying and decertifying BRDs. The intended effect is to reduce the bycatch mortality of juvenile red snapper, while, to the extent practicable, not adversely affecting the shrimp fisheries in the Gulf of Mexico.

DATES: This rule is effective May 14, 1998.

ADDRESSES: Copies of the final regulatory flexibility analysis and NMFS' Supplement to the Economic Analysis of Amendment 9 to the Fishery Management Plan for the Shrimp fishery of the Gulf of Mexico, U.S. Waters (March 20, 1998) may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Copies of Amendment 9, which includes a regulatory impact review, a social impact assessment, a fishery impact statement, and a supplemental final environmental impact statement, may be obtained from the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North; Suite 1000, Tampa, FL 33619-2266; Phone: 813-228-2815; Fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-570- 5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 29, 1997 (62 FR 23211), NMFS announced the availability for public review and comment of (1) Amendment 9, including a regulatory impact review (RIR), an initial regulatory flexibility analysis (IRFA), a social impact assessment (SIA), a fishery impact statement (FIS), and final supplemental environmental impact statement (FSEIS), as prepared and submitted by the Council for review, approval and implementation, and (2) a minority report submitted by three Council members. On July 2, 1997, NMFS published a proposed rule to implement the measures in Amendment 9 and requested comments on the proposed rule (62 FR 35774). The background and rationale for the measures in Amendment 9 and the proposed rule are contained in the preamble to the proposed rule and are not repeated here. After consideration of the comments on Amendment 9 and the proposed rule, NMFS approved Amendment 9 on July 30, 1997. In support of this final rule, NMFS prepared a supplement to the economic analysis of Amendment 9 (March 20, 1998) (See **ADDRESSES**).

Comments and Responses

Comments were received from 3,329 entities on Amendment 9 and its proposed rule. These entities consisted of 3,279 private individuals, shrimp vessel owners and crews, industry support personnel, and business owners; 16 U.S. Congressmen; 14 conservation organizations; eight commercial fishing or business- related organizations; three recreational fishing organizations; three members of the Council; two cities (Port Isabel and Aransas Pass, TX); one bank; and three Federal agencies.

Approval and Implementation of Amendment 9

Comment: Five hundred sixty-six entities supported approval and implementation of Amendment 9. These entities endorsed the use of NMFS-certified BRDs in shrimp trawls to reduce shrimp trawl bycatch as a means of facilitating the recovery of impacted fish populations, such as red snapper, in the Gulf of Mexico. These entities consisted of 546 private individuals, three Federal agencies, three recreational fishing organizations, and 14 conservation organizations.

Response: NMFS agrees, and approved Amendment 9, which is implemented by this final rule.

Required Use of BRDs in Shrimp Trawls in the Waters East of 85°30' W. Long.

Comment: Eight conservation organizations recommended that NMFS require the use of BRDs in shrimp trawls in the waters east of 85°30' W. long., (i.e., east of Cape San Blas, FL) to reduce the incidental catch of finfish in this area. This would facilitate the recovery of impacted finfish populations.

Response: NMFS disagrees. The Council limited the geographical scope of the BRD requirement under Amendment 9 to west of Cape San Blas,

FL, because most red snapper bycatch in the shrimp fisheries occurs in this area. If new scientific information indicates that the use of BRDs should be expanded to beyond east of Cape San Blas, FL, the Council may then propose such action by preparing an FMP amendment, supported by an appropriate administrative record, that would be submitted to NMFS for review, approval, and implementation.

The Council Minority Report and Other Opposition to Amendment 9

Comment: Three Council members submitted a minority report opposing Amendment 9 that contended that: (1) The Council did not consider best available scientific data; (2) the Council made serious procedural and legal errors in proceeding with submission of Amendment 9 for review by NMFS because its Scientific and Statistical Committee (SSC) did not have a quorum when it met to review Amendment 9 prior to the Council meeting in November 1996 when it adopted Amendment 9, and because Amendment 9 does not assess the impact of BRDs on Gulf of Mexico communities; (3) Amendment 9 is not necessary for the recovery of red snapper; (4) the shrimp industry is being required to bear an unfair regulatory burden compared to the participants in the directed red snapper fisheries; and (5) the economic impacts of requiring BRDs in shrimp trawls will severely affect the shrimp industry and the United States economy.

Opposition to Amendment 9 from the remaining commenters focused on one or more of the same concerns stated in the minority report. Sixteen Congressmen filed comments and 2,682 private individuals, shrimp vessel owners and crews, industry support personnel, and business owners submitted form letters opposing Amendment 9. Eight commercial fishing or business- related associations, owners of 14 companies, one bank, 36 private individuals, and the cities of Port Isabel and Aransas Pass, TX, submitted letters opposing approval of Amendment 9.

Response (1): NMFS disagrees that Amendment 9 is not based on the best available scientific information. The Director, Southeast Fisheries Science Center, determined that Amendment 9 was based on the best available scientific information. The General Linear Model (GLM) method of analyzing bycatch data was peer reviewed in 1990, 1992, and 1997. The 1990 peer review was at the request of the Council. The 1992 peer review was done under the direction of the Technical Steering Committee of the regional Cooperative By catch Research Program, administered by the Gulf and South Atlantic Fisheries Development Foundation, Inc., a non-profit, educational and scientific research organization. In each case, the recommendation of the peer reviewers was to use the GLM method. The 1997 peer review was done under the direction of the Council at the request of Texas Shrimp Association (TSA) representatives. This review was conducted in two phases. The first phase consisted of the presentation of data and analyses by NMFS and TSA's consultant, LGL Ecological Research Associates, Inc. (LGL), to a peer review panel for evaluation by each individual panel member. In the second phase, these panel members' evaluations, along with responses from LGL and NMFS, were then presented to the Council's Stock Assessment Panel (SAP) for its review and recommendations to the Council's SSC and to the Council.

The 1997 peer review panel members generally supported the GLM approach but provided recommendations on alternative means of using the available data that might improve the red snapper by catch estimates. NMFS addressed these recommendations in a presentation to the SAP. The peer review panel members' recommendations usually resulted in increases in the red snapper bycatch estimates, not decreases as had been assumed by LGL. The conclusion of the SAP, the SSC, and the Council was that the original red snapper bycatch estimates represented the best available scientific data.

In addition to the 1997 peer review of the bycatch estimates, the Council contracted with Dr. Phil Goodyear, a prominent stock assessment biologist, to review the 1995 stock assessment and to determine the effects of over-estimates of red snapper bycatch on the scientific advice that bycatch had to be reduced to recover this species. Dr. Goodyear's sensitivity analysis showed that even with overestimates of bycatch up to 33 percent, red snapper bycatch in the shrimp fisheries still had to be reduced significantly for red snapper stock recovery. Based on these peer review results and on all other available information, the Council concluded that Amendment 9 is based on the best available scientific information.

Response (2): NMFS disagrees that the Council made serious procedural and legal errors in submitting Amendment 9 for agency review and approval. NMFS reviewed the administrative record and determined that there were no legal or procedural impediments to approval and implementation of Amendment 9. The SSC and Reef Fish SAP met after the Council's November 1996 meeting and endorsed Amendment 9. The Council was aware the SSC lacked a quorum and considered that fact. The SSC's recommendations are not binding on the Council; however, in this instance, they were consistent with the Council's action and administrative record.

Regarding the assessment of Amendment 9 regulatory impacts on Gulf of Mexico communities, the Council prepared the following analyses of impacts in support of its proposed amendment: IRFA, RIR, FIS, SIA, and FSEIS. The IRFA thoroughly assessed the economic impact of BRDs in shrimp trawls on small entities as required under the Regulatory Flexibility Act and concluded that Amendment 9 would adversely impact a substantial number of small entities in the Gulf of Mexico shrimp fisheries. The RIR clearly estimated the economic and social impacts of requiring the installation of BRDs in shrimp trawls on Gulf of Mexico shrimp fisheries as well as the economic impacts of alternatives considered by the Council. The RIR concluded that there would be adverse economic impacts on the Gulf shrimp fisheries as well as potential long-term economic benefits to the commercial red snapper fisheries. As noted in the SIA, participants in the shrimp fisheries believe that impacts associated with requiring BRDs will be negative. The Council was aware of the potential adverse economic impact of BRDs on the shrimp fisheries, but believed that reduction of the red snapper bycatch was necessary to allow the directed red snapper fisheries to continue while allowing rebuilding of the overfished red snapper resource. In complying with national standard 9 (minimizing bycatch mortality to the extent practicable), the Council, consistent with national standard 8, minimized the adverse economic and social impacts on the shrimp fisheries, including fishing communities, by limiting the BRD requirement to the geographical area where red snapper and shrimp are found together; namely, Federal waters west of Cape San Blas, FL, out to 100 fm (183 m) to the border with Mexico. With this geographical limitation, the Council concluded that the adverse economic and social impacts of BRDs on the Gulf of Mexico shrimp fisheries would be offset by positive biological, ecological, economic, and social impacts of the Gulf of Mexico red snapper fisheries based on a rebuilt red snapper stock. Finally, the FIS succinctly states the overall impact of Amendment 9 on fishery participants

and fishing communities regarding both Gulf of Mexico shrimp and red snapper fisheries.

Response (3): NMFS disagrees that implementation of Amendment 9 is unnecessary for the recovery of the red snapper resource in the Gulf of Mexico. Stock assessments prepared in 1988, 1990, and 1995 determined the status of the stock and clearly indicated that red snapper could not recover to the 20-percent spawning potential ratio (SPR) level by 2019 without a significant reduction in bycatch. At the 20-percent SPR level, the stock would no longer be considered overfished under the current provisions of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP). The year 2019 is the Reef Fish FMP's target date for recovery of the stock to the 20-percent SPR level. Under the 1996 amendments to the Magnuson-Stevens Act, the red snapper stock will, in all likelihood, have to be rebuilt to a level above 20-percent SPR. Regulatory actions to date to rebuild the red snapper stock have been limited to controlling the directed recreational and commercial harvest of red snapper. There is also a need to control the significant bycatch of juvenile red snapper in trawls.

Response (4): NMFS disagrees that the shrimp industry is being required to bear an unfair regulatory burden compared to the participants in the directed red snapper fisheries. Shrimp trawls have a significant bycatch of non-target finfish and invertebrates, most of which are discarded dead. Scientific survey results indicate that the ratio of the weight of finfish bycatch to that of shrimp caught is about 4.2 to 1. The best available information indicated that elimination of the directed harvest for red snapper would not allow the overfished resource to recover by 2019. Therefore, some device is needed that would reduce the incidental catch of juvenile red snapper in shrimp trawls by 44 percent to allow the overfished red snapper stock to recover.

Response (5): NMFS and the Council agree that requiring the use of BRDs in the Gulf of Mexico shrimp fisheries will result in negative economic impacts on the shrimp industry. The IRFA concluded that Amendment 9 would result in significant adverse impacts on a substantial number of small business entities that participate in the Gulf of Mexico shrimp fisheries. In particular, the IRFA concluded that revenues of a large portion of the small businesses in the shrimp fisheries would be reduced by at least 5 percent and that from 0.3 to 7.8 percent of the shrimp-harvesting businesses could cease operations (depending on the type of BRD they elected to use) if the rule is implemented.

The RIR estimated that if the use of BRDs in shrimp trawls is required, there would be a long-term net loss in benefits to the shrimp fisheries of $117 million assuming that all shrimpers use the fisheye BRD and that the shrimp loss rate with that BRD is 3 percent. If other BRDs are certified with higher or lower shrimp loss rates, the net loss would differ depending on the mix of BRDs used. The analysis in Amendment 9 was based on an expectation that this $117 million net loss to the shrimp fisheries would be offset by a net benefit to the commercial red snapper fisheries of roughly $118 million, assuming that these fisheries are managed to maximize economic benefits (e.g., under an individual transferable quota (ITQ) management system). In the short-term (i.e., 1-4 years), annual adverse impacts on the shrimp fisheries due to use of the fisheye BRD would range from about $40 million in the first year to $20 million in the fourth year. Most of the net loss to the shrimp fisheries would have occurred by 2019, the current target date for rebuilding the overfished red snapper resource. The net loss to the shrimp fisheries includes adverse impacts on the shrimp industry and consumers, although the greatest proportion of the adverse impacts would be borne by the shrimp industry. Subsequently, NMFS prepared a supplement to the economic analysis for Amendment 9 to further examine the effects on the red snapper commercial fisheries from 1998 though 2019 (see **ADDRESSES**). Executive Order 12866 typically requires that all changes in net benefits be measured against the status quo. In the case of the red snapper and shrimp fisheries, the staus quo is a total allowable catch (TAC) of 9.12 million lb and no BRD requirement. In addition to analyzing the effects under scenarios of ITQ management and no ITQ management, and under TACs for red snapper of 9.12 million lb and 6.0 million lb, benefits were also measured for a baseline of a zero TAC for red snapper. The benefit of the status quo alternative of no BRD requirement and a TAC of 9.12 million lb would be $58 million. If ITQ management is added to that baseline, the benefit of the BRD rule to the red snapper fisheries would be an increase of $35 million or a total of $93 million. In summary, using the 1998 status quo TAC of 9.12 million lb for red snapper, the benefits to the commercial red snapper fisheries as measured against the zero TAC baseline amounts to an increase of $93 million with ITQ management and $58 million without ITQ management. The expanded analysis made no determination regarding changes in benefits to the recreational red snapper fisheries, did not include benefits accruing after 2019 when a larger TAC is expected, and also did not attempt to calculate benefits to the finfish stocks that would benefit in a biological sense from by catch reduction.

The SIA concluded that Gulf of Mexico shrimp fishermen were experiencing a high level of work-related stress in 1994 versus 1987 due to a variety of factors, including the required use of turtle excluder devices (TEDs), and that additional regulations, such as requiring the use of BRDs, would further raise fishermen's stress levels. The SIA also found that if BRD use increases shrimping efficiency and reduces fishermen's workload (because of a reduced need to cull finfish from the shrimp catch), then stress levels may decrease. Further, according to the SIA, if fishermen take advantage of public hearings and other opportunities (i.e., workshops) to become fully involved in the further development and testing of BRDs and in modifying the bycatch criteria, they should be more willing to accept and comply with bycatch regulations.

The FIS summarized the overall negative impact of Amendment 9 on the shrimp fisheries and summarized the relevant findings of the IRFA, RIR, and SIA.

As required by national standard 8 of the Magnuson-Stevens Act, the Council considered the importance of the shrimp fisheries to the fishing communities and provided for the sustained participation of such communities. Also, the Council minimized adverse economic and social impacts on the shrimp fisheries and associated communities by requiring the use of BRDs only to the area where juvenile red snapper currently are concentrated (Federal waters shoreward of the 100 fm (183 m) curve and west of Cape San Blas, FL, to the Mexican border). Additionally, certain shrimping operations were exempted from the BRD requirements because they do not result in significant mortalities of juvenile red snapper. A shrimp trawler is exempted from the requirement to have a certified BRD: 1) Installed in each net provided that at least 90 percent (by weight) of all shrimp on board or offloaded from such trawler are royal red shrimp; 2) installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either pulled immediately in front of another net or is not connected to another net; or 3)

installed in up to two rigid- frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. Finally, the Council held 14 public hearings where commercial shrimping associations made numerous presentations that the Council carefully considered before adopting final measures to reduce the shrimp trawl fishery finfish bycatch.

Commercial Shrimp Fisheries Are Major Sources of Employment and Businesses to Residents of the Coastal Areas of the Gulf of Mexico

Comment: Sixteen congressmen, 2,682 shrimp fishermen, support industry personnel, vessel owners, and private individuals, 8 commercial associations, owners of 14 companies, one bank, 36 private individuals, and the cities of Port Isabel, and Aransas Pass, Texas, stated that commercial shrimp fisheries are major sources of employment and businesses for hundreds of thousands of residents.

Response: NMFS recognizes the importance of the shrimp and red snapper fisheries to fishermen, support industries, businessmen, coastal communities, and states.

Number of BRDs Available

Comment: Sixteen Congressmen and one commercial shrimp association objected that, with the decertification of the Andrews TED in December 1997, there is only one BRD, the fisheye, available for fishermen to use.

Response: Since the Council adopted Amendment 9 on November 14, 1996, for submission to NMFS, the Southeast Fisheries Science Center has analyzed the data on the performance of a new BRD (Jones-Davis) and has recommended that the Regional Administrator, Southeast Region, NMFS (Regional Administrator), certify this BRD as meeting the bycatch reduction criterion of Amendment 9. Upon promulgation of a BRD testing and certification protocol by separate final rule in early 1998, this BRD may be certified for use under the FMP's framework procedure for regulatory adjustments. Additionally, three modified Andrews TEDs recently passed field tests for the exclusion of turtles, and it is anticipated that at least one of these TEDs may be certified as a BRD early in 1998.

Neutral Panel to Review Status of Red Snapper and Impact of Shrimp Trawl Bycatch

Comment: One Congressman, two commercial shrimping associations, and one shrimp business owner recommended that NMFS and LGL present their respective conflicting scientific information on the status of the red snapper resource, data problems, and other technical issues to a neutral scientific panel for review and evaluation. This panel would render an opinion on the quality of the science and the need for the BRD requirement.

Response: Further reviews are not needed. There have been three assessments of the red snapper stock (1988, 1990, and 1995) in the Gulf of Mexico. Each assessment report concluded that the red snapper resource was overfished and the major contributing factor was shrimp trawl bycatch. In addition, the juvenile red snapper bycatch estimating procedures were peer reviewed in 1990, 1992, and 1997, and the Council's SAP and SSC participated in reviewing all of the scientific information and data associated with the red snapper assessments. See the response above regarding the best available data and the three independent peer review panels and their review of the shrimp fishery bycatch data and the analytic models used for bycatch estimation.

Furthermore, two congressionally-mandated studies on the red snapper stock and shrimp fishery bycatch were completed in December 1997. The first study, as required by the Magnuson-Stevens Act, consisted of a thorough and independent peer review of the scientific and management bases for conserving and managing the red snapper fisheries in the Gulf of Mexico. The final consolidated peer review report concluded that the red snapper stock in the Gulf of Mexico is severely overfished, and that both directed fishing effort and juvenile red snapper bycatch in the shrimp fisheries must be reduced in order for the red snapper stock to recover. These peer review conclusions were based, in part, on a review of the results of the second study. The second study was an independent red snapper stock assessment required by agency appropriations legislation. This independent red snapper stock assessment noted that the shrimp fishery bycatch of red snapper is significant, but concluded that the stock appears to be healthy in that average red snapper size may be increasing and that recruitment appears to be increasing in recent years. The Science and Management Panel, one of three independent review panels, reviewed the preliminary results of this independent red snapper stock assessment. That panel concluded the analysis was incomplete because it did not correctly factor in the impact of the large red snapper bycatch in the Gulf of Mexico shrimp fishery.

Cumulative Cost of TEDs and BRDs to Shrimpers

Comment: Sixteen congressmen, one commercial shrimping association, and one shrimp fleet owner stated that the shrimp industry is bearing large costs associated with reducing their incidental catch and kill of endangered or threatened sea turtles, and Amendment 9 does not quantify the cost to industry associated with TEDs.

Response: The baseline for Amendment 9's economic analysis of the impacts of the BRD requirements on the shrimp industry is the industry with its present regulatory burden. The RIRs done as part of the rules that implemented the TED requirements detail the economic impacts expected to result from the TED requirements on the Southeast shrimp fisheries.

Statement of Dr. Phil Goodyear Regarding Role of Shrimp Fishery in Causing Overfished Condition of Red Snapper

Comment: One commercial fishing association and one shrimp fleet owner contended that at the Council meeting held on May 12, 1997, Dr. Phil Goodyear, a reef fish biologist under contract to the Council, stated that the commercial shrimp fishery was not responsible for the overfished condition of the red snapper resource and that, instead, the fishermen in the directed fishery for red snapper were responsible.

Response: NMFS disagrees. Dr. Goodyear stated at this meeting that the combined effect of excessive mortalities caused by directed fishing by the red snapper fisheries and bycatch by the shrimp fisheries are causing the overfished condition of the resource. NMFS points out that the shrimp trawl fishery removes about 88 percent of the red snapper population. The remaining 12 percent is the basis for the spawning stock and the directed fishery.

Modification of the Bycatch Reduction Criterion

Comment: One shrimp vessel owner contended that the establishment of the Special BRD Advisory Panel (AP) is redundant and will supplant the Shrimp and Reef Fish APs.

Response: NMFS disagrees. This BRD AP will be composed of scientists, engineers, environmentalists, fishermen, or others with knowledge of BRDs and their ability to reduce bycatch of red snapper and will advise the Council on the need for adjustments in the bycatch reduction criterion. Amendment 9 does not contain any statement that the Council intends for this panel to replace or to override the recommendations of the Shrimp and Reef Fish APs or vice versa.

Shrimp Vessel Costs and Returns

Comment: One commercial shrimping association and one shrimp vessel owner stated that the preamble to the proposed rule contained information that would allow a reader to conclude that the annual pre-tax profit margin per shrimp vessel is $102,000 or 51 percent of annual revenue. The commenters indicated that this figure is not correct and gives the impression that shrimpers can easily afford to use BRDs in their nets. Furthermore, they contend that new information on vessel costs and returns in a NMFS report of May 1997 should have been used. They claim this new information shows that shrimpers are not financially able to withstand the income losses associated with BRDs.

Response: NMFS agrees that the information in the preamble to the proposed rule (62 FR 35778) could allow a reader to conclude that the pre-tax profit margin per vessel is $102,000 or 51 percent of annual revenue. However, Amendment 9 contains the appropriate cost and earning information for shrimp vessels (Table R-4). The range in annual gross revenue per vessel is from $8,389 to $220,412, with an average of $43,002. Annual net revenue per vessel ranged from $2,249 to $41,881, with an average of $6,564. The net revenue figures did not include taxes so they roughly estimate the pre-tax profit margin. Thus, the average pre-tax margin was 15 percent, not 51 percent of revenue. When the Council finalized Amendment 9 in November 1996, the May 1997 report was not available. For information on the adverse impact of BRDs on the shrimp fishery, see the above response regarding economic impacts on the shrimp industry and the United States.

Exemption for Vessels Using Rigid-Frame Roller Trawls

Comment: One shrimp fisherman questioned why the exemption from the BRD requirement for rigid-frame roller trawls should not apply to his gear. This fisherman fishes off Pasco, Hernando, and Citrus Counties, FL, and uses four rigid-frame roller trawls. He states that his four-trawl rig scares fish away and thereby minimizes bycatch.

Response: The exemption for rigid-frame roller trawls applies only to the use of up to two such trawls. However, the BRD requirement applies only west of Cape San Blas, FL. BRDs are not required in waters east of Cape San Blas, FL.

Changes From the Proposed Rule

Certification of the Andrews TED as a BRD is removed in this final rule. In the proposed rule, the Andrews TED was proposed to be certified as a BRD ''only during a time when and in a geographical area where it is an approved TED.'' Effective December 19, 1997, approval of the Andrews TED was withdrawn.

Classification

The Regional Administrator, with concurrence by the Assistant Administrator for Fisheries, NOAA, has determined that Amendment 9 is necessary for the conservation and management of the shrimp fisheries of the Gulf of Mexico and that it is consistent with the Magnuson-Stevens Act and other applicable law.

This rule has been determined to be significant for purposes of E.O. 12866.

The Council prepared an FSEIS for Amendment 9; a notice of its availability was published by the Environmental Protection Agency on June 6, 1997 (62 FR 31098). The FSEIS assesses the impacts on the human environment of both the Gulf shrimp fisheries and the Council's proposed and alternative management measures for reducing bycatch in the shrimp fisheries. Those impacts were summarized in the proposed rule and are not repeated here. No comments were received on the FSEIS.

NMFS prepared a FRFA based on the Council-prepared IRFA that described the impacts the proposed rule would have on small entities, if adopted. Based on the IRFA, NMFS concluded that Amendment 9, if approved and implemented through final regulations, would have significant economic impacts on a substantial number of small entities. During the public comment periods on Amendment 9 and its proposed implementing regulations, no public comments were received that disagreed with the analysis or conclusions of the IRFA; no additional information was received that would change the analysis or conclusions of the IRFA regarding the impacts on small entities. Accordingly, the FRFA is based on the IRFA and is not substantively changed. Copies of the FRFA are available (see **ADDRESSES**). A summary of the FRFA follows.

Amendment 9 will affect most of the roughly 5,000 shrimp vessels that operate in the Gulf, because the vast majority of such vessels operate in the EEZ for at least part of the year. It will also affect a substantial, but unknown, number of shrimp boats that are smaller than the typical offshore shrimp vessel (smaller craft that are not required to be documented by the U.S. Coast Guard) but operate in the EEZ during periods of favorable weather when harvestable shrimp populations are found in the near-shore portion of the EEZ. All of the vessels and boats that would be affected by Amendment 9 are considered small business entities for the purposes of the Regulatory Flexibility Act, because their individual annual gross revenues are less then $3 million. The small entities that would be affected by Amendment 9 generate annual gross revenues per vessel ranging from $8,389 to $220,412. Net revenue per vessel ranges from $2,249 to $41,881.

The shrimp loss from using BRDs would cause at least a 5- percent reduction in gross revenues for a large, but unknown, number of shrimp vessels, assuming such vessels use a BRD with a shrimp loss rate equal to that of the Fisheye BRD (3 percent), presently the only certified BRD. If other BRDs are developed and certified with higher or lower shrimp loss rates, the reduction in gross revenues would differ depending on the mix of BRDs used by the industry. It should be noted that NMFS is in the process of certifying a number of additional BRDs in order to provide a wider choice to fishermen. Certification of BRDs will be based on bycatch reduction criterion and not on the expected shrimp loss rates. The owners of affected shrimp fishing vessels and boats will have to purchase and use certified BRDs; vessels and boats may fish with 1-5 nets. In addition, affected small entities would incur annual increases in operating costs ranging from 0.2 to 10 percent; these costs generally would be less than 5 percent. The FRFA indicated that, depending on the type of certified BRD shrimpers use, between 9 and 240 full-time shrimp vessels (i.e., between 0.3 and 7.8 percent of the shrimp fleet) would leave the shrimp fishery because of the effects of the BRD requirements. There was a higher end of the range associated with the Andrews TED that had qualified as a BRD, but the Andrews TED is currently not a legal TED and therefore cannot be used.

Several alternatives to the proposed measures of Amendment 9 were considered by the Council. The status quo, which would have no negative economic effects on the shrimp trawling industry, was rejected because the critical bycatch reduction objective cannot be met without some action to reduce the shrimp fishery bycatch of red snapper. The alternative of closing the shrimp season for a portion of the year was rejected because this likely would not result in a large enough reduction of red snapper bycatch and because the negative impacts on the shrimp industry would be significant. The alternative of meeting the bycatch reduction objective through permanently closing some shrimp trawling areas where juvenile red snapper are concentrated was

rejected because the projected economic losses to the shrimp industry were greater than the preferred alternative. The final rule provides certain exemptions from the BRD requirements to reduce negative economic impacts on shrimp fishermen while still meeting the bycatch reduction objectives.

This rule does not establish any new reporting or recordkeeping requirements. The BRD testing protocol is expected to include a new collection-of-information requirement subject to the PRA—namely, the BRD certification process, consisting of an application for the testing of a new BRD, the testing itself, and the submission of the test results. The estimated burden hours (i.e., response time) for this requirement has not been determined. When determined, the new collection-of-information requirement will be submitted to the Office of Management and Budget for approval. The requirement and its response time/burden hours will be contained in a proposed rule containing the BRD testing protocol to be published subsequently in the **Federal Register** with an opportunity for public comment.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 8, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.2, a definition for ''Shrimp trawler'' is added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Shrimp trawler means any vessel that is equipped with one or more trawl nets whose on-board or landed catch of shrimp is more than 1 percent, by weight, of all fish comprising its on-board or landed catch.

* * * * *

3. In § 622.41, paragraph (h) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(h) *Shrimp in the Gulf*—(1) *BRD requirement.* (i) Except as exempted in paragraphs (h)(1)(ii) through (iv) of this section, on a shrimp trawler in the Gulf EEZ shoreward of the 100-fathom (183-m) depth contour west of 85°30' W. long., each net that is rigged for fishing must have a certified BRD installed. A trawl net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(ii) A shrimp trawler is exempt from the requirement to have a certified BRD installed in each net provided that at least 90 percent (by weight) of all shrimp on board or offloaded from such trawler are royal red shrimp.

(iii) A shrimp trawler is exempt from the requirement to have a BRD installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either pulled immediately in front of another net or is not connected to another net.

(iv) A shrimp trawler is exempt from the requirement to have a certified BRD installed in up to two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. A rigid-frame roller trawl is a trawl that has a mouth formed by a rigid frame and a grid of rigid vertical bars; has rollers on the lower horizontal part of the frame to allow the trawl to roll over the bottom and any obstruction while being towed; and has no doors, boards, or similar devices attached to keep the mouth of the trawl open.

(2) *Certified BRDs.* The fisheye BRD is certified for use by shrimp trawlers in the Gulf EEZ. Specifications of the fisheye BRD are contained in Appendix D of this part.

4. In § 622.48, paragraph (i) is added to read as follows:

§ 622.48 Adjustment of management measures.

* * * * *

(i) *Gulf shrimp.* Bycatch reduction criteria, BRD certification and decertification criteria, BRD testing protocol, certified BRDs, and BRD specifications.

[FR Doc. 98–9767 Filed 4–9–98; 11:41 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 980408088–8088–01; I.D. 040798A]

RIN 0648–AK98

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures

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

ACTION: Interim rule; request for comments.

SUMMARY: This interim rule implements changes to the availability of the recreational red snapper quota and the procedures that allow the recreational and commercial quotas to be taken. Specifically, it makes available 2.94 million-lb (1.33 million-kg) of the recreational quota to recreational fishermen beginning January 1, 1998; reserves 3.12 million lb (1.42 million kg) of the red snapper total allowable catch (TAC), which may be made available on September 1, 1998; establishes a procedure for releasing the reserved TAC on September 1, 1998, based on observed efficiency of BRDs used in shrimp trawls and apportioned between the recreational and commercial fisheries; and reduces the 5-fish red snapper bag limit to 4 fish. The 3.06 million-lb (1.39 million-kg) commercial quota was available on February 1, 1998. The intended effect is to reduce overfishing of red snapper in the Gulf of Mexico.

DATES: This rule is effective May 14, 1998 through October 13, 1998 except for the suspension of §§ 622.34(l) and 622.39(b)(1)(iii) and the addition of §§ 622.34(m) and 622.39(b)(1)(vi), which are effective April 29, 1998, through October 13, 1998 and except for the suspension of § 622.42(a)(2) and the addition of § 622.42(g)(2), which are effective April 14, 1998, through October 13, 1998. Comments must be received no later than May 14, 1998.

ADDRESSES: Comments on this interim rule must be mailed to, and copies of documents supporting this action may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The TAC for red snapper in the Gulf of Mexico EEZ is 9.12 million lb. The FMP divides the TAC as a commercial quota (51 percent of TAC) and a recreational quota (49 percent of TAC). This interim rule (1) makes available a 2.94 million-lb (1.33 million-kg) apportionment of the TAC to recreational fishermen beginning January 1, 1998; (2) reserves 3.12 million lb (1.42 million kg) of the TAC, which may be made available on September 1, 1998; (3) establishes the procedure for releasing the reserved TAC on September 1, 1998, based on observed efficiency of BRDs used in shrimp trawls; and (4) reduces the 5-fish bag limit to 4 fish. The 3.06 million-lb (1.39 million-kg) commercial quota was made available on February 1, 1998.

NMFS plans a major research effort beginning May 1998, to provide an estimate of BRD bycatch reduction under operational conditions prior to September 1, 1998. If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 50 percent or less, no reserve will be released. If BRDs reduce shrimp trawl- induced mortality of juvenile red snapper by 60 percent or greater, the entire 3.12 million lb (1.42 million kg) reserve will be released on September 1, 1998. If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by more than 50 but less than 60 percent, a portion of the reserve will be released proportional to the efficiency of the BRDs. These measures are necessary to prevent overfishing and rebuild red snapper to a spawning potential ratio (SPR) of 20 percent by 2019, as required by the FMP.

The Council, at its January 1998 meeting, recommended that NMFS continue a status quo TAC of 9.12 million lb (4.14 million kg). The Council also voted to maintain the current 5-fish bag limit for the recreational fishery and to reduce to zero the bag limit for the captain and crew of charter vessels and headboats. The Council intended that implementation of this latter measure would be contingent upon the continuation of the 9.12 million-lb (4.14 million-kg) TAC.

The Council's recommendation for a status quo TAC was made following a review of the 1997 NMFS red snapper stock assessment and findings from a recent Congressionally mandated peer review of the science and management of red snapper. The peer review concluded that red snapper are seriously overfished, shrimp trawl bycatch of juvenile red snapper needs to be reduced, and the TAC should be reduced to no more than 6.0 million lb (2.7 million kg) if the resource is to recover to the FMP's rebuilding target of 20-percent SPR by 2019. The peer review also strongly recommended that NMFS initiate a bycatch monitoring program.

The 1997 NMFS stock assessment noted that a 20-percent SPR could be achieved with a 9.12 million lb (4.14 million kg) TAC if BRDs achieved a bycatch reduction efficiency of 60 percent or greater. Efficiencies of 60 percent or greater have been achieved under experimental conditions according to a NMFS gear specialist who testified at the Council's January meeting, although 50 percent is a more reasonable expectation of the operational BRD performance level, especially when compliance and BRD release mortalities are considered. The Council's recommendation for a status quo TAC was based primarily on an assumption that the bycatch mortality of juvenile red snapper could be reduced by 60 percent or more through the mandatory use of BRDs. The final rule implementing Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico requires the use of BRDs in most shrimp trawls.

NMFS intends to test this assumption by initiating a major research effort, beginning in May 1998, to obtain operational estimates of BRD efficiency while towing commercial shrimp trawls in areas when juvenile red snapper are present. Observers, logbooks, and vessel monitoring systems will be used on selected vessels to monitor the use of BRDs and to obtain estimates of bycatch in Federal waters of the Gulf of Mexico. In addition, this research initiative will address some of the concerns expressed in the peer review regarding improved estimates of bycatch, new information on discard mortalities from fishing vessels, and refined data on age composition of red snapper to aid in subsequent stock assessments.

Reservation of TAC

Under existing regulations, the commercial quota for red snapper in the Gulf of Mexico is split into two periods: the first commencing at noon on February 1 with 3.06 million lb (1.39 million kg) of the annual quota available and the second commencing at noon on September 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 15th of each month, until the applicable commercial quotas are reached. The recreational fishery is open from January 1 until its quota is reached.

This interim rule (1) makes available a 2.94 million-lb (1.33 million-kg) apportionment to recreational fishermen beginning January 1, 1998; (2) reserves 3.12 million lb (1.42 million kg) of the red snapper TAC, which may be made available on September 1, 1998; and (3) establishes the procedure for releasing the reserved TAC on September 1, 1998, based on observed efficiency of BRDs used in shrimp trawls and apportioned between the recreational and commercial red snapper fisheries. The 3.06 million-lb (1.39 million-kg) commercial quota was made available on February 1, 1998. If BRDs reduce shrimp trawl- induced mortality of juvenile red snapper by 60 percent or more, the entire 3.12 million-lb (1.42 million-kg) reserve will be made available on September 1, 1998, with 1.59 million lb (0.72 million kg) apportioned to commercial fishermen and 1.53 million lb (0.69 million kg) apportioned to recreational fishermen. If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 50 percent or less, no reserve will be released. If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by more than 50 percent, but by less than 60 percent, for each one percentage point increase in bycatch reduction above 50 percent, 0.159 million lb (0.715 million kg) of reserve will be released to commercial fishermen and 0.153 million lb (0.069 million kg) of reserve will be released to recreational fishermen.

Reduction of Bag Limit

The 1997 recreational red snapper fishery was closed on November 27, 1997, to prevent the fishery from exceeding its quota. However, only one of the five Gulf coastal states implemented compatible closures in state waters after the Federal closure. Most states believe that the recreational harvest should not be controlled by quotas; rather, they believe it should be controlled by bag limits and similar measures. A more restrictive bag limit would minimize the possibility of a recreational closure and maximize the compatibility of Federal regulations

with state fishery management measures, thereby helping to prevent quota overruns and overfishing. Assuming the full availability of the 9.12 million-lb (4.14 million-kg) TAC in 1998, a 4-fish bag limit should extend the recreational season throughout the year; with 6.0 million lb (2.7 million kg) available, the season should extend into October 1998. Additionally, a 4-fish bag limit should enable charter and headboat operators to continue to attract customers. As most of the recreational trips occur during the warmer summer months, the 4-fish bag limit also ensures that the recreational fishery will remain open during the peak fishing months with either 6.0 or 9.12 million lb (2.7 or 4.14 million kg) available.

NMFS prepared an evaluation of the regulatory impacts of the interim measures. For the commercial fishery, limiting harvest levels to 3.06 million lb (1.39 million kg) is expected to result in a short-term reduction in profit of about $1.5 million in the first year, assuming no shift in effort to other species. For the recreational fishery, NMFS estimated the number of red snapper fishing trips expected to be affected by various bag limits with only 6.0 million lb (2.7 million kg) of the TAC available. With a 5-fish bag limit, about 27 percent or 126,000 red snapper trips would be affected due to an early closure of the season. A 4-fish bag limit reduces this effect to 17 percent. Some of these trips may be shifted to other species; therefore, the effect may not equate to cancellation of 17 percent of the trips. If the bag limit were reduced to three fish, only 8 percent of the trips would be affected; and with a reduction to two fish, no trips would be affected, assuming all the trips were still conducted. However, some charter boat operators expressed concerns that any reduction below a bag limit of three fish would most likely result in widespread cancellation of trips. Unfortunately, none of the charter boat operators were willing to project the effect of any of the other considered reductions, other than commenting that the full 5-fish bag limit was needed to ensure no trip cancellations.

The NMFS Southeast Fisheries Science Center has determined that this interim rule is based on the best available scientific information. Given the determination of overfishing regarding red snapper, this interim rule is consistent with section 305(c) of the Magnuson-Stevens Act.

NMFS finds that the timely regulatory action provided by this interim rule is necessary to reduce overfishing of red snapper in the Gulf of Mexico. NMFS issues this interim rule, effective for not more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. This interim rule may be extended for an additional 180 days, provided that the public has had an opportunity to comment on the interim rule. Public comments on this interim rule will be considered in determining whether to maintain or extend this rule to address overfishing of red snapper.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to reduce overfishing of red snapper in the Gulf of Mexico and is consistent with the Magnuson-Stevens Act and other applicable laws.

This interim rule has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

NMFS prepared economic analyses of the interim rule. Copies are available (see **ADDRESSES**).

A delay in action to reduce overfishing increases the likelihood of a loss of long-term productivity in the red snapper fishery of the Gulf of Mexico and increases the probable need for more severe restrictions in the future. The public is aware of the need to reduce the bag limit and to reduce the TAC and the associated recreational and commercial quotas if BRDs are not sufficiently effective in reducing shrimp trawl-induced mortality of juvenile red snapper; the public has had an initial opportunity to comment on these aspects at a Council meeting. Accordingly, pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as such procedures would be contrary to the public interest.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator finds for good cause that a delay in the effective date of the measure to apportion the recreational quota and make available a 2.94 million-lb (1.33 million-kg) apportionment beginning January 1, 1998, to recreational fishermen is unnecessary. This apportionment does not impose any burden on any member of the recreational fishery, rather the apportionment is for the sole purpose of closing the fishery when the quota is reached. Therefore, it is unnecessary to delay the effective date of this measure for 30 days.

Similarly, the need to implement the bag limit reduction in a timely manner to address the overfishing of red snapper and to minimize adverse effects of a recreational closure constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. However, the reduction of the red snapper bag limit could affect the decision by charter vessel/headboat clients to book fishing trips. Such bookings are routinely made well in advance of the actual trip. To provide sufficient notification of the reduction of the red snapper bag limit, particularly to charter vessel/headboat owners, operators, and clients, the reduction in the bag limit in § 622.39(b)(1)(vi) of this rule and the corresponding addition of § 622.34(m), which establishes the correct cross reference to § 622.39(b)(1)(vi), will not be effective until April 29, 1998.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 8, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.34, paragraph (l) is suspended and paragraph (m) is added to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(m) *Closures of the commercial fishery for red snapper.* The commercial fishery for red snapper in or from the Gulf EEZ is closed from January 1 to noon on February 1 and thereafter from noon on the 15th of each month to noon on the first of each succeeding month. All times are local times. During these closed periods, the possession of red snapper in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested, is limited to the bag and possession limits,

as specified in § 622.39(b)(1)(vi) and (b)(2), respectively, and such red snapper are subject to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1). However, when the recreational quota for red snapper has been reached and the bag and possession limit has been reduced to zero, such possession during a closed period is zero.

3. In § 622.39, paragraph (b)(1)(iii) is suspended and paragraph (b)(1)(vi) is added to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(b) * * *

(1) * * *

(vi) Red snapper—4.

* * * * *

4. In § 622.42, paragraph (a) is suspended and paragraph (g) is added to read as follows:

§ 622.42 Quotas.

* * * * *

(g) *Gulf reef fish*—(1) *Commercial quotas*. The following quotas apply to persons who fish under commercial vessel permits for Gulf reef fish, as required under § 622.4(a)(2)(v).

(i) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned as follows:

(A) 3.06 million lb (1.39 million kg) available at noon on February 1 each year, subject to the closure provisions of §§ 622.34(m) and 622.43(a)(1)(i).

(B) The remainder is held in reserve.

(C) The Assistant Administrator may release all or any portion of the reserve specified in paragraph (g)(1)(i)(B) of this section effective September 1 by filing for publication a notification to that effect with the Office of the Federal Register. Determination of what portion, if any, of the reserve will be released will be based on the results of NMFS research regarding the effectiveness of BRDs in reducing shrimp trawl- induced mortality of juvenile red snapper. Release of reserve amounts will be determined as follows:

(*1*) If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 50 percent or less, none of the reserve specified in paragraph (g)(1)(i)(B) of this section will be released.

(*2*) If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 60 percent or greater, the entire reserve specified in paragraph (g)(1)(i)(B) of this section will be released, subject to the closure provisions of §§ 622.34(m) and 622.43(a)(1)(i).

(*3*) If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by more than 50 percent but less than 60 percent, for each one percentage point increase in bycatch mortality reduction within the 50 to 60 percent range, an additional 0.159 million lb (0.072 million kg) of the reserve specified in paragraph (g)(1)(i)(B) of this section will be released, subject to the closure provisions of §§ 622.34(m) and 622.43(a)(1)(i). Fractional percentage point increases in bycatch mortality reduction will be prorated accordingly.

(ii) Deep-water groupers (i.e., yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind), and, after the quota for shallow-water grouper is reached, scamp, combined—1.60 million lb (0.73 million kg), round weight.

(iii) Shallow-water groupers (i.e., all groupers other than deep-water groupers, jewfish, and Nassau grouper), including scamp before the quota for shallow-water groupers is reached, combined—9.80 million lb (4.45 million kg), round weight.

(2) *Recreational quota for red snapper*. The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(i) of this section—4.47 million lb (2.03 million kg), round weight, apportioned as follows:

(i) 2.94 million lb (1.33 million kg) available January 1 each year, subject to the closure provisions of § 622.43(a)(1)(ii).

(ii) The remainder is held in reserve.

(iii) The Assistant Administrator may release all or any portion of the reserve specified in paragraph (g)(2)(ii) of this section effective September 1 by filing a notification for publication to that effect with the Office of the Federal Register. Determination of what portion, if any, of the reserve will be released will be based on the results of NMFS research regarding the effectiveness of BRDs in reducing shrimp trawl- induced mortality of juvenile red snapper. Release of reserve amounts will be determined as follows:

(A) If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 50 percent or less, none of the reserve specified in paragraph (g)(2)(ii) of this section will be released.

(B) If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by 60 percent or greater, the entire reserve specified in paragraph (g)(2)(ii) of this section will be released, subject to the closure provisions of § 622.43(a)(1)(ii).

(C) If BRDs reduce shrimp trawl-induced mortality of juvenile red snapper by more than 50 percent but less than 60 percent, for each one percentage point increase in bycatch mortality reduction within the 50 to 60 percent range, an additional 0.153 million lb (0.069 million kg) of the reserve specified in paragraph (g)(2)(ii) of this section will be released, subject to the closure provisions of § 622.43(a)(1)(ii). Fractional percentage point increases in bycatch mortality reduction will be prorated accordingly.

[FR Doc. 98–9766 Filed 4–9–98; 11:41 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

I.D. 040998A

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

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

ACTION: Notice of closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the initial portion of the annual commercial quota for red snapper will be reached on April 12, 1998. This closure is necessary to protect the red snapper resource.

DATES: Closure is effective 12:01 a.m., local time, April 13, 1998, until noon, local time, on September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 1998. Those regulations split the red snapper commercial fishing season into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.06

million lb (1.39 million kg)) available, and the second commencing at noon on September 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 15th of each month, until the applicable commercial quotas are reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has projected that the available commercial quota of 3.06 million lb (1.39 million kg) for red snapper will be reached on April 12, 1998. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective 12:01 a.m., local time, April 13, 1998. The operator of a vessel with a valid reef fish permit having red snapper aboard must land and sell such red snapper prior to 12:01 a.m., local time, April 13, 1998. The commercial red snapper fishery may reopen at noon on September 1, 1998, if the results of NMFS' research on the effectiveness of bycatch reduction devices in shrimp trawls support a reopening of the commercial red snapper fishery at that time.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, April 13, 1998, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

Dated: April 9, 1998.

Gary C. Matlock,

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

[FR Doc. 98–9822 Filed 4–9–98; 2:38 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 71
Tuesday, April 14, 1998

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

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 544

[No. 98–34]

RIN 1550–AB17

Charter and Bylaws; One Member, One Vote

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) proposes to amend its regulations on federal mutual savings association charters. The proposed amendment would expand the range of the number of votes a federal mutual savings association may allow a member to cast on issues requiring action by the members of the association from the current 50 to 1000 votes to one to 1000 votes per member. This proposal would add flexibility to the federal mutual charter, and would in particular allow a federal mutual savings association to adopt a charter providing for ''one member, one vote.''

DATES: Comments must be received on or before June 15, 1998.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552, Attention Docket No. 98–34. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 A.M. to 5:00 P.M. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

FOR FURTHER INFORMATION CONTACT: Diana L. Garmus, Director, Corporate Activities Division (202/906–5683); David A. Permut, Counsel (Banking and Finance) (202/906–7505) or Kevin A. Corcoran, Assistant Chief Counsel for Business Transactions (202/906–6962), Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Various depository institutions that have expressed interest in converting to a federal mutual savings association charter [1] have asked to retain existing voting procedures following the conversion. The OTS has received, for example, inquiries from credit unions with membership voting rights of one vote per member, who have asked to retain their current voting requirements upon conversion. The OTS regulations currently allow a state-chartered savings bank to retain certain member rights upon conversion to a federal mutual holding company under the OTS Mutual Holding Company regulations.[2] Today's proposal would provide similar flexibility for financial institutions, including federal credit unions, that wish to convert to the federal mutual charter.

Under the Home Owners' Loan Act (HOLA),[3] the OTS may charter federal thrifts to provide for the deposit of funds and the extension of credit for homes and other goods and services.[4] The OTS has long taken the position that depository institutions should be free to operate under whatever charter best suits their business needs, consistent with safety and soundness. Federal savings associations may operate under a stock charter or mutual charter. Within each charter, the OTS permits variations.

Federal mutual savings associations have varying voting provisions, often based upon when they obtained their charters. The federal charter first introduced in 1933 specified that each member received one vote for every $100 on deposit, subject to a maximum of 50 votes per member. This 50 vote limit corresponded to the maximum allowable deposit insurance for one account, $5,000. When deposit insurance limits were raised to $40,000 per account, the Federal Home Loan Bank Board (''FHLBB''), predecessor to the OTS, began to issue charters with a maximum of 400 votes per member, again to correspond to the insurance limits. When the statutory deposit insurance limits were increased to $100,000 per account in 1980,[5] the FHLBB again amended the federal mutual charter to allow for 1,000 votes per member.[6]

II. Proposal

The purpose of today's proposed regulation is to allow greater flexibility in determining the number of votes per member. The amendment will permit mutual depository institutions that are converting to federal savings associations to retain the one vote per member provision in their current charters, and will permit converting institutions as well as existing federal mutual savings associations to adopt a one vote per member provision.

Currently, Section 6 of the OTS model federal mutual charter [7] states that no member may cast more than 1,000 votes. Section 544.2, however, permits a federal mutual savings association to amend its charter and prescribe the maximum number of votes per member to a specific number between 50 and 1000.

The OTS is proposing to amend 12 CFR 544.2(b)(4) to permit federally chartered mutual savings associations to set the number of votes per member within the range of 1 to 1,000, rather than the current range of 50 to 1,000. New federal mutual savings associations may include this provision in their initial federal thrift charter. Existing federal mutual associations may amend their charters under the prescribed regulatory procedures. [8] Specifically, an institution would: (i) Obtain a board of directors' resolution adopting the

[1] Section 2(5) of the Home Owners' Loan Act defines ''federal savings associations'' to include federal savings associations and federal savings banks. Accordingly, references herein to federal savings associations include federal savings banks.

[2] *See* 12 CFR 575.5(a) (1997), which describes existing and future depositor and borrower membership rights as the same rights that were conferred upon depositors and borrowers by the reorganizing association.

[3] 12 U.S.C. 1461 *et seq.*

[4] 12 U.S.C. 1464(a).

[5] Pub. L. 96–221, 94 Stat. 147, March 31, 1980 (Codified at 12 U.S.C. 1728).

[6] See FHLBB Res. No. 83–528, 48 FR 44174 (Sept. 28, 1983).

[7] 12 CFR 544.1 (1997).

[8] 12 CFR 544.2(b) (1997).

amendment, (ii) obtain a favorable vote by the members, and (iii) notify the OTS of the adoption at least 30 days prior to the effective date of the proposed amendment. Unless the OTS notifies the institution of its objection to the proposed amendment within that 30 days, the amendment is automatically approved.

III. Solicitation of Comments

The OTS is asking for comment on the proposal. Specifically, the OTS seeks comment on:

- Whether federal mutual savings associations would expect to encounter any corporate governance problems if they chose to reduce the maximum number of votes per member. For example, would the savings association encounter any difficulty in obtaining the necessary votes of members to take corporate actions?
- Whether existing federal mutual associations would find the added flexibility of an expanded voting requirement useful.
- Whether, and under what circumstances, a one vote per member limitation would either entrench or destabilize management.
- Whether by imposing such a limitation, federal associations with a higher minimum vote requirement that adopt a lower minimum vote requirement could risk legal actions by account holders.
- Whether the proposed revision should be continued as a preapproved charter amendment, or whether savings associations that seek to adjust the number of votes per member should be required to submit an application to the OTS.

IV. Executive Order 12866

The Director of the OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

V. Regulatory Flexibility Act Analysis

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Small entities utilizing the regulation may be able to retain their existing membership rights, which will simplify the process of converting to a federal charter and reduce regulatory burden.

VI. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, or $100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, this rulemaking is not subject to Section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 544

Bylaws, Charters, Reporting and recordkeeping requirements, savings associations.

Accordingly, the Office of Thrift Supervision proposes to amend chapter V, title 12, Code of Federal Regulations, as set forth below:

PART 544—CHARTER AND BYLAWS

1. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

2. Section 544.2 is amended by revising the last sentence of paragraph (b)(4) to read as follows:

§ 544.2 Charter amendments.

* * * * *

(b) * * *

(4) * * * [Fill in a number from 1 to 1000.]

* * * * *

Dated: March 31, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–9765 Filed 4–13–98; 8:45 am]

BILLING CODE 6720–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 125, and 126

HUBZone Empowerment Contracting Program; Correction

AGENCY: Small Business Administration.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble and the text of a proposed rule published in the **Federal Register** of April 2, 1998, regarding the HUBZone Empowerment Contracting Program (hereinafter the HUBZone program). This correction amends the preamble and proposed § 126.616 by including language inadvertently omitted from the proposal.

FOR FURTHER INFORMATION CONTACT: Michael McHale, (202) 205–6731.

Correction

In proposed rule, FR Doc. 98–8585, beginning on page 16148 in the **Federal Register** of April 2, 1998, make the following corrections:

1. In the Supplementary Information section, on page 16152 in the third column, replace the first paragraph with the following:

''Proposed § 126.616(b) explains the size standards applicable to such joint ventures. A joint venture of at least one qualified HUBZone SBC and another qualified HUBZone SBC, an 8(a) participant, or a woman-owned small business concern may submit an offer for a HUBZone procurement so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided: (1) for a procurement with a revenue-based size standard, the procurement exceeds half the size standard corresponding to the SIC code assigned to the contract; and (2) for a procurement having an employee-based size standard, the procurement exceeds $10 million. On August 14, 1997, SBA proposed a similar rule for the 8(a) program. Although the final rule for the 8(a) program has yet to be published, SBA anticipates that the final rule will be the same on this issue. To achieve consistency within its program, SBA modeled this section of the proposed rule after § 124.512 of the 8(a) program proposed rule.''

2. On page 16161 in the third column § 126.616(b) is corrected to read as follows:

* * * * *

(b) Size of concerns. A joint venture of at least one qualified HUBzone SBC and an 8(a) participant or a woman-owned small business concern may submit an offer for a HUBZone procurement so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided:

(1) For a procurement having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the SIC code assigned to the contract; and

(2) For a procurement having an employee-based size standard, the procurement exceeds $10 million.

Dated: April 8, 1998.

David R. Kohler,

Acting General Counsel.

[FR Doc. 98–9809 Filed 4–13–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–27–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. The proposed action would require repetitively inspecting the cockpit windshield and cabin window surfaces for damage (damage would be defined as crazing, scratches, and cracks). If any of the windshield or window surfaces have damage that exceeds certain limits, the proposed AD would require replacing the windshield or window. If the damage does not exceed certain limits, then the proposed AD would allow blending out the damage following maintenance manual procedures. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Japan. The actions specified by the proposed AD are intended to prevent cockpit windshield or cabin window separation during flight, which could result in engine ingestion of glass, wing skin damage, or propeller damage, and possible loss of control of the airplane.

DATES: Comments must be received on or before May 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–27–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10. OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141, telex: 4464561HISI. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California, 90712; telephone (562) 627–5224; facsimile (562) 627–5228.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–27–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–27–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Japanese Civil Airworthiness Bureau (JCAB), which is the airworthiness authority for Japan, recently notified the FAA that an unsafe condition may exist on certain Mitsubishi MU–2B series airplanes. The JCAB reports that several Mitsubishi MU–2B series airplanes have had windshield or window separation during flight. Separation would be defined as shattering glass. Further analysis shows that the separation is happening as a result of repeated cabin pressurization cycles. These conditions, if not corrected, could result in shattering or separation of the cockpit windshield or cabin windows during flight, which could cause loss of control of the airplane.

Relevant Service Information

Mitsubishi has issued MU–2 Service Bulletin (SB) No. 224, dated June 30, 1995, and MU–2 SB No. 224A, dated October 30, 1995, which specifies procedures for repetitively inspecting and repairing or replacing the cockpit windshield (part numbers (P/N) 010A–31450–1/–2, P/N 010A–31451–1/–2, and P/N 010A–81874–1/–2 or an FAA-approved equivalent part number) or cabin windows (P/N 010A–31870, P/N 010A–31870–11, and P/N 030A–32402, or an FAA-approved equivalent part number), depending on the extent of the scratching, crazing, or cracking. If the scratching, crazing, or cracking is within the acceptable limits called out in Table 1 of the service bulletin, the procedure for repairing or blending out any damage is found in Chapter 3 of the Mitsubishi maintenance manual.

The JCAB classified these service bulletins as mandatory and issued AD No. TCD–4311–95, dated November 15, 1995, in order to assure the continued airworthiness of these airplanes in Japan. The Japanese AD confirms that the cause of glass shattering is the repeated pressurization of the airplane cabin, and refers the operators to the Mitsubishi service bulletins for inspection and repair instructions, but the AD did not cite the incidents of shattered windows on the MU–2B series airplanes during flight as the reason for the issuance of the JCAB AD.

The FAA's Determination

These Mitsubishi MU–2B series airplanes are manufactured in Japan and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the JCAB has kept the FAA informed of the situation described above. The FAA has examined the findings of the JCAB, reviewed all available information including the service information referenced above, and determined that AD action is necessary for products of

this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Mitsubishi MU–2B series airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively inspecting the affected cockpit windshields and cabin windows for damage and repairing or replacing the affected glass, depending on the extent of the damage. Accomplishment of the proposed inspection, and repair or replacement would be in accordance with Mitsubishi MU–2 Service Bulletin (SB) No. 224, dated June 30, 1995, and MU–2 SB No. 224A, dated October 30, 1995.

Cost Impact

The FAA estimates that 200 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. If a replacement window is needed, it would take approximately 16 workhours to accomplish the replacement with the average labor rate of $60 per hour. Parts are provided at no cost by the manufacturer. Based on these figures, the total cost for the inspection would be $480 per airplane or $96,000 for the entire U.S. registered fleet. If a replacement is needed, the total cost impact of the proposed AD on U.S. operators is estimated to be $192,000 or $960 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 action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Mitsubishi Heavy Industries, Ltd. (Mitsubishi): Docket No. 97–CE–27–AD.

Applicability: Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26 airplanes (serial numbers (S/N) 008 through 312, 314 through 320, and 322 through 347), and MU–2B–30, MU–2B–35, MU–2B–36 airplanes (S/N 501 through 651, 653 through 660, and 662 through 696), certificated in any category, that are equipped with the following part numbered windshields and cabin windows:

010A–31450–1/–2	Windshield (LH/RH).
010A–31451–1/–2	Cockpit side window (LH/RH).
010A–81874–1/–2	Cockpit side window (LH/RH).
010A–31870	Cabin Window.
010A–31870–11 ..	Cabin Window (at door).
030A–32402	Long body-small cabin window.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 100 hours TIS from the last inspection, repair or replacement.

To prevent cockpit windshield or cabin window separation (shattering) during flight, which could result in engine ingestion of glass, wing skin damage, or propeller damage, and possible loss of control of the airplane, accomplish the following:

(a) Inspect the cockpit windshields and cabin windows for scratching, crazing, and cracking in accordance with Part I and Table 1. ''Damage and Definitions'' of the Instructions section in Mitsubishi MU–2 Service Bulletin (SB) No. 224, dated June 30, 1995, and Mitsubishi MU–2 SB No. 224A, dated October 30, 1995.

(b) If any of the windshields or windows listed in the applicability section of this AD are damaged beyond the limits according to Part I, paragraph 3. ''Acceptable Limits for Damage'' of the Instructions section, prior to further flight, replace the window or windshield in accordance with the Part II ''Windshield/Window Glass Replacement'' section of the Mitsubishi MU–2 SB No. 224, dated June 30, 1995, Mitsubishi MU–2 SB No. 224A, dated October 30, 1995, and Chapter 3 of the applicable Mitsubishi Maintenance Manual.

(c) Prior to further flight, repair any damaged windshield or window that is within the limits (referenced in Table 2 of Mitsubishi MU–2 SB No. 224, dated June 30, 1995) in accordance with Chapter 3 of the applicable Mitsubishi Maintenance Manual.

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

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California, 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10. OYE–CHO, MINATO–KU, Nagoya, Japan; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Japanese AD No. TCD–4311–95, dated November 15, 1995.

Issued in Kansas City, Missouri, on April 3, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9584 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–20–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320–111, –211, and –231 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 A320–111, –211, and –231 series airplanes. This proposal would require repetitive inspections to detect missing or cracked bolts and fittings of the frame-to-pressure-floor connection; and corrective actions, if necessary. This proposal also provides for optional terminating action for the repetitive inspections of the affected fittings. 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 detect and correct fatigue cracking in the bolts and fittings of the frame-to-pressure-floor connection, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–20–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: Norman B. Martenson, Manager, 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 98–NM–20–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. 98–NM–20–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 certain Airbus Model A320–111, –211, and –231 series airplanes. The DGAC advises that, during a structural fatigue test, the inboard aft bolt at the right side of frame 43 sheared off after 76,055 simulated flights. In addition, a crack developed in the frame fitting at the right side of frame 43 after 81,551 simulated flights. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1083, Revision 2, dated August 28, 1997, which describes procedures for repetitive detailed visual inspections to detect cracking of the bolts and fittings of the frame-to-pressure-floor connection at frames (FR) 43 and 44 and to determine if any bolt is missing. The service bulletin also describes procedures for replacement of cracked or missing bolts and fittings with new or serviceable parts.

The service bulletin references Airbus Service Bulletin A320–53–1015, Revision 02, dated July 17, 1997, as an additional source of service information for accomplishment of the replacement. Airbus Service Bulletin A320–53–1015 also describes procedures for reinforcement of the frame segments and frame fittings at FR 43 and FR 44 between left and right stringers 18 and 23. Such reinforcement, if accomplished, eliminates the need for the repetitive inspections for the affected fitting.

The DGAC classified Airbus Service Bulletin A320–53–1083 as mandatory and issued French airworthiness directive 97–316–110(B), dated October 22, 1997, 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 section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the 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 Airbus Service Bulletins A320–53–

1083 and A320–53–1015 (for certain corrective actions), described previously, except as discussed in the ''Differences Between Proposed Rule and Service Bulletins'' paragraph below. The proposed AD also would provide for optional terminating action for the repetitive inspections of the affected fittings.

Operators should note that, in consonance with the findings of the DGAC, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect cracking before it represents a hazard to the airplane.

Differences Between Proposed Rule and Service Bulletins

Operators also should note that, unlike the procedures described in Airbus Service Bulletins A320–53–1083 and A320–53–1015, this proposed AD would not permit further flight if cracks are detected in the bolts and fittings of the frame-to-pressure-floor connection at frames 43 and 44. The FAA has determined that, because of the safety implications and consequences associated with such cracking, corrective actions for any fitting or bolt of the frame-to-pressure-floor connection at frames 43 and 44 that is found to be cracked must be accomplished prior to further flight.

Cost Impact

The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane 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 inspection proposed by this AD on U.S. operators is estimated to be $2,700, or $540 per airplane, per inspection cycle.

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.

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 119 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $12,920 per airplane. Based on these figures, the cost impact of the optional terminating action would be $20,060 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:

Airbus Industrie: Docket 98–NM–20–AD.

Applicability: Model A320–111, –211, and –231 series airplanes; as listed in Airbus Service Bulletin A320–53–1083, Revision 2, dated August 28, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the bolts and fittings of the frame-to-pressure-floor connection, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 60 days after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracked or missing bolts and fittings of the frame-to-pressure-floor connection at frames 43 and 44, in accordance with Airbus Service Bulletin A320–53–1083, Revision 2, dated August 28, 1997. If no crack is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 5,100 flight cycles.

(1) If any bolt is found to be cracked or missing during any inspection required by paragraph (a) of this AD, prior to further flight, replace the bolt with a new bolt in accordance with the service bulletin. Repeat the detailed visual inspection thereafter at intervals not to exceed 5,100 flight cycles.

(2) If any fitting is found to be cracked during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the actions specified in paragraph (b) of this AD for the cracked fitting and its corresponding bolts and fuselage frame, in accordance with Airbus Service Bulletin A320–53–1015, Revision 02, dated July 17, 1997.

(b) Reinforcement of the fitting in accordance with Airbus Service Bulletin A320–53–1015, Revision 02, dated July 17, 1997, constitutes terminating action for the requirements of this AD for the affected fitting.

(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 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 97–316–110(B), dated October 22, 1997.

Issued in Renton, Washington on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9751 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–64–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 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 Aerospatiale Model ATR42 and ATR72 series airplanes. This proposal would require replacement of the left longitudinal net of the forward cargo compartment with a new reinforced net. 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 blockage of the access door, which could restrict access for crewmembers between the flight deck and the passenger compartment during normal operations or an emergency evacuation.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–64–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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, 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–64–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–64–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 certain Aerospatiale Model ATR42 and ATR72 series airplanes. The DGAC advises that the left longitudinal cargo net could distort under the weight of the cargo or baggage, and protrude into the area where the access door between the passenger compartment and the forward baggage compartment swings open. As a result, this access door may become blocked with improperly loaded or shifting cargo or baggage. This condition, if not corrected, could result in blockage of the access door between the passenger compartment and the forward cargo compartment, which could restrict access for crewmembers between the flight deck and the passenger compartment during normal operations or an emergency evacuation.

Explanation of Relevant Service Information

Aerospatiale has issued Service Bulletin ATR42–25–0108, dated January 24, 1997; Revision 1, dated February 28, 1997; and Revision 2, dated July 1, 1997 (for Model ATR42 series airplanes); and ATR72–25–1052, dated February 11, 1997; and Revision 1, dated July 1, 1997 (for Model ATR72 series airplanes; which describe procedures for replacing the left longitudinal net in the forward cargo compartment with a new, stronger net that will not stretch under load. Accomplishment of the action specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directives 96–289–069(B)R1 (for Model ATR42 series airplanes) and 96–288–032(B)R1 (for Model ATR72 series airplanes), both dated December 18, 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 bulletins described previously.

Cost Impact

The FAA estimates that 141 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 replacement, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,460, 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:

Aerospatiale: Docket 97–NM–64–AD.

Applicability: Model ATR42–300 and –320 series airplanes, on which Aerospatiale Modification 1878, 2482, 3193, or 8154 has not been installed, or on which simultaneous installation of Modifications 0481 and 0588 has not been accomplished; and Model ATR72–102, –202, and –212 series airplanes on which Aerospatiale Modification 2482, 3193, or 4648 has not been installed; 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 blockage of the access door, which could restrict access for crewmembers between the flight deck and the passenger compartment during normal operations or an emergency evacuation, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace existing cargo nets with new improved cargo nets, in accordance with paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Model ATR–42 series airplanes: Accomplish replacement of cargo nets in accordance with Aerospatiale Service Bulletin ATR42–25–0108, dated January 24, 1997; or Revision 1, dated February 28, 1997; or Revision 2, dated July 1, 1997.

(2) For Model ATR–72 series airplanes: Accomplish replacement of cargo nets in accordance with Aerospatiale Service Bulletin ATR72–25–1052, dated February 11, 1997; or Revision 1, dated July 1, 1997.

(b) As of the effective date of this AD, no person shall install on any airplane any cargo net having one of the following part numbers: 5366, 5367, 5370, 5375, or 5579.

(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 French airworthiness directives 96–289–069(B)R1 and 96–288–032(B)R1, both dated December 18, 1996.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9760 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–194–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 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 series airplanes. This proposal would require repetitive inspections to detect fatigue cracking on the connecting angle between frame 56 and the right-hand frame support at stringer 38; and replacement of the connecting angle, if necessary. This proposal also provides for an optional terminating action for the repetitive inspections. 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 detect and correct fatigue cracking on the connecting angle, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–194–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: Norman B. Martenson, Manager, 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–194–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–194–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 certain Airbus Model A320 series airplanes. The DGAC advises that, during full-scale testing on a Model A320 test article, fatigue cracks were found at 60,500 simulated flights on the connecting angle between frame 56 and the right-hand frame support at stringer 38. This condition, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1084, Revision 1, dated November 28, 1995, which describes procedures for repetitive visual inspections to detect fatigue cracking on the connecting angle between frame 56 and the right-hand frame support at stringer 38. In addition, Airbus has issued Service Bulletin A320–53–1011, dated December 9, 1994, which describes procedures for replacement of the connecting angle with a new part, which would eliminate the need for the repetitive inspections described in Airbus Service Bulletin A320–53–1084. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The DGAC classified Airbus Service Bulletin A320–53–1084, Revision 1, as mandatory and issued French airworthiness directive 96–237–090(B), dated October 23, 1996, and Erratum to French airworthiness directive 96–237–090(B), dated February 26, 1997, in order to assure the continued airworthiness of these airplanes in France. The DGAC has also approved Airbus Service Bulletin A320–53–1011.

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 bulletins described previously, except as discussed below. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Operators should note that, in consonance with the findings of the DGAC, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect fatigue cracking before it represents a hazard to the airplane.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletin A320–53–1084, Revision 1, dated November 28, 1995, this proposed AD would not permit further flight if cracks are detected on the connecting angle between frame 56 and the right-hand frame support at stringer 38. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject connecting angle that is found to be cracked must be replaced with a new part prior to further flight.

Cost Impact

The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 1 work hour per airplane to accomplish the inspection proposed by this AD, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $300, or $60 per airplane, per inspection cycle.

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.

Should an operator elect to perform the optional terminating replacement proposed by this AD, it would take approximately 3 work hours per airplane to accomplish the modification,

at an average labor rate of $60 per work hour. Required parts would cost $136 or $153 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the optional terminating modification proposed by this AD on U.S. operators is estimated to be as low as $1,580, or $316 per airplane and as high as $1,665, or $333 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:

Airbus Industrie: Docket 97–NM–194–AD.

Applicability: Model A320 series airplanes, on which Airbus Modification 20941 (reference Airbus Service Bulletin A320–53–1011, dated December 9, 1994) 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 (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 detect and correct fatigue cracking on the connecting angle between frame 56 and the right-hand frame support at stringer 38, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a visual inspection for fatigue cracking on the connecting angle between frame 56 and the right-hand frame support at stringer 38, in accordance with Airbus Service Bulletin A320–53–1084, Revision 1, dated November 28, 1995.

(1) If no cracking is detected, accomplish either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Prior to further flight, replace the connecting angle between frame 56 and the right-hand frame support at stringer 38 with a new part, in accordance with Airbus Service Bulletin A320–53–1011, dated December 9, 1994; or

(ii) Repeat the visual inspection thereafter at intervals not to exceed 12,000 flight cycles.

(2) If any cracking is detected, prior to further flight, replace the connecting angle between frame 56 and the right-hand frame support at stringer 38 with a new part, in accordance with Airbus Service Bulletin A320–53–1011, dated December 9, 1994.

(b) Accomplishment of the replacement of the connecting angle constitutes terminating action for the repetitive inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 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 96–237–090(B), dated October 23, 1996, and Erratum to French airworthiness directive 96–237–090(B), dated February 26, 1997.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9759 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–197–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 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 series airplanes. This proposal would require repetitive inspections for fatigue cracking of the bottom flanges of the longitudinal floor beams at frame 43; and repair, if necessary. This proposal also would require a one-time inspection for fatigue cracking of the fastener holes in the longitudinal floor beams, and modification of the floor beams, which would constitute terminating action for the repetitive inspections. 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 fatigue cracking on the bottom flanges of the longitudinal floor beams, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–197–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: Norman B. Martenson, Manager, 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–197–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–197–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 certain Airbus Model A320 series airplanes. The DGAC advises that, during full-scale testing on a Model A320 test article, fatigue cracks occurred at 66,775 and 72,398 simulated flights near frame 43 on the right- and left-side of the lower inboard flange of the longitudinal floor beam. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1085, dated March 31, 1995, which describes procedures for performing repetitive visual inspections for fatigue cracking of the bottom flanges of the longitudinal floor beams at frame 43, and repair, if necessary.

In addition, Airbus has issued Service Bulletin A320–53–1008, dated March 31, 1995. This service bulletin describes procedures for performing a one-time eddy current (rotary probe) non-destructive test (NDT) inspection for fatigue cracking at the fastener holes on the longitudinal floor beams at frame 43, and modification of the floor beam fasteners. Accomplishment of this inspection and modification would eliminate the need for the repetitive inspections described in Airbus Service Bulletin A320–53–1085. The modification involves cold expanding the crack-free fastener holes and replacing the fasteners with new parts.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Airbus Service Bulletin A320–53–1085 as mandatory and issued French airworthiness directive 96–236–089(B), dated October 23, 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 section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the 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 bulletins described previously, except as discussed below. Accomplishment of the inspection and modification described in Airbus Service Bulletin A320–53–1008 would constitute terminating action for the repetitive inspection requirements of this AD.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletin A320–53–1085 and Airbus Service Bulletin A320–53–1008, both dated March 31, 1995, this proposed AD would not permit further flight if cracking is detected on the bottom flanges or at the fastener holes of the longitudinal floor beams. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject bottom flange or fastener hole that is found to be cracked must be repaired or modified prior to further flight.

In addition, operators should note that, although the service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Differences Between Proposed Rule and Foreign AD

The proposed AD would differ from the parallel French airworthiness directive in that it would mandate the accomplishment of the terminating action for the repetitive inspections. The French airworthiness directive provides for that action as optional.

Mandating the terminating action is based on the FAA's determination that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on

design improvements. The proposed modification requirement is in consonance with these conditions.

Cost Impact

The FAA estimates that 5 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 3 work hours per airplane to accomplish the proposed inspection of the bottom flanges, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $900, or $180 per airplane, per inspection cycle.

It would take approximately 32 work hours per airplane to accomplish the proposed inspection of the fastener holes and proposed modification, at an average labor rate of $60 per work hour. Required parts would cost between $649 and $3,056 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the inspection of the fastener holes and modification proposed by this AD on U.S. operators is estimated to be as low as $12,845, or $2,569 per airplane, and as high as $24,880, or $4,976 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 97-NM–197-AD.

Applicability: Model A320 series airplanes, on which Airbus Modification 20904 (reference Airbus Service Bulletin A320–53–1008, dated March 31, 1995) 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 (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 fatigue cracking on the bottom flanges of the longitudinal floor beams at frame 43, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a visual inspection for fatigue cracking of the longitudinal floor beams at frame 43, in accordance with Airbus Service Bulletin A320–53–1085, dated March 31, 1995.

(1) If no cracking is detected, repeat the visual inspection thereafter at intervals not to exceed 6,000 flight cycles.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(b) Prior to the accumulation of 32,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, accomplish paragraphs (b)(1) and (b)(2) of this AD. Accomplishment of paragraphs (b)(1) and (b)(2) constitutes terminating action for the repetitive inspection requirements of this AD.

(1) Perform a one-time eddy current (rotary probe) non-destructive test (NDT) inspection for fatigue cracking of the fastener holes on the longitudinal floor beams at frame 43, in accordance with Airbus Service Bulletin A320–53–1008, dated March 31, 1995. If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116.

(2) Modify the floor beam fasteners in accordance with Airbus Service Bulletin A320–53–1008, dated March 31, 1995.

(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. 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 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 96–236–089(B), dated October 23, 1996.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9758 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–83–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) 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 Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes, that currently requires a revision to the Airplane Flight Manual (AFM) to prohibit the use of mach trim and to add speed restrictions if the autopilot is disengaged or inoperative. That AD also requires installation of an associated placard. This proposed AD would add requirements for replacement of the horizontal stabilizer trim control unit (HSTCU) with a new HSTCU, and reactivation of the mach trim engage/disengage switch/light (if deactivated). Accomplishment of these actions would terminate the requirements of the existing AD. This proposed AD also would limit the applicability of the existing AD. 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 deficiencies of the HSTCU, which could result in a nose-up trim runaway when a single component in the mach trim circuit fails.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–83–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 Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

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–83–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–83–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On July 24, 1995, the FAA issued AD 95–13–04, amendment 39–9325 (60 FR 38668, July 28, 1995), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes, to require a revision to the Airplane Flight Manual (AFM) to prohibit the use of mach trim and to add speed restrictions if the autopilot is disengaged or inoperative. That AD also requires installation of an associated placard. That action was prompted by deficiencies that were discovered during a review of vendor documentation of the horizontal stabilizer trim control unit (HSTCU). The requirements of that AD are intended to prevent such deficiencies, which could result in a nose-up trim runaway when a single component in the mach trim circuit fails.

Actions Since Issuance of Previous Rule

In the preamble to AD 95–13–04, the FAA specified that the actions required by that AD were considered ''interim action.'' The FAA indicated that it may consider further rulemaking action once a terminating modification was developed, approved, and available. The manufacturer now has developed such a modification (an improved HSTCU), and the FAA has determined that further rulemaking action is indeed necessary in order to address the unsafe condition and ensure the continued safe operation of those airplanes; this proposed AD follows from that determination.

Explanation of Relevant Service Information

Bombardier has issued Canadair Regional Jet Service Bulletin 601R–27–053, dated May 27, 1996; Revision A, dated August 26, 1996; and Revision B, dated February 21, 1997; which describes procedures for installation of a new HSTCU and reactivation of the mach trim engage/disengage switch/light. The service bulletins also limit the effectivity listing of the airplanes. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–95–08R2, dated July 23, 1996, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada 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, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, 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 supersede AD 95–13–04 to continue to

require a revision to the AFM to prohibit the use of mach trim and to add speed restrictions if the autopilot is disengaged or inoperative, and installation of an associated placard.

This new proposed AD would add requirements for replacement of the HSTCU with a new unit, and reactivation of the mach trim engage/disengage switch/light (if deactivated). Accomplishment of these actions would constitute terminating action for the requirements of the existing AD. The replacement and reactivation would be required to be accomplished in accordance with the service bulletin described previously.

This proposed AD also limits the applicability of the existing AD to airplanes having certain serial numbers. The manufacturer has notified the FAA that for serial numbers 7113 and subsequent, the airplane will be modified during production.

Cost Impact

There are approximately 54 Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 95–13–04 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $6,480, or $120 per airplane.

The new actions that are proposed in this AD action would take approximately 3 work hours per airplane to accomplish, 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 proposed requirements of this AD on U.S. operators is estimated to be $9,720, or $180 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 39–9325 (60 FR 38668, July 28, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Bombardier, Inc. (Formerly Canadair): Docket 97–NM–83–AD. Supersedes AD 95–13–04, Amendment 39–9325.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 through 7112 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d)(1) 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 deficiencies of the horizontal stabilizer trim control unit (HSTCU), which could result in a nose-up trim runaway when a single component in the mach trim circuit fails, accomplish the following:

Restatement of Requirements of AD 95–13–04

(a) Within 24 hours after August 14, 1995 (the effective date of AD 95–13–04, amendment 39–9325), accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Install a placard adjacent to the primary flight display next to the airspeed limitation placard, to read:

> ''USE OF MACH TRIM IS PROHIBITED. IF THE AUTOPILOT IS DISENGAGED OR INOPERATIVE, RESTRICT SPEED TO 250 KIAS OR 0.7 MACH.''

(2) Revise the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to include the following information. The requirements of this paragraph may be accomplished by inserting a copy of this AD, or Canadair Regional Jet Temporary Revision No. TR RJ/43, into the AFM.

> ''USE OF MACH TRIM IS PROHIBITED. IF THE AUTOPILOT IS DISENGAGED OR INOPERATIVE, RESTRICT SPEED TO 250 KIAS OR 0.7 MACH.''

Note 2: When the temporary revision has been incorporated in the general revisions of the AFM, the general revisions may be inserted in the AFM, provided the information contained in the general revision is identical to that specified in Canadair Regional Jet Temporary Revision No. TR RJ/43.

(3) Revise the Limitations section of the FAA-approved AFM to include the following information. The requirements of this paragraph may be accomplished by inserting a copy of this AD into the AFM.

> ''Prior to the accomplishment of Bombardier Alert Service Bulletin S.B. A601R–27–054, dated June 12, 1995, when the Mach trim system is disengaged, the ''MACH TRIM'' caution message will be displayed on the Engine Indication and Crew Alerting System (EICAS), and the Mach trim engage/disengage switch ''INOP'' legend will be illuminated. The EICAS message may be scrolled out of view prior to takeoff, but the switch ''INOP'' light will remain illuminated.''

New Requirements of this Ad

(b) Within 18 months after the effective date of this AD, replace the HSTCU with a new HSTCU having part number 601R92301–9, and reactivate the mach trim switch/light (if deactivated), in accordance with Bombardier Service Bulletin 601R–27–053, dated May 27, 1996; Revision A, dated August 26, 1996; or Revision B, dated February 21, 1997. Accomplishment of this modification constitutes terminating action for the requirements of paragraph (a) of this AD; after the modification has been

accomplished, the previously required AFM limitation may be removed.

(c) As of the effective date of this AD, no person shall install any HSTCU having part number 601R92301–5, 601R92301–7, or 601R92301–951 on any airplane.

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

(d)(2) Alternative methods of compliance approved previously in accordance with AD 93–13–04, amendment 39–9325, are approved as alternative methods of compliance with this AD.

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

(e) 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 4: The subject of this AD is addressed in Canadian airworthiness directive CF–95–08R2, dated July 23, 1996.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9755 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–85–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 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 CASA Model CN–235 series airplanes. This proposal would require modification of the forward beam of the vertical stabilizer by the installation of a structural reinforcement plate. 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 in-flight structural deformation or failure of the vertical stabilizer, resulting in reduced controllability of the airplane.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–85–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 Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, 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 98–NM–85–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. 98–NM–85–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, notified the FAA that an unsafe condition may exist on certain CASA Model CN–235 series airplanes. The DGAC advises that additional analysis by the manufacturer has shown that the existing structural design limits of the vertical stabilizer can be exceeded in certain required design load conditions. This condition, if not corrected, could cause in-flight structural deformation or failure of the vertical stabilizer, resulting in reduced controllability of the airplane.

Explanation of Relevant Service Information

CASA has issued Service Bulletin SB–235–55–04, dated May 30, 1995, which describes procedures for modification of the forward beam of the vertical stabilizer. The modification involves installation of a structural reinforcement plate on the forward beam of the vertical stabilizer. 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 Spanish airworthiness directive 08/96, dated December 9, 1996, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

This airplane model is manufactured in Spain 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, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the parallel Spanish airworthiness directive does not mandate the accomplishment of required actions for CASA Model CN–235 series airplane, serial number C–011, the applicability of this proposed AD would include that airplane. Although that airplane was not certificated for civilian operation by the DGAC, the FAA has certificated it as such. The FAA has determined that the unsafe condition addressed in this AD may also exist or develop on that airplane.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 30 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $180 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $3,960, or $1,980 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:

Construcciones Aeronauticas, S.A. (CASA): Docket 98–NM–85–AD.

Applicability: Model CN–235 series airplanes, as listed in CASA Service Bulletin SB–235–55–04, dated May 30, 1995; and Model CN–235 having serial number (S/N) C–011; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent in-flight structural deformation or failure of the vertical stabilizer, resulting in reduced controllability of the airplane, accomplish the following:

(a) Within 6 months after the effective date of this AD, install a structural reinforcement plate on the forward beam of the vertical stabilizer, in accordance with CASA Service Bulletin SB–235–55–04, dated May 30, 1995.

(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 Spanish airworthiness directive 08/96, dated December 9, 1996.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9754 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–08–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 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 Airbus Model A320 series airplanes. This proposal would require repetitive inspections to detect fatigue cracking in certain areas of the fuselage; and corrective action, if necessary. This proposal also would provide for an optional terminating action for the repetitive inspections. 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 detect and correct fatigue cracking of the fuselage, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by May 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–08–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: Norman B. Martenson, Manager, 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 98–NM–08–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. 98–NM–08–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 Airbus Model A320 series airplanes. The DGAC advises that, during full-scale fatigue testing, cracking was detected at flight cycles varying from 76,000 to 111,664 in several areas of the fuselage:

- On the bottom panel of the keel beam at the frame 46, stringer 37 intersection at the pressure bulkhead;
- On the outboard flanges of frames 38 through 41, between stringers 12 and 21, originating at the fastener holes; and
- On the upper rivet row on the outer skin panel of the longitudinal lap joint, between frames 53 and 54, in the area of stringer 6; and between frames 48 and 64.

Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1034, dated March 30, 1992, which describes procedures for repetitive ultrasonic inspections to detect cracking in the bottom panels of the keel beam (both left and right), in the area of the frame 46 and stringer 37 intersection at the pressure bulkhead; and repair, if necessary.

Airbus also has issued Service Bulletin A320–53–1033, Revision 3, dated July 4, 1994, which describes procedures for modification of six specific fastener holes in the area of the frame 46 and stringer 37 intersection. This modification involves removing existing fasteners; cleaning the fastener holes; performing an eddy current inspection of the fastener holes to detect cracking, and repairing cracking if necessary; cold expanding the crack-free fastener holes; and installing oversize fasteners. Accomplishment of this modification would eliminate the need for the repetitive inspections specified in Airbus Service Bulletin A320–53–1034.

Airbus also has issued Service Bulletin A320–53–1032, Revision 1, dated January 15, 1998, which describes procedures for repetitive visual inspections to detect cracking on the outboard flanges around the fastener holes of frames 38 to 41, between stringers 12 and 21; and repair, if necessary.

Airbus also has issued Service Bulletin A320–53–1031, dated December 9, 1994, which describes procedures for modification of frames 38 to 41, between stringers 12 and 21. This modification involves cold expanding fastener holes and replacing the existing fasteners with new fasteners. Accomplishment of this modification, if performed prior to the accumulation of 20,000 total flight cycles, would eliminate the need for the repetitive inspections specified in Airbus Service Bulletin A320–53–1032.

Airbus also has issued Service Bulletin A320–53–1057, Revision 2, dated July 5, 1996, which describes procedures for repetitive visual or eddy current inspections to detect cracking in the upper rivet row of the outer skin panel of the longitudinal lap joints in four specific areas; and repair, if necessary. The following areas are to be inspected:

- Between frames 48 and 64, next to stringer 6, on the left- and right-hand sides of the fuselage;
- Between frames 60 and 64, next to stringer 32, on the left-hand side of the fuselage;
- Between frames 59 and 64, next to stringer 32, on the right-hand side of the fuselage; and
- Between frames 58 and 64, next to stringer 41, on the right-hand side of the fuselage.

Airbus also has issued Service Bulletin A320–53–1056, Revision 02, dated February 16, 1998, which describes procedures for modification of the outer skin panel of the longitudinal lap joints in multiple areas of the rear fuselage. This modification involves measuring the protrusion of existing rivets in the upper rivet rows of the longitudinal lap joints; and replacing existing rivets with repair rivets, if necessary. Accomplishment of this modification, if performed prior to the accumulation of 20,000 total flight cycles, would eliminate the need for the repetitive inspections specified in Airbus Service Bulletin A320–53–1057.

Accomplishment of the modifications specified in Airbus Service Bulletins A320–53–1033, A320–53–1031, and A320–53–1056 is intended to adequately address the identified unsafe condition.

The DGAC classified Airbus Service Bulletins A320–53–1034, A320–53–1032, and A320–53–1057 as mandatory and issued French airworthiness directives 97–314–108(B), 97–313–107(B), and 97–312–106(B), all dated October 22, 1997, 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 section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the 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 Airbus Service Bulletins A320–53–1034, A320–53–1032, and A320–53–1057, described previously, except as discussed in the paragraphs that explain differences between this proposed rule and the service bulletins (below). In addition, this proposed AD would provide for optional terminating action for the repetitive inspections.

Operators should note that, in consonance with the findings of the DGAC, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect cracking before it represents a hazard to the airplane.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletins A320–53–1034, A320–53–1032, and A320–53–1057, this proposed AD would not permit further flight if cracking is detected in any section of the fuselage. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any portion of the fuselage that is found to be cracked must be repaired or modified prior to further flight, in accordance with the applicable service bulletin, except as discussed in the next paragraph.

Operators also should note that, although Airbus Service Bulletins A320–53–1034, A320–53–1033, and A320–53–1032 specify that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 118 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 6 work hours per airplane to accomplish the proposed ultrasonic inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the ultrasonic inspection proposed by this AD on U.S. operators is estimated to be $42,480, or $360 per airplane, per inspection cycle.

It would take approximately 19 work hours per airplane to accomplish the proposed visual inspection on the outboard flanges, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection proposed by this AD on U.S. operators is estimated to be $134,520, or $1,140 per airplane, per inspection cycle.

It would take approximately 15 work hours per airplane to accomplish either the visual or eddy current inspection of the longitudinal lap joints, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections proposed by this AD on U.S. operators is estimated to be $106,200, or $900 per airplane, per inspection cycle.

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 terminating action specified in Airbus Service Bulletin A320–53–1033 that would be provided by this AD action, it would take approximately 5 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $72 per airplane. Based on these figures, the cost impact of that optional terminating action would be $372 per airplane.

Should an operator elect to accomplish the optional terminating action specified in Airbus Service Bulletin A320–53–1031 that would be provided by this AD action, it would take approximately 1 work hour (excluding access and closeup) per fastener hole to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $4,047 (for one modification kit). Based on these figures, the cost impact of that optional terminating action would be a minimum of $4,107 per airplane.

Should an operator elect to accomplish the optional terminating action specified in Airbus Service Bulletin A320–53–1056 that would be provided by this AD action, it would take approximately 258 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $420 per airplane. Based on these figures, the cost impact of that optional terminating action would be $15,900 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:

Airbus Industrie: Docket 98–NM–08–AD.

Applicability: All Model A320 series airplanes, certificated in any category.

N**ote 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) 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 detect and correct fatigue cracking of the fuselage, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) For airplanes on which Airbus Modification 21202 (reference Airbus Service Bulletin A320–53–1033, Revision 3, dated July 4, 1994) has not been accomplished: Prior to the accumulation of 30,000 total flight cycles, or within 6 months after the effective date of this AD, whichever occurs later, perform an ultrasonic inspection to detect cracking in the bottom panels of the keel beam (both left and right), in the area of the frame 46 and stringer 37 intersection at the pressure bulkhead, in accordance with Airbus Service Bulletin A320–53–1034, dated March 30, 1992. Thereafter, repeat the ultrasonic inspection at intervals not to exceed 6,000 flight cycles. If any crack is found, prior to further flight, repair in accordance with the service bulletin, except as provided by paragraph (g) of this AD.

(b) Accomplishment of Airbus Modification 21202 in accordance with Airbus Service Bulletin A320–53–1033, Revision 3, dated July 4, 1994, constitutes terminating action for the repetitive inspection requirement of paragraph (a) of this AD.

(c) For airplanes on which Airbus Modification 21346 (reference Airbus Service Bulletin A320–53–1031, dated December 9, 1994) has not been accomplished prior to the accumulation of 20,000 total flight cycles: Prior to the accumulation of 30,000 total flight cycles, or within 6 months after the effective date of this AD, whichever occurs later, perform a visual inspection to detect cracking on the outboard flanges around the fastener holes of frames 38 to 41, between stringers 12 and 21, in accordance with Airbus Service Bulletin A320–53–1032, Revision 1, dated January 15, 1998. Thereafter, repeat the visual inspection at intervals not to exceed 6,000 flight cycles. If any crack is found, prior to further flight, repair in accordance with the service bulletin, except as provided by paragraph (g) of this AD. Accomplishment of a repair in accordance with the service bulletin terminates the repetitive inspection requirements for the area repaired.

(d) Accomplishment of Airbus Modification 21346 in accordance with Airbus Service Bulletin A320–53–1031, dated December 9, 1994, prior to the accumulation of 20,000 total flight cycles constitutes terminating action for the repetitive inspection requirement of paragraph (c) of this AD.

(e) For airplanes on which Airbus Modification 21905 (reference Airbus Service Bulletin A320–53–1056, Revision 02, dated February 16, 1998) has not been accomplished: Prior to the accumulation of 20,000 total flight cycles, or within 6 months after the effective date of this AD, whichever occurs later, perform a visual or eddy current inspection to detect cracking in the upper rivet row of the longitudinal lap joint, in accordance with Airbus Service Bulletin A320–53–1057, Revision 2, dated July 5, 1996.

(1) Thereafter, repeat the inspection at one of the following intervals:

(i) If the immediately preceding inspection was conducted using visual techniques, conduct the next inspection within 4,000 flight cycles.

(ii) If the immediately preceding inspection was conducted using eddy current techniques, conduct the next inspection within 12,000 flight cycles.

(2) If any crack is found, prior to further flight, repair in accordance with the service bulletin, except as provided by paragraph (g) of this AD. Accomplishment of a repair in accordance with the service bulletin terminates the repetitive inspection requirements for the area repaired.

(f) Accomplishment of Airbus Modification 21905 in accordance with Airbus Service Bulletin A320–53–1056, Revision 02, dated February 16, 1998, prior to the accumulation of 20,000 total flight cycles constitutes terminating action for the repetitive inspection requirements specified in paragraph (e)(1) of this AD.

(g) If any crack is found during any inspection required by paragraph (a), (c), or (e) of this AD, and the applicable service bulletin specifies to contact Airbus for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(h) 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.

(i) 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 directives 97–314–108(B), 97–313–107(B), and 97–312–106(B), all dated October 22, 1997.

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9753 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–82–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100 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 747–100 series airplanes, that currently requires repetitive inspections to detect cracking of the wing front spar web above engine numbers 2 and 3, and to detect cracked or broken fasteners in the web; and repair, if necessary. That AD also provides an optional terminating action for the repetitive inspections. This proposal would require various improved inspections. This proposal is prompted by a report indicating that the existing inspections do not adequately detect vertical cracks. The actions specified by the proposed AD are intended to prevent fuel leakage onto an engine and a resultant fire due to cracked or broken fasteners in the wing front spar.

DATES: Comments must be received by May 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–82–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:

Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; 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–82–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–82–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 24, 1995, the FAA issued AD 95–02–15, amendment 39–9134 (60 FR 9613, February 21, 1995), applicable to certain Boeing Model 747–100 series airplanes, to require repetitive inspections to detect cracking of the wing front spar web above engine numbers 2 and 3, and to detect cracked or broken fasteners in the web; and repair, if necessary. That AD also provides for an optional terminating action for the repetitive inspections. That action was prompted by reports of broken fasteners and cracking of the web common to the upper and lower chords. The requirements of that AD are intended to prevent fuel leakage onto an engine and a resultant fire due to cracking or broken fasteners in the wing front spar.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has reviewed and approved Revision 5 of Boeing Alert Service Bulletin 747–57A2266, dated August 3, 1995. The revised alert service bulletin describes, among other things, the following various improved inspection procedures:

1. Repetitive eddy current inspections to detect cracks along the web near the edges of the vertical flange of the upper and lower chords of the wing front spar between front spar station (FSS) 570 and FSS 684. Certain inspection procedures specified in Revisions 3 and 4 of the alert service bulletin (which were referenced in AD 95–02–15 as the appropriate sources of service information for accomplishment of the inspections) do not adequately detect vertical cracks. Accomplishment of this new eddy current inspection will ensure that vertical cracks on the forward side of the web extending from behind the chord are detected.

2. Repetitive ultrasonic inspections to detect cracks in the web around the first two fastener holes in the stiffeners and rib posts between FSS 570 and FSS 684. Accomplishment of this new inspection will ensure that vertical cracks of the web under the stiffeners that start from the fastener holes are detected.

The remaining inspection procedures and follow-on actions specified in Revision 5 of the alert service bulletin are essentially identical to those described in Revisions 3 and 4.

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 95–02–15 to continue to require repetitive inspections to detect cracking of the wing front spar web above engine numbers 2 and 3, and to detect cracked or broken fasteners in the web; and repair, if necessary. The proposed AD also would continue to provide for an optional terminating action for the repetitive inspections. The proposed AD would require various improved inspections. The improved inspections would be required to be accomplished in accordance with Revision 5 of the alert service bulletin described previously.

Differences Between the Proposal and the Relevant Service Information

Operators should note that, unlike the initial compliance time (specified in the alert service bulletin as within 15,000 total flight cycles or 6 months, whichever occurs later, for airplanes identified as Configuration A), the proposed AD would require that those airplanes be inspected prior to the accumulation of 13,000 total flight cycles or within 6 months. The 13,000 total flight cycle compliance threshold was established by AD 95–02–15, as a result of reports of cracking on affected airplanes that had accumulated between 13,700 and 22,000 total flight cycles. In light of these factors, the FAA finds that a 13,000 total flight cycle compliance threshold for initiating the required actions is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 190 Boeing Model 747–100 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 95 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 95–02–15, and retained in this proposed AD, take approximately 70 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $399,000, or $4,200 per airplane, per inspection cycle.

For airplanes identified as Configuration A in the referenced alert service bulletin, the new actions that are proposed in this AD action would take approximately 60 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on those U.S. operators is estimated to be $3,600 per airplane, per inspection cycle.

For airplanes identified as Configuration B in the referenced alert service bulletin, the new actions that are proposed in this AD action would take approximately 40 work hours per

airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these new action proposed by this AD on U.S. operators is estimated to be $2,400 per airplane, per inspection cycle.

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.

Should an operator elect to accomplish the optional terminating action (fastener replacement between FSS 570 and FSS 684) that is provided by this AD action, it would take approximately 306 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $15,478. Based on these figures, the cost impact of the optional terminating action will be $33,838 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9134 (60 FR 9613, February 21, 1995), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 97–NM–82–AD. Supersedes AD 95–02–15, Amendment 39–9134.

Applicability: Model 747–100 series airplanes; as listed in Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage onto an engine and a resultant fire, accomplish the following:

Restatement of Requirements of AD 95–02–15, Amendment 39–9134:

(a) For airplanes on which the terminating action (fastener replacement) specified in Boeing Service Bulletin 747–57A2266, dated June 6, 1991; Revision 1, dated May 21, 1992; or Revision 2, dated June 10, 1993; has not been accomplished: Prior to the accumulation of 13,000 total flight cycles, or within 9 months after March 23, 1995 (the effective date of AD 95–02–15, amendment 39–9134), or within 2,000 flight cycles after the immediately preceding inspection accomplished in accordance with AD 92–07–11, amendment 39–8207, whichever occurs latest, accomplish the inspections specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994, or Revision 4, dated November 3, 1994. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles until the inspections required by paragraph (c) or (d) of this AD, as applicable, are accomplished.

(1) Perform a detailed visual inspection to detect cracking of the wing front spar chords, stiffeners, and rib posts between the fastener heads between FSS 570 and FSS 684; and

(2) Perform an ultrasonic inspection of the web under the upper and lower chord footprints to detect cracking of the wing front spar web between FSS 570 and FSS 684; and

(3) Perform an ultrasonic inspection of the fasteners in the web-to-chords, and of the fasteners in the top two and bottom two rows in the web-to-stiffeners and web-to-rib posts of the wing front spar to detect cracked or broken fasteners between FSS 570 and FSS 684.

(b) For airplanes on which the terminating action (fastener replacement) specified in Boeing Service Bulletin 747–57A2266, dated June 6, 1991; Revision 1, dated May 21, 1992; or Revision 2, dated June 10, 1993; has been accomplished: Within 18 months after accomplishing the terminating action specified in the original issue, Revision 1, or Revision 2 of the service bulletin, or within 9 months after March 23, 1995, whichever occurs later, accomplish the inspections specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD in accordance with Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994, or Revision 4, dated November 3, 1994. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles until the inspections required by paragraph (c) or (d) of this AD, as applicable, are accomplished.

(1) Perform a detailed visual inspection of the wing front spar chords, stiffeners, and rib posts between the fastener heads between FSS 570 and FSS 684; and

(2) Perform an ultrasonic inspection of the web under the upper and lower chord footprints to detect cracking of the wing front spar web between FSS 570 and FSS 636 and between FSS 675 and FSS 684; and

(3) Perform an ultrasonic inspection of the fasteners in the web-to-chords, and of the fasteners in the top two rows and bottom two rows in the web-to-stiffeners and web-to-rib posts of the wing front spar to detect cracked or broken fasteners between FSS 570 and FSS 636 and between FSS 675 and 684.

New Requirements of This AD:

(c) For airplanes identified as Configuration A in Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995: Prior to the accumulation of 13,000 total flight cycles, or within 6 months after the effective date of this AD, or within 2,000 flight cycles after the immediately preceding inspection accomplished in accordance with paragraph (a) or (b) of this AD, whichever occurs latest, accomplish the inspections specified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, in accordance with Figure 3 of Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995 specified . Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles. Accomplishment of these inspections terminates the inspections required by paragraphs (a) and (b) of this AD.

(1) Perform a detailed visual inspection to detect damage and fuel leaks in the general area of the web of the wing front spar between FSS 570 and FSS 684.

(2) Perform an eddy current inspection to detect cracks along the web near the edges of the vertical flange of the upper and lower chords of the wing front spar between FSS 570 and FSS 684.

(3) Perform an ultrasonic inspection to detect cracks in the web around the first two

fastener holes in the stiffeners and rib posts between FSS 570 and FSS 684.

(4) Perform an ultrasonic inspection to detect cracked or broken fasteners in the fasteners attaching only the web to the chords, in the top two and bottom two rows of the fasteners attaching the web to the stiffeners, and in the top two and bottom two rows of the fasteners attaching the web to the rib posts. This inspection area is located between FSS 570 and FSS 684.

(d) For airplanes identified as Configuration B in Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995: Within 18 months following accomplishment of the terminating action (fastener replacement) specified in Boeing Service Bulletin 747–57A2266, dated June 6, 1991, Revision 1, dated May 21, 1992, or Revision 2, dated June 10, 1993' or within 12 months after the effective date of this AD' or within 2,000 flight cycles after the immediately preceding inspection accomplished in accordance with paragraph (a) or (b) of this AD' whichever occurs latest; accomplish the inspections specified in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this AD in accordance with Figure 4 of Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles. Accomplishment of these inspections terminates the inspections required by paragraphs (a) and (b) of this AD.

(1) Perform a detailed visual inspection to detect damage and fuel leaks in the general area of the web of the wing front spar between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(2) Perform an eddy current inspection to detect cracks along the web near the edges of the vertical flange of the upper and lower chords of the wing front spar between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(3) Perform an ultrasonic inspection to detect cracks in the web around the first two fastener holes in the stiffeners and rib posts between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(4) Perform an ultrasonic inspection to detect cracked or broken fasteners in the fasteners attaching only the web to the chords, in the top two and bottom two rows of the fasteners attaching the web to the stiffeners, and in the top two and bottom two rows of the fasteners attaching the web to the rib posts. This inspection area is located between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(e) If any discrepancy (i.e., cracking, fuel leakage, broken fasteners) is detected during any inspection required by this AD, prior to further flight, repair in accordance with paragraphs E. and H. (as applicable) of the Accomplishment Instructions of Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; Boeing Service Bulletin 747–57A2266, Revision 4, dated November 3, 1994; or Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995. Thereafter, continue to inspect the remaining fasteners in accordance with paragraph (c) or (d) of this AD, as applicable, until the terminating action specified in paragraph (f) of this AD is accomplished. If any crack is found that cannot be removed by oversizing the fastener hole, prior to further flight, repair it in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(f) Replacement of the fasteners in the web-to-chords and of the fasteners in the web-to-stiffeners and web-to-rib posts, as specified in Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; Revision 4, dated November 3, 1994, or Revision 5 dated August 3, 1995; with oversized fasteners on each wing spar in accordance with the service bulletin constitutes terminating action for the repetitive inspections required by paragraphs (a), (b), (c), (d), and (e) of this AD.

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

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

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

Issued in Renton, Washington, on April 7, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9752 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA–174P]

Schedules of Controlled Substances: Proposed Placement of Modafinil Into Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Acting Deputy Administrator of the Drug Enforcement Administration (DEA) to place the substance modafinil, including its salts, isomers and salts of isomers, into Schedule IV of the Controlled Substances Act (CSA). This proposed action is based on a recommendation from the Acting Assistant Secretary for Health of the Department of Health and Human Services (DHHS) that modafinil be added to Schedule IV and on an evaluation of the relevant data by the DEA. The scheduling of modafinil in Schedule IV will not be finalized until the New Drug Application (NDA) for modafinil is approved by the Food and Drug Administration (FDA). If finalized, this action will impose the regulatory controls and criminal sanctions of Schedule IV on those who handle modafinil and products containing modafinil.

DATES: Comments, objections and requests for a hearing must be received on or before May 14, 1998.

ADDRESSES: Comments, objections and requests for a hearing should be submitted in quintuplicate to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537; Attention: DEA Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, 202–307–7183.

SUPPLEMENTARY INFORMATION: Modafinil is a central nervous system (CNS) stimulant that is being considered for marketing approval by the FDA, under the trade name Provigil®. If approved, modafinil will be marketed as a prescription drug product for the treatment of excessive daytime sleepiness associated with narcolepsy. Modafinil produces many of the same pharmacological effects and adverse reactions as, but is up to 50 to 100 times less potent than, classic psychomotor stimulants, such as amphetamine, methamphetamine and methylphenidate, all in Schedule II of the CSA.

Modafinil is a racemic mixture of *levo*- and *dextro*-isomers. Modafinil is structurally different from other CNS stimulants, such as cocaine, amphetamine, methamphetamine and methylphenidate. Modafinil binds at dopamine receptors and is active at central dopamine binding sites. It has a quick onset and short duration of action. Modafinil is reinforcing in animals, and produces euphoria, alterations in mood, perception, thinking and subjective effects typical of other classic Schedule II psychomotor stimulants. The *levo*-isomer, *dextro*-isomer and racemate are equipotent and produce similar behavioral effects.

Despite its classic CNS stimulant-like pharmacological profile, modafinil appears to have chemical properties that may limit its abuse (i.e., not water

soluble, decomposes in heat). In addition, relative potency differences between modafinil and other CNS stimulants in Schedule II are significant. These properties reduce the likelihood that modafinil could be abused by the parenteral, intranasal or inhalation route, as are cocaine, methylphenidate, and amphetamine. Thus, its abuse potential appears to be lower than that of Schedule II stimulants and similar to that of Schedule IV stimulants. The DEA is unaware of any reports of modafinil abuse.

On December 22, 1997, the Acting Assistant Secretary for Health sent the Acting Deputy Administrator of DEA a letter recommending that modafinil, and its salts, be placed in Schedule IV of the CSA (21 U.S.C. 801 *et seq.*). Enclosed with the December 22, 1997 letter was a document prepared by the FDA entitled ''Basis for the Recommendation for Control of Modafinil in Schedule IV of the Controlled Substances Act (CSA).'' The document contained a review of the factors which the CSA requires the Secretary to consider [21 U.S.C. 811(b)].

Subsequent correspondence from the FDA's Associate Commissioner for Health Affairs dated February 24, 1998, confirmed that FDA continues to evaluate the pending New Drug Application for modafinil. The FDA has determined that the NDA is ''approvable'' and has issued an approvable letter to the NDA sponsor on December 29, 1997. According to the February 24, 1998 letter from FDA, ''upon full approval of the NDA, modafinil 'will have a currently accepted medical use in the United States.' ''

The factors considered by the Acting Assistant Secretary for Health and the DEA with respect to modafinil were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effect;

(3) The state of current scientific knowledge regarding the drug;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

Relying on the scientific and medical evaluation, the recommendation of the Acting Assistant Secretary for Health, the letter from the FDA Associate Commissioner for Health received in accordance with section 201(b) of the Act [21 U.S.C. 811(b)], and the independent review of the DEA, the Acting Deputy Administer of the DEA, pursuant to sections 201(a) and 201(b) of the Act [21 U.S.C. 811(a) and 811(b)], find that:

(1) Based on information now available, modafinil has a low potential for abuse relative to the drugs or other substances in Schedule III;

(2) Modafinil will, upon approval of a NDA by the FDA, have a currently accepted medical use in treatment in the United States; and

(3) Abuse of modafinil may be lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Based on these findings, the Acting Deputy Administrator of the DEA concludes that modafinil, including its salts, isomers, and salts of isomers, warrant control in Schedule IV of the CSA, if and when the modafinil NDA is approved by the FDA.

Interested persons are invited to submit their comments, objections or requests for a hearing, in writing, with regard to this proposal. Requests for a hearing should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attention: DEA Federal Register Representative/CCR. In the event that comments, objections, or requests for a hearing raise one or more issues which the Acting Deputy Administrator finds warrants a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register,** summarizing the issues to be heard and setting the time for the hearing.

In accordance with the provisions of the CSA [21 U.S.C. 811(a)], this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, section 3(d)(1). The Acting Deputy Administrator, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this proposed rule, and by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. Modafinil products will be prescription drugs used to treat narcolepsy. Handlers of modafinil also handle other controlled substances used to treat narcolepsy which are already subject to the regulatory requirements of the CSA.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

This rule 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 E.O. 12612, it is determined that this rule, if finalized, will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA [21 U.S.C. 811(a)], and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100), and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Acting Deputy Administrator hereby proposes that 21 CFR part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.14 is proposed to be amended by redesignating the existing paragraphs (e)(7) through (e)(11) as (e)(8) through (e)(12) and by adding a new paragraph (e)(7) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(e) * * *

(7) Modafinil 1680

* * * * *

Dated: April 6, 1998.

Donnie R. Marshall,

Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 98–9824 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SPATS No. MS–014–FOR]

Mississippi Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Mississippi regulatory program (hereafter the ''Mississippi program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Mississippi Surface Coal Mining and Reclamation Law pertaining to the small operator assistance program, variances from performance standards, enforcement, and administrative and judicial review proceedings. The amendment is intended to revise the Mississippi program to be consistent with SMCRA.

This document sets forth the times and locations that the Mississippi program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearings, if one is requested.

DATES: Written comments must be received by 4:00 p.m., c.d.t., May 14, 1998. If requested, a public hearing on the proposed amendment will be held on May 11, 1998. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on April 29, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Arthur W. Abbs, Director, Birmingham Field Office, at the address listed below.

Copies of the Mississippi program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Department of Environmental Quality, Office of Geology, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289–1307, Telephone: (601) 961–5500.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office, Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Program

On September 4, 1980, the Secretary of the Interior conditionally approved the Mississippi program. Background information on the Mississippi program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the September 4, 1980, **Federal Register** (45 FR 48520). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 924.10, 924.12, and 924.16.

II. Description of the Proposed Amendment

By letter dated March 26, 1998 (Administrative Record No. MS–0354), Mississippi submitted Senate Bill 3116 as a proposed amendment to its program pursuant to SMCRA. Mississippi submitted the proposed amendment in response to the required program amendments codified at 30 CFR 924.16 (b), (c), and (d). The Mississippi Legislature amended the Mississippi Surface Coal Mining and Reclamation Law at section 53–9–26 to clarify an applicant's eligibility for the small operator assistance program; section 53–9–45 to provide that specified variances for Reclamation performance standards apply to steep-slope mining; section 53–9–69 to require that a notice of violation shall be issued when a violation which does not pose an immediate threat is detected and to authorize the assessment of costs and expenses to certain persons participating in a judicial review or an administrative review proceeding under certain circumstances; and section 53–9–77 to clarify that the availability of judicial review under this section shall not limit civil litigation rights. A discussion of the amendments to each section is presented below.

1. *§ 53–9–26, Small Operator Assistance Program.* Mississippi proposes to change the word ''operation'' to the word ''operator'' in the phrase ''at all locations of a surface coal mining operation.''

2. *§ 53–9–45, Variances From Performance Standards.* At section 53–9–45(4)(b), Mississippi proposes to remove the reference to subsection (2) in the phrase ''a variance from the requirement to restore to approximate original contour set forth in subsection (2) or (3) of this section.''

3. *§ 53–9–69, Enforcement and Administrative and Judicial Review Proceedings*

a. At section 53–9–69(1)(c)(i), Mississippi proposes to change the word ''may'' to the word ''shall'' in the phrase ''the commission, executive director or the executive director's authorized representative may issue an order to the permittee or agent of the permittee.''

b. Mississippi proposes to add the following new provision at sectopm 53–9–69(4):

(4) When an order is issued under this section, or as a result of any administrative proceeding under this chapter, at the request of any person, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined by the commission to have been reasonably incurred by that person for or in conjunction with that person's participation in the proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review, or the commission, resulting from administrative proceedings deems proper.

4. *§ 53–9–77, Formal Hearings.* Mississippi proposes to add the following new provisions at section 53–9–77(5):

(5) Except as provided in Section 53–9–67, the availability of judicial review under this section shall not limit any rights established under Section 53–9–67.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Mississippi program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on April 29, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.).*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 6, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–9770 Filed 4–13–98; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

[SPATS No. MS–013–FOR]

Mississippi Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Mississippi regulatory program (hereinafter the ''Mississippi program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Mississippi is proposing to replace all of its currently approved regulations for surface coal mining and reclamation operations with new regulations. The amendment is intended to revise the Mississippi program to be consistent with the corresponding Federal regulations, provide additional safeguards, and improve operational efficiency.

This document sets forth the times and locations that the Mississippi program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., c.d.t., May 14,

1998. If requested, a public hearing on the proposed amendment will be held on May 11, 1998. Requests to speak at the hearing must be received by 4:00 p.m, c.d.t. on April 29, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Arthur W. Abbs, Director, Birmingham Field Office, at the address listed below.

Copies of the Mississippi program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Department of Environmental Quality, Office of Geology, 2380 Highway 80 West, P.O. Box 20307, Jackson, Mississippi 39289–1307, Telephone: (601) 961–5500.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office, Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Program

On September 4, 1980, the Secretary of the Interior conditionally approved the Mississippi program. Background information on the Mississippi program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the September 4, 1980, **Federal Register** (45 FR 58520). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 924.10, 924.12, and 924.16.

II. Description of the Proposed Amendment

By letter dated March 26, 1998 (Administrative Record No. MS–0355), Mississippi submitted a proposed amendment to its program pursuant to SMCRA. Mississippi submitted the proposed amendment in response to letters dated May 20, 1996, January 6, 1997, and June 17, 1997 (Administrative Record Nos. MS–0333, MS–0336, and MS–0339, respectively) that OSM sent to Mississippi in accordance with 30 CFR 732.17(c); in response to the required program amendments at 30 CFR 924.16(a) and (e); and at its own initiative. Mississippi proposes to amend its program by replacing the Mississippi Surface Coal Mining Regulations at Parts 100 through 250 with the State of Mississippi Surface Coal Mining Regulations at Subpart I, Chapters 1 through 7; Subpart II, Chapters 9 through 15; Subpart III, Chapters 17 through 37; Subpart IV, Chapters 39 through 47; and Subpart V, Chapters 49 through 71. The full text of the proposed program amendment submitted by Mississippi is available for public inspection at the locations listed above under **ADDRESSES**. Following is the table of contents for the proposed Mississippi regulations.

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5347 Use of Explosives: General Requirements
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Chapter 55. Special Permanent Program Performance Standards: Operations on Prime Farmland

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Chapter 57. Special Permanent Program Performance Standards: Operations on Steep Slopes

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III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Mississippi program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on April 29, 1998. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determinations as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 6, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–9769 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0004b; FRL–5993–3]

Approval and Promulgation of Air Quality Implementation Plans; Utah; 1993 Periodic Carbon Monoxide Emission Inventories for Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of the 1993 periodic carbon monoxide (CO) emission inventories for Ogden City and Utah County (which includes Provo-Orem) that were submitted by the Governor on November 12, 1997, as a revision to the State Implementation Plan (SIP), to satisfy certain requirements of section 187(a)(5) of the Clean Air Act (CAA), as amended in 1990. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 14, 1998.

ADDRESSES: Written comments should be addressed to: Richard R. Long, Director, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public

inspection during normal business hours at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the State documents relevant to this action are available for public inspection at the following office: Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; Telephone number: (303) 312–6479.

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

Dated: March 26, 1998.

Jack McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 98–9677 Filed 4–13–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[I.D. 040698B]

Atlantic Coastal Fisheries Cooperative Management

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: NMFS will hold public hearings to receive comments on NMFS' proposals for management of American lobster in Federal waters. NMFS proposes to transfer the Federal legislative authority for American lobster from the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). NMFS is seeking public comment on proposed management options to regulate American lobster in Federal waters. Also, the existing moratorium on new entrants in the EEZ lobster fishery may be extended through December 31, 2003, for Federal lobster permit holders.

DATES: Written comments on the lobster management proposals contained in the Draft Environmental Impact Statement will be accepted through May 19, 1998. Testimony may be presented at the public hearings, which are scheduled to be held from April 27, 1998, through May 19, 1998, in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, and North Carolina. See **SUPPLEMENTARY INFORMATION** for times and locations of the hearings and special accommodations.

ADDRESSES: Direct requests for copies of the lobster public hearing document should be sent to the State, Federal and Constituent Programs Office, National Marine Fisheries Service, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Bob Ross, NMFS, Northeast Region, 978/281–9234.

SUPPLEMENTARY INFORMATION: NMFS proposes several changes to management of the American lobster resource in waters under Federal authority. The proposed changes include a transferral of Federal legislative authority for American lobster from the MSA to the ACFCMA. Since the majority of the American lobster fishery takes place in state waters (approximately 80 percent), Federal action under the ACFCMA is the best approach for a comprehensive management plan for lobster throughout its range. This approach will facilitate partnership management in Federal and state jurisdictional waters in a time frame to minimize the potential for a stock collapse of the resource.

NMFS is seeking public comment on proposed management options to regulate American lobster in Federal waters. Alternatives being considered range from a continuation of existing management measures to a maximum protection of American lobster in Federal waters by a complete removal of all trap gear from the water and a prohibition against retention, sale, barter or trade of American lobster taken from Federal waters. Other alternatives include a limit on current trap effort and implementation of a gradual reduction in the maximum number of traps allowed to be fished by Federal lobster permit holders, while limiting the non-trap sector to a maximum number of lobsters allowed per trip, regardless of trip length.

Also, the existing moratorium on new entrants to the EEZ lobster fishery may be extended until December 31, 2003, for Federal lobster permit holders.

By this action NMFS is announcing 13 public hearings concerning the proposed lobster management measures. The dates, time, and locations of the hearings are scheduled as follows:

1. Monday, April 27, 1998, 3 p.m.—Fuller School Auditorium, 4 School House Road, Gloucester, MA.
2. Tuesday, April 28, 1998, 3 p.m.—Emmanuel Baptist Church Assembly Hall, 156 High Street, Portland, ME.
3. Wednesday, April 29, 1998, 3 p.m.—Rockland District High School Auditorium, 400 Broadway, Rockland, ME.
4. Thursday, April 30, 1998, 3 p.m.—Downeast Convention Center at the Holiday Inn, 215 High Street (U.S. Routes 1 and 3), Ellsworth, ME.
5. Friday, May 1, 1998, 3 p.m.—University of Maine at Machias, Reynolds Center Gym, 9 O'Brien Avenue, Machias, ME.
6. Tuesday, May 5, 1998, 3 p.m.—Urban Forestry Center, 35 Elwyn Road, Portsmouth, NH.
7. Wednesday, May 6, 1998, 3 p.m.—Narragansett Town Hall Assembly Room, 25 Fifth Street, Narragansett, RI.
8. Thursday, May 7, 1998, 3 p.m.—Howard Johnson Hotel, Dickens Room, 1052 Boston Post Road, Milford, CT.
9. Friday, May 8, 1998, 1 p.m.—Quality Inn of Tom's River, 815 Route 37 West, Tom's River, NJ.
10. Monday, May 11, 1998, 6 p.m.—Massachusetts Maritime Academy, Admirals Hall, Harrington Building, 101 Academy Dr., Buzzards Bay, MA.
11. Thursday, May 14, 1998, 3 p.m.—Ramada Inn, Exit 72, Long Island Expressway and Route 25, Riverhead, NY.
12. Monday, May 18, 1998, 5 p.m.—North Carolina Aquarium on Roanoke Island, Airport Road, Manteo, NC.
13. Tuesday, May 19, 1998, 5 p.m.—Sheraton Fontainebleau Hotel, 10100 Coastal Highway, Ocean City, MD.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Bob Ross (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1851 et. seq.

Dated: April 8, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–9823 Filed 4–9–98; 2:38 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 71
Tuesday, April 14, 1998

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

Animal and Plant Health Inspection Service

[Docket No. 98–008–2]

Public Meeting; Animal Care

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This is the second notice to animal researchers, exhibitors, dealers, transporters, animal protection groups, and other interested persons that we are holding a public meeting to discuss current Animal Welfare Act issues and initiatives. This notice also announces the agenda for the public meeting.

PLACE, DATES, AND TIMES OF MEETING: The public meeting will be held at the USDA Conference Center, 4700 River Road, Riverdale, MD 20737, on Tuesday, May 12, 1998. Registration will take place from 7 a.m. to 9 a.m. The meeting will begin at 9 a.m. and end at 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information on the meeting agenda, contact Dr. Dick Watkins, Initiatives Coordinator, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737, (301) 734–7687.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) previously announced that it was scheduling a public meeting to discuss the animal welfare program and initiatives in Riverdale, MD, on Tuesday, May 12, 1998 (See 63 FR 6704, February 10, 1998, Docket No. 98–008–1). In its advance notice for the meeting, APHIS requested that interested persons submit topics to be included in the meeting's agenda. Based on the submissions received and other considerations, the agenda for the public meeting includes, but is not limited to, the following:

9 a.m.–-12:00 p.m.—General Session.

1:30 p.m.–4:30 p.m.—Break-out sessions.

The General Session will include updates by Animal Care officials on current Animal Welfare Act issues and program initiatives, as well as presentations by industry and animal interest organizations. We are currently scheduling the following break-out sessions, which will run concurrently:

Dealers/Auctions
Exhibitors
Institutional Animal Care and Use Committee (IACUC) Issues
Research
Transportation

Please note that this meeting is being held to exchange information between Animal Care, the public, and stakeholders. It is not an opportunity to submit formal comments on proposed rules or other regulatory initiatives.

Advance Registration

Advance registration is requested by May 6, 1998. Attendance may be limited based on public response. If interested, FAX your registration request to (301) 734–4328 or (301) 734–4978, or send e-mail to Animal Care at ace@aphis.usda.gov. Include your name, complete mailing address, and telephone and fax numbers. Please indicate your first and second preference for break-out sessions. For additional registration information, contact Sue Gallagher, Program Specialist, Animal Care, on (301) 734–8877.

Travel Information

If traveling to the metro area by air, Baltimore-Washington International (BWI) and Ronald Reagan National Airports are each located within 1 hour's drive from the USDA Center. Airport shuttle services are available via independent contracted service fleets. Check with your hotel desk for additional shuttle or taxi information, or phone Super Shuttle (BWI and National Airports) on (800) 258–3826 or (410) 859–0803, or Airport Connection (BWI Airport) on (800) 284–6066 or (301) 352–2400.

The USDA center is located less than 1 mile from the College Park metro rail station (Green Line—Greenbelt/Fort Totten). Bus service is provided between the College Park station and the USDA Center by both Metrobus (F6 and R12 bus lines) and select University of Maryland Shuttle buses. The University of Maryland Shuttle offers complimentary transportation.

If traveling by car, please note that a fee of $2.00 is required to enter the parking lot at the USDA center.

Security Procedures

Upon entering the building, visitors should inform security personnel that they are attending the Animal Care public meeting. Identification is required. Security personnel will direct visitors to the registration tables located outside the conference center on the first floor. Registration is necessary for all participants, even if advance registration was completed. Badges must be worn throughout the day.

Lodging Information

We encourage out-of-town participants to make reservations as soon as possible due to potential peak volumes at local hotels at the time of the meeting. Rooms at all hotels are on a space available basis. The following hotels are located in the Riverdale area:

Greenbelt Holiday Inn, 7200 Hanover Drive, Greenbelt, MD 20770, (800) 280–4188, (301) 982–7000

A limited number of rooms have been reserved at a rate of $75.00 plus tax at the Greenbelt Holiday Inn. Callers must identify themselves as ''Animal Care Public Meeting'' attendees when making reservations. Hotel shuttle service is available to and from the USDA Center. Make arrangements with Holiday Inn front desk.

College Park Holiday Inn, 10000 Baltimore Blvd, College Park, MD 20740, (800) 465–4329, (301) 345–6700

Hotel shuttle service is available to and from the USDA Center. Callers must identify themselves as ''USDA Public Meeting'' attendees when making reservations. Make arrangements with the Holiday Inn front desk.

Greenbelt Courtyard-Marriott, 6301 Golden Triangle Drive, Greenbelt, MD 20770, (800) 321–2211, (301) 441–3311

No shuttle service is available to the USDA Center. Check with the Courtyard front desk for local travel arrangements.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, 371.2(d), and 371.2(g).

Done in Washington, DC, this 7th day of April, 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9744 Filed 4–13–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–026–1]

Public Meeting; Veterinary Biologics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of public meeting and request for agenda topics.

SUMMARY: This is to notify producers and users of veterinary biological products, as well as other interested persons, that we will be holding our eighth public meeting to discuss regulatory and policy issues related to the manufacture, distribution, and use of veterinary biological products. We are in the process of planning the meeting agenda, and are requesting suggestions for topics of general interest to producers and other interested persons.

PLACE, DATE, AND TIME OF MEETING: The meeting will be held in the Scheman Building at the Iowa State Center, Ames, IA, on Wednesday and Thursday, September 23 and 24, 1998, from 8 a.m. to approximately 5 p.m. each day.

FOR FURTHER INFORMATION CONTACT: For further information on agenda topics, contact Dr. Donald C. Randall, Center for Veterinary Biologics, Inspection and Compliance, Veterinary Services, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232–5785, fax (515) 232–7120, or e-mail Donald.C.Randall@usda.gov. For registration information, contact Ms. Kay Wessman at the same address and fax number; phone (515) 323–5785 extension 127; or e-mail Mary.K.Wessman@usda.gov.

SUPPLEMENTARY INFORMATION: Since 1989, the Animal and Plant Health Inspection Service (APHIS) has held seven public meetings on veterinary biologics in Ames, IA. The meetings provide an opportunity for the exchange of information between APHIS representatives, producers and users of veterinary biological products, and other interested persons on issues of common concern. APHIS is in the process of planning the agenda for the eighth such meeting, which will be held September 23 and 24, 1998.

As yet, the agenda for the meeting is not complete. Topics that have thus far been suggested include: (1) Electronic submission of Outlines of Production, forms, and data; (2) international harmonization of regulations; (3) naked DNA vaccines; (4) update on in vitro testing; and (5) quality assurance. Before finalizing the agenda, APHIS is seeking suggestions for additional meeting topics from the interested public.

We would also like to invite interested persons to use this meeting to present their ideas and suggestions concerning the licensing, manufacturing, testing, and distribution of veterinary biologics.

On or before May 15, 1998, please submit suggested meeting topics (for both breakout and general sessions), as well as proposed presentation titles, the name(s) of the presenter(s), and the approximate amount of time that will be needed for the presentation(s), to the person listed under **FOR FURTHER INFORMATION CONTACT.**

After the agenda is finalized, APHIS will announce the schedule in the **Federal Register**.

Done in Washington, DC, this 7th day of April 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–9745 Filed 4–13–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Notice of Intent To Establish an Information Collection

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44977, August 29, 1995), this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to request approval to establish an information collection from applicants for Federal financial assistance.

DATES: Comments on this notice must be received by June 18, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2240, (202) 401–1761. E-mail: OEP@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Title: Application Kit for Research and Extension Projects.

OMB Number: 0524–NEW.

Expiration Date of Current Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection for three years.

Abstract: USDA/CSREES sponsors ongoing agricultural research, extension, and education programs under which competitive, special, and other awards of a high-priority nature are made.

Before awards can be made, certain information is required from applicants as part of an overall proposal package. In addition to project summaries, descriptions of the research, extension, or education efforts, literature reviews, curricula vitae of principal investigators/project directors, and other, relevant technical aspects of the proposed project, supporting documentation of an administrative and budgetary nature also must be provided. Because of the nature of the competitive, peer-reviewed process, it is important that information from applicants be available in a standardized format to ensure equitable treatment.

Each year, solicitations are issued requesting proposals for various research, education, and extension areas targeted for support. Applicants submit proposals for these targeted areas following formats outlined in the proposal application guidelines accompanying each program's solicitation. These proposals are evaluated by peer review panels and awarded on a competitive basis.

Forms CSREES–2002, ''Proposal Cover Page;'' CSREES–2003, ''Project Summary;'' CSREES–2004, ''Proposal Budget;'' CSREES–2005, ''Current and Pending Support;'' CSREES–2006 ''National Environmental Policy Act Exclusions;'' CSREES–2007, ''Identification of Conflicts of Interest;'' and CSREES–2008, ''Assurance Statement(s);'' are mainly used for proposal evaluation and administration purposes. While some of the information will be used to respond to inquiries from Congress and other government agencies, the forms are not designed to be statistical surveys or data collection instruments. Their completion by potential recipients is a normal part of the application to Federal

agencies which support basic and applied science.

The following information will be collected:

Form CSREES–2002—*Proposal Cover Page:* Provides names, mailing and electronic addresses, and telephone numbers of principal investigators/project directors and authorized agents of applicant institutions and general information regarding the proposals.

Form CSREES–2003—*Project Summary:* Lists the Principal Investigator(s) and their institution(s), project title and key words, and a project summary which allows for quick screening and assignment of proposals to peer reviewers.

Form CSREES–2004—*Proposal Budget:* Provides a breakdown of the purposes for which funds will be spent in the event of an award.

Form CSREES–2005—*Current and Pending Support:* Provides information for active and pending projects.

Form CSREES–2006—*National Environmental Policy Act Exclusions:* Allows identification of whether or not the proposal fits one of the exclusions listed for compliance with the National Environmental Policy Act (7 CFR Part 3407). This information will be used in determinations as to whether or not further action is needed to meet the requirements of this Act.

Form CSREES–2007—*Identification of Conflicts of Interest:* Lists the person(s) who are in conflict of interest with the applicant(s). This will be used when selecting peer review panels to assure objective reviews.

Form CSREES–2008—*Assurance Statement(s):* Provides required assurances of compliance with regulations involving the protection of human subjects, animal welfare, and recombinant DNA research. This form will be used for competitive, special, and formula-funded projects.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average six and three-quarter (6¾) hours per response.

Respondents: Individuals, businesses or other for-profit organizations, non-profit institutions, Federal government, and State, local, or Tribal governments.

Estimated Number of Responses per Form: 8,900. 6,600 complete the entire collection; 2,300 complete only the CSREES–662.

Estimated Total Annual Burden on Respondents: 41,950 hours, broken down by: 18,000 hours for Form CSREES–2002, ''Proposal Cover Page'' (three hours per 6,000 respondents); 3,000 hours for Form CSREES–2003, ''Project Summary'' (one-half hour per 6,000 respondents); 6,000 hours for Form CSREES–2004, ''Proposal Budget'' (one hour per 6,000 respondents); 6,000 hours for Form CSREES–2005, ''Current and Pending Support'' (one hour per 6,000 respondents); 1,500 hours for Form CSREES–2006, ''National Environmental Policy Act Exclusions'' (one-quarter hour per 6,000 respondents); 3,000 hours for Form CSREES–2007, ''Identification of Conflicts of Interest'' (one-half hour per 6,000 respondents); and 4,450 hours for Form CSREES–2008, ''Assurance Statement(s)'' (one-half hour per 8,900 respondents).

Frequency of Responses: Annually.

Copies of this information collection can be obtained from Suzanne Plimpton, Policy and Program Liaison Staff, Office of Extramural Programs, CSREES, (202) 401–1302. E-mail: OEP@reeusda.gov.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Sally J. Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, CSREES, USDA, STOP 2240, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2240, (202) 401–1761. E-mail: OEP@reeusda.gov. Comments also may be submitted directly to OMB and should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20502.

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

Done at Washington, D.C., this 7th day of April, 1998.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 98–9746 Filed 4–13–98; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Pines Coal Lease Tract, UTU–76195, Manti-La Sal National Forest, Sevier and Emery Counties, Utah

ACTION: Revised Notice of Intent to Prepare a Third-Party Environmental Impact Statement.

SUMMARY: A Notice of Intent to prepare a Third-Party EIS for the Pines Coal Lease Tract on the Manti-La Sal National Forest in Utah was published in the **Federal Register** on January 29, 1998 (Volume 63, Number 19, Page 4427–4428). This revised Notice of Intent supplements/clarifies the proposed actions to be analyzed and the decisions to be made by the responsible agency officials and corrects errors in the legal description. The analysis will disclose the environmental and human effects of proposed actions to offer the Pines Coal Lease Tract for competitive bidding (43 CFR part 3425), modify Federal Coal Lease U–63214 by adding 150 acres (43 CFR part 3432), and proposed mining under Box Canyon and the associated perennial stream in the existing SUFCO Mine Permit Area.

The Pines Coal Lease tract, as delineated by the Tract Delineation Team, encompasses 7,311 acres of Federal coal lands on the Manti-La Sal National Forest as follows (corrected legal description):

T. 20 S., R. 5 E., SLM,
Section 35: S1/2NE1/4, SE1/4NW1/4, NE1/4SW1/4, S1/2SW1/4, SE1/4;
Section 36: W1/2SW1/4, SE1/4SW1/4;
T. 21 S., R. 5 E., SLM,
Section 1: lots 3–4, S1/2SW1/4, SW1/4SE1/4;
Section 2: lots 1–4, S1/2S1/2;
Section 3: lots 1–2, S1/2SE1/4;
Section 10: E1/2;
Sections 11–14: All;
Section 15: E1/2;
Section 22, E1/2;
Sections 23–24: All;
Section 25: N1/2, N1/2S1/2;
Section 26: N1/2, NE1/4SW1/4, E1/2NW1/4SW1/4, SE1/4;
T. 21 S., R. 6 E., SLM,
Section 19, lots 3–4, E1/2SW1/4;

Additions and/or deletions could be considered in alternatives to the proposed action to be developed and analyzed based on issues and management needs.

In addition to applying for the new lease, Canyon Fuel applied for a modification to Federal Coal Lease U–63214 (add 150 acres to this existing lease), and to mine under a perennial drainage in Box Canyon. The purpose of these applications is to allow Canyon Fuel to extend their existing

underground mining operations at the adjacent SUFCO Mine into these areas, extend the life of the mine, and recover minable coal reserves that would be otherwise bypassed.

The proposed modification to Federal Coal Lease U–63214 would add 150 acres to the existing lease as follows:

T. 21 S., R. 5 E, SLM,
Section 10: SE1/4NW1/4, E1/2SW1/4, E1/2E1/2SW1/4SW1/4,
E1/2E1/2NW1/4SW1/4, E1/2E1/2SW1/4NW1/4.

That portion of Box Canyon proposed for underground mining is located as follows:

T. 21 S., R. 5 E, SLM,
Section 15: W1/2.

All other information published in the January 29, 1998 **Federal Register** Notice remains relevant.

AGENCY DECISIONS: In accordance with the Mineral Leasing Act of 1920, as amended, the Utah State Director of the Bureau of Land Management must decide whether or not to (1) offer the Pines Tract (UTU–76195) for competitive leasing, (2) modify Federal Coal Lease U–63214, and (3) approve underground longwall mining beneath Box Canyon in accordance with an existing lease stipulation that prohibits subsidence of perennial streams, unless specifically approved.

In accordance with the Coal Leasing Amendments Act of 1975, which amended the Mineral Leasing Act of 1920, the Forest Supervisor, Manti-La Sal National Forest, must decide whether or not to consent to above actions/decisions by the Bureau of Land Management and identify measures needed to protect non-mineral resources.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received within 30 days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send written comments to Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be addressed to Liane Mattson or Carter Reed, Manti-La Sal National Forest, telephone number (435) 637–2817.

Dated: April 2, 1998.

Janette S. Kaiser,

Forest Supervisor, Manti-La Sal National Forest.

[FR Doc. 98–9792 Filed 4–13–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Intergovernmental Advisory Committee Subcommittee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee will meet on May 7, 1998, at the Double Tree Hotel, Columbia River, Portland, Oregon. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:15 a.m. and continue until 3:00 p.m. Agenda items to be discussed include, but are not limited to: progress report on the report writing phase of the review of Northwest Forest Plan and implementation monitoring. The IAC meeting will be open to the public and is fully accessible for people with disabilities. Interpreters are available upon request in advance. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–808–2180).

Dated: April 7, 1998.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 98–9772 Filed 4–13–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology Commerce.

ACTION: Notice of government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned in whole or in part by the U.S. Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the inventions is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of Federally funded research and development.

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

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

NIST Docket Number: 95–046.

Title: Portable Fourier Transform Microwave Spectrometer with Cryogenic Receiver for Trace Gas Analysis.

Abstract: This compact, portable, pulsed-molecular-beam Fabry-Perot cavity Fourier transform microwave spectrometer, which incorporates a cryogenically cooled, low-noise amplifier in the receiving system, provides real-time trace-gas analysis in the parts-per-billion by volume (ppbv) range. Design improvements dramatically increase the instrument's sensitivity and simplify its electronics while the user-friendly software allows mouse-driven control with a standard personal computer.

NIST Docket Number: 96–004.

Title: A Josephson Junction Digital To Analog Converter For Accurate AC Waveform Synthesis.

Abstract: This invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and Westinghouse Electric Company. The invention describes a new generation Josephson array that replaces the traditional superconductor-insulator-superconductor (SIS) junctions with superconductor-normal metal-superconductor (SNS) junctions. These new arrays generate inherently stable voltages and respond to broadband inputs that can be programmed to generate metrologically accurate ac waveforms. The development of the invention should increase the clock frequency and metrologically practical voltages of a few volts.

NIST Docket Number: 96–014.

Title: Chromatographic Separation Apparatus.

Abstract: This invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and the University of Kentucky Research Foundation. An

apparatus for the monitoring of a column chromatography separation process includes a segmented column with a seal positioned at the joint defined by the segments of the column. A connector is provided for connecting the segments of the column together. The apparatus further includes a sensor for monitoring an analyte in an eluant within a separation zone of the column. The senor includes a mesh grid made of optical fibers of metal wires which is placed so as to extend through the separation zone of the column. The metal wires of optical fibers extend through the seal of the joint in the segmented column and connect to signal processing and data analysis equipment for purposes of monitoring the movements and concentration of an analyte in an eluant at various locations within the column. Certain segments of the optical fibers or metal wires which make up the mesh grid are coded so as to be desensitized and other segments are uncoded for sensing the analyte. This provides an effective apparatus to monitor in detail the cross-section of a column chromatography process in-situ.

NIST Docket Number: 96–020.

Title: Spatial Ram For High Precision Data Acquisition Systems.

Abstract: For data acquisition in any high-precision instrument, such as a scanning tunneling microscope (STM), the Spatial RAM uses the concept of spatial, not temporal, clocking to match sensor readings along the scanning path with values preloaded into a simple RAM circuit. A data latching pulse sent to the data acquisition system at each match minimizes data latency. The device improves accuracy and cost.

NIST Docket Number: 97–030.

Title: Lead-Based Solders For High Temperature Applications.

Abstract: This invention is jointly owned by the U.S. Government, as represented by the Secretary of Commerce, and Indium Corporation of America. A high lead solder exhibiting improved wettability to metal substrates, an advantageously controlled melting range, and excellent thermal fatigue properties. It comprises about 98–100% lead and a minor amount, typically about 0.0005–0.1 wt%, based on the weight of the solder composition, of an alkali metal selected from the group consisting of Na,K, and Li. Additional embodiments additionally comprised an amount of a grain-size controlling additive, e.g., 0.0001–0.5 wt% (based on the total weight of all the components in the solder composition) selected from the group consisting of Ce, Ba, La, Pr, Nd, Sm, Eu, Gd, Th, Dy, Ho, Er, Tm, Yb, Y, Lu, Sc, Mg, Na, Se, Te, oxides thereof and mixtures thereof, in amount effective to control the Pb grain size; and 0–1 wt% of an element selected from the group consisting of Sn, In, Bi, Sb, Ag, Au, and Ga, and mixtures thereof.

Dated: April 10, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–9849 Filed 4–13–98; 8:45 am]

BILLING CODE 3510–13–M

CONSUMER PRODUCT SAFETY COMMISSION

Flame Retardant Chemicals That May Be Suitable for Use in Upholstered Furniture; Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of extension of comment period.

SUMMARY: The Commission is extending its comment period to receive information concerning toxicity issues related to flame retardant treatment of upholstered furniture. On March 17, 1998, the Commission announced that it will conduct a public hearing on May 5 and, if necessary, May 6, 1998 on this issue. In response to a request, the Commission is extending the comment period to allow submission of written comments 45 days after the hearing. The date of the hearing and the date for submissions of prepared texts by persons who plan to testify at the hearing remain unchanged (see March 17, 1998 **Federal Register** notice for details concerning testifying at the hearing).

DATES: Written comments that are in place of, or in addition to oral presentations, must be received by the Office of the Secretary no later than June 19, 1998. Written comments must include the author's affiliation with, or employment or sponsorship by, any professional organization, government agency, or business firm. All data analyses and studies should include substantiation and citations.

ADDRESSES: Written comments should be captioned ''Flame Retardant Chemicals'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the purpose or subject matter of this hearing call or write Michael A. Babich, Ph.D., Directorate for Epidemiology and Health Sciences, U.S. Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0994, extension 1383; fax (301) 504–0079. For information about the schedule for submission of written comments call or write Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0800, extension 1232; fax (301) 504–0127.

SUPPLEMENTARY INFORMATION: On March 17, 1998, the Commission published a notice announcing a public hearing to consider various toxicity issues related to flame retardant chemicals that may be suitable for use in upholstered furniture. 63 FR 1301. That notice announced that the hearing would begin at 10 a.m. on May 5, 1998, and if necessary, conclude on May 6, 1998. The notice provided a detailed list of the issues about which the Commission would like to receive information. The notice requested that people wishing to make oral presentations at the hearing submit copies of their remarks no later than April 21, 1998. The notice also provided that persons may submit written comments in place of or in addition to oral presentations, and that these written comments must be received by May 5, 1998.

After publication of this notice, Chairman Ann Brown received a letter from the National Cotton Council requesting that the Commission postpone the hearing and reschedule it at least 60–90 days later and extend the comment period to reflect a new hearing date.

In response to this request, the Commission declined to reschedule the hearing date, but has decided to allow written comments 45 days after the hearing. Thus, written comments in place of, or in addition to oral presentations, must be received by the Commission no later than June 19, 1998.

Dated: April 9, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–9839 Filed 4–13–98; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Intercontinental Ballistic Missile Hardened Intersite Cable Right-of-Way Landowner/Tenant Questionnaire; AF Form 3951; OMB Number 0701–0141.

Type of Request: Extension.

Number of Respondents: 4,000.

Responses per Respondent: 1.

Annual Responses: 4,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 1,000.

Needs and Uses: The information collection requirement is used to report changes in ownership/lease information, conditions of missile cable route and associated appurtenances, and projected building/excavation projects. The information collected is used to ensure system integrity and to maintain a close contact public relations program with involved personnel and agencies. Respondents are landowners/tenants. This form collects updated landowner/tenant information as well as data on local property conditions which could adversely affect the Hardened Intersite Cable System (HICS) such as soil erosion, building projects, excavation plans, etc. This information also aids in notifying landowners/tenants when HICS preventive or corrective maintenance becomes necessary to ensure uninterrupted Intercontinental Ballistic Missile command and control capability.

Affected Public: Individuals or households; farms; State, Local, or Tribal Government.

Frequency: Biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 8, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9712 Filed 4–13–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Conference Meeting of the National Advisory Panel on the Education of Dependents With Disabilities

AGENCY: Department of Defense Dependents Schools (DoDDS).

ACTION: Notice.

SUMMARY: Notice is hereby given of the forthcoming annual public meeting of the National Advisory Panel on the Education of Dependents with Disabilities. In addition to the activities described in enclosure 5 to DoD Instruction 1342.12, ''Education of Handicapped Children in the DoD Dependents Schools,'' March 12, 1996, codified at 32 CFR 57, the panel will review the entire instruction, the Comprehensive System of Personnel Development Report, and the subcommittee reports on autism and student outcome assessment.

DATES: May 11–13, 1998.

ADDRESSES: Office of the Superintendent of Schools, DoDDS-Kaiserslautern District, Geb. 2786, Kapaun Air Station, 67663 Kaiserslautern, Germany.

FOR FURTHER INFORMATION CONTACT: Dr. David V. Burket, Instructional Systems Specialist, DoDDS, (703) 696–4492, extension 1947.

SUPPLEMENTARY INFORMATION: Due to space constraints, anyone wishing to attend should contact the DoDDS Instructional Systems Specialist, Dr. David V. Burket. The National Advisory Panel on the Education of Dependents with Disabilities is established under the Individuals with Disabilities Education Act, as amended, (20 U.S.C. 1400 *et seq.*); the Defense Dependents' Education Act of 1978, as amended (20 U.S.C. 927(c)); and DoD Instruction 1342.12, 32 CFR part 57.

Dated: April 8, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9714 Filed 4–13–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety will conduct a closed session on May 1, 1998, at Science Applications International Corporation, San Diego, California.

The Joint Advisory Committee is charged with advising the Secretary of Defense, Department of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting the Joint Advisory Committee will receive classified briefings on the nuclear weapons stockpile and Department of Defense nuclear readiness.

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended, Title 5, U.S.C. App. II, (1988)), this meeting concerns matters, sensitive to the interests of national security, listed in 5 U.S.C. section 552b(c)(1) and accordingly this meeting will be closed to the public.

Dated: April 8, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9711 Filed 4–13–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1998 Summer Study Task Force on DoD Logistics Transformation

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board 1998 Summer Study Task Force on DoD Logistics Transformation will meet in closed session on April 16–17, June 9–10, and July 14–15, 1998 at TRW, 12900 Federal Systems Park Drive, Fairfax, Virginia. In order for the Task Force to obtain time sensitive classified briefing, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the

Department of Defense. At these meetings the Task Force will address the transformation of military logistics. The Task Force should focus on providing the warfighter with responsive logistics support across the range of missions, threats, and environments DoD is likely to face in the 21st Century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: April 8, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9713 Filed 4–13–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on May 5, 1998; May 12, 1998; May 19, 1998; and May 26, 1998, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: April 8, 1998.

L. M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–9710 Filed 4–13–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Freedom of Information and Privacy Acts Office; Change of Address

AGENCY: Department of the Army Freedom of Information and Privacy Acts Office.

ACTION: Notice.

SUMMARY: The purpose of this notice is to notify the public of the change in address for the Department of the Army, Freedom of Information and Privacy Acts Office.

FOR FURTHER INFORMATION CONTACT: Ms. Rose Marie Christensen, telephone (703) 806–5698, 7798 Cissna Road, Suite 205, TAPC–PDR–PF, Springfield, VA 22150–3197.

SUPPLEMENTARY INFORMATION: The Department of the Army, Freedom of Information and Privacy Acts Office previously located at Crystal Square #2, Suite 201, 1725 Jefferson Davis Highway, Arlington, VA 22202–4102 has moved. Effective April 6, 1998, the new address is Department of the Army, Freedom of Information and Privacy Acts Office, 7798 Cissna Road, Suite 205, ATTN: TAPC–PDR–PF, Springfield, VA 22150–3197. The following new telephone number is also provided: commercial (703) 806–5698; DSN 656–5698.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 98–9833 Filed 4–13–98; 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 May 14, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, 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: April 8, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Notice Inviting Proposals for Experimental Sites.

Frequency: One time.

Affected Public: Businesses or other for-profits; State, local or Tribal Gov't; SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 50.

Burden Hours: 250.

Abstract: With this notice, the Secretary invites proposals to reinvent the administration of Federal student assistance programs through the use of the experimental sites authority (Section 487A(d) of the Higher Education Act of 1965, as amended. The program is intended to encourage institutions to develop innovative strategies to improve Title IV program administration.

[FR Doc. 98–9762 Filed 4–13–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–179]

Application to Export Electric Energy; California Power Exchange Corp.

AGENCY: Office of Fossil Energy, DOE.

AGENCY: Notice of application.

SUMMARY: California Power Exchange Corporation (PX), a non-profit public benefit corporation formed under California law, has submitted an application for authorization to export electric energy to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 14, 1998.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 26, 1998, PX applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Mexico pursuant to section 202(e) of the FPA. The newly structured corporation does not own or control any electric generation or transmission facilities, nor does it have a franchised service area. The applicant claims that its purpose is to provide an efficient, competitive energy auction on a non-discriminatory basis to suppliers (''PX sellers'') and purchasers (''PX buyers''). The PX will manage the trading of power in the day ahead and hour ahead markets based on demand bids from PX buyers and generation bids from PX sellers. Based on these bids, the PX will determine market clearing prices for each of the hours of the 24 hour scheduling day, then conduct auctions under which PX sellers will sell power through the PX and PX buyers will purchase power through the PX. PX sellers and PX buyers will not contract directly with one another but with the PX. A portion of the power that is purchased through the PX will be purchased by the Comision Federal de Electricidad, the national electric utility of Mexico.

The PX indicates that it controls the sale of the power to be exported. It will be the entity that will determine the quantity of power to be sold, to whom the power is to be sold (including sales to Mexico), and the price of such power to be sold. The PX members will not know the identity of the purchaser, but only the price that the PX sellers receive for the sale of their power.

Transmission of the electric energy to be exported to Mexico will be scheduled by the PX and coordinated with the California Independent System Operator. Electric energy will be transmitted to Mexico using the international transmission facilities of San Diego Gas & Electric Company (SDG&E). SDG&E's international transmission facilities, as more fully described in the application, have been authorized by Presidential permits issued pursuant to Executive Order (EO) 10485, as amended by EO 12038.

Procedural Matters

Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's rules of pactice and procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions, comments and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with Dennis Loughridge, Chief Executive Officer, California Power Exchange Corp., 1000 South Fremont, A9W–5th Floor, Alhambra, CA 91803 **AND** Edwin F. Feo, Milbank, Tweed, Hadley & McCloy, 601 South Figueroa, Suite 3000, Los Angeles, CA 90017.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on April 8, 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 98–9779 Filed 4–13–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant, Amarillo, Texas

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant, Amarillo, Texas.

DATES AND TIMES: Tuesday, April 28, 1998: 1:00 p.m.–5:00 p.m.

ADDRESSES: Pantex Plant, Building 1612, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:00 p.m. Welcome—Agenda Review—Approval of Minutes

1:15 p.m. Co-Chair Comments

1:20 p.m. Facilitator's Presentation on Hanford Citizens' Advisory Board Visit

1:45 p.m. Updates—Occurrence Reports—DOE

2:15 p.m. Risk Reduction Standard Presentation

3:15 p.m. Break

3:25 p.m. Discussion, Questions and Answers on Risk Reduction Standard Presentation

3:55 p.m. Ex-Officio Reports

4:25 p.m. Task Force/Subcommittee Minutes

5:00 p.m. Closing Remarks/Adjourn

Public Participation: The meeting is open to the public, and public comment will be invited throughout the meeting. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at any time throughout the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on April 9, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–9778 Filed 4–13–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–492–010]

CNG Transmission Corporation; Notice of Compliance Filing

April 8, 1998.

Take notice that on April 6, 1998, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective January 5, 1998:

Third Revised Sheet No. 140
Third Revised Sheet No. 150
Third Revised Sheet No. 160
Fifth Revised Sheet No. 175
Third Revised Sheet No. 176
Second Revised Sheet No. 177
Fourth Revised Sheet No. 178
Second Revised Sheet No. 179
Fourth Revised Sheet No. 255

CNG states that the above tariff sheets incorporate changes and corrections to address the concerns raised by Long Island Lighting Company, in comments filed in the captioned proceeding on March 4, 1998.

Any person desiring to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with the §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 15, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of CNG's filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9777 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–315–000]

Columbia Gas Transmission Corporation; Notice of Application

April 8, 1998.

Take notice that on March 30, 1998, Columbia Gas Transmission Corporation (Columbia), 12801 Fairlakes Parkway, Fairfax, Virginia 22030–0146 filed in Docket No. CP98–315–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for authorization to abandon certain pipeline facilities in Pike County, Kentucky, and to construct and operate replacement facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to abandon approximately 5.5 miles of 20-inch diameter pipeline and appurtenances, part of Columbia's Line KA, and to construct and operate replacement facilities consisting of approximately 5.5 miles of 20-inch diameter pipeline and appurtenances. It is stated that the replacement is needed due to the age and condition of the facilities, which were installed in 1931 and need to be replaced to ensure the reliability of service to existing customers. It is explained that 90 percent of the pipeline (approximately 4.9 miles) will be replaced within the existing right-of-way, and that 2 segments totalling approximately 0.6 mile in length will be located outside the existing right-of-way, in one instance to make possible a more favorable stream crossing and in the other to avoid steep sidehill construction. It is estimated that the cost of constructing the replacement pipeline will be $6.2 million and the cost to retire the existing facilities will be $290,400.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 29, 1998, file with the Federal Energy Regulatory Commission, 888 First 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 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 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.

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 believes 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 Columbia to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9733 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–151–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

April 8, 1998.

Take notice that on April 3, 1998, Columbia Gas Transmission Corporation (Columbia), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 1998:

Substitute Twenty-fifth Revised Sheet No. 25
Substitute Twenty-fifth Revised Sheet No. 26
Substitute Twenty-fifth Revised Sheet No. 27
Substitute Twenty-fifth Revised Sheet No. 28

Columbia states that this filing is being made in compliance with the Commission Order dated March 26, 1998.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions and parties on the official service list in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9742 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–17–001]

Dauphin Island Gathering Partners; Notice of Tariff Filing

April 8, 1998.

Take notice that on April 3, 1998, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to be effective April 6, 1998:

First Revised Sheet No. 9
Original Sheet No. 9A

DIGP states that the purpose of this filing is to report the name and rate of each person that DIGP expects to begin receiving service at negotiated rates on April 6, 1998, when DIGP expects to commence service.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9741 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–317–000]

El Paso Natural Gas Company and ANR Pipeline Company; Notice of Application

April 8, 1998.

Take notice that on March 31, 1998, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, and ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, collectively referred to as Applicants, filed a joint application in Docket No. CP98–317–000 pursuant to Section 7(b) of the Natural Gas Act, for permission and approval to abandon four certificated exchange services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, the Applicants propose to abandon:

1. Gas Exchange Agreement dated January 27, 1978, as amended. By order issued August 14, 1978, the Commission authorized the requests of El Paso in Docket No. CP78–223, and the request of ANR in Docket No. CP78–190, to exchange natural gas. The Applicants state the gas was exchanged under El Paso's special Rate Schedule X–41 and ANR's special Rate Schedule X–67. It is stated, that the agreement provided for the gathering, delivery and exchange of natural gas produced from properties located in Hemphill and Wheeler Counties, Texas and Roger Mills, Beckham and Dewey Counties, Oklahoma.

2. Two Gas Exchange Agreements dated December 20, 1978. By order issued July 18, 1979, the Commission authorized the request of El Paso in Docket Nos. CP79–165 and CP79–166, *et al.* Applicants state the agreements involve the exchange of certain offshore gas reserves obtained by El Paso and certain gas supplies obtained by ANR in the Creston Nose and Lincoln Road areas of Wyoming. It is stated the gas was exchanged under El Paso's special Rate Schedules X–53 (Creston Nose Exchange Agreement) and X–54 (Lincoln Road Exchange Agreement). It is averred that while El Paso obtained the authorization under the July 18, 1979 order for the exchange service with ANR, that ANR received authorization for the transportation of certain gas for El Paso to make the gas available for the exchange service. Applicants state the transportation arrangement was performed under ANR's special Rate Schedule X–79.

3. Gas Exchange Agreement dated October 11, 1984. By order issued August 30, 1985, the Commission authorized the request of El Paso in Docket No. CP85–658–000, and the request of ANR in Docket No. CP85–538–000, to construct and operate certain facilities and the transportation and delivery of natural gas on an exchange basis between the Applicants. The exchange was performed under El Paso's special Rate Schedule X–64 and ANR's special Rate Schedule X–158. It is stated that, under that exchange agreement, El Paso agreed to accept from NWPL, for the account of ANR, quantities of natural gas from the Overthrust Belt area of Wyoming. It is averred that those supplies were then delivered to El Paso through NWPL at the Ignacio Receipt Point located in La Plata County, Colorado. Applicants state that in exchange, El Paso agreed to concurrently deliver equivalent volumes of natural gas, on a dekatherm basis, to ANR at the interconnection of the two pipeline systems in Roger Mills County, Oklahoma.

When certificated, the exchange services represented an economical way for the Applicants to receive dedicated gas supplies for their general system supply requirements. However, by letter dated November 26, 1997, the Applicants agreed the four exchange agreements described above are no longer needed and can be terminated. It is further stated that no imbalances exist.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 29, 1998, file with the Federal Energy Regulatory Commission, 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 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 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.

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 permission and approval for the proposed abandonment are 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 believes 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 El Paso and ANR to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9735 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–346–000, TM97–3–24–000, and RP98–123–000]

Equitrans, L.P.; Notice of Informal Settlement Conference

April 8, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on April 16, 1998 at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

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, please contact Irene E. Szopo at (202) 208–1602 or Robert A. Young at (202) 208–5705.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9740 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–174–002]

Gas Transport, Inc.; Notice of Revised Tariff Filling

April 8, 1998.

Take notice that on April 3, 1998, Gas Transport, Inc. (GTI) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of May 1, 1998:

Fourth Revised Sheet No. 1
Second Revised Sheet No. 9, and
Third Revised Sheet No. 118

GTI states that on March 31, 1998, in Docket No. RP98–174–000, GTI submitted tariff sheets proposing the changes necessary to reflect GTI's decision to discontinue its Bulletin Board System and to rely on its Internet Web Site (required by Order No. 587–C) to satisfy its obligations under Commission regulations relating to electronic bulletin boards, GTI states that the purpose of its current filing is to correct pagination errors to the above-listed tariff sheets included in its initial filing.

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 protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9743 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–316–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

April 8, 1998.

Take notice that on March 31, 1998, NorAm Gas Transmission Company (NorAm Gas), Post Office Box 4455, Houston, Texas 77210–4455, filed in Docket No. CP98–316–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a point of delivery to effectuate firm transportation service to Macsteel Division of Quanex Corporation (Macsteel's) plant in Sebastian County, Arkansas, at an estimated cost of $51,817. NorAm Gas makes such request under its blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, NorAm Gas proposes to construct and operate a 2-inch delivery tap, first-cut regulator and 4-inch senior meter station, on NorAm Gas's Line BT–14, in Sebastian County, to accommodate Macsteel's request for deliveries of up to 912,500 dekatherms of natural gas annually and 2,500 dekatherms of natural gas per day. NorAm Gas avers that the transportation service to be rendered through the delivery point proposed herein will be performed utilizing existing capacity on NorAm Gas' system, and will have no effect on NorAm Gas' peak day or annual deliveries.

NorAm Gas states that its filing of this request is in response to the Macsteel's request to receive natural gas service directly from NorAm Gas. Arkansas Oklahoma Gas Corporation (Arkansas Oklahoma) is the local distribution company that currently provides service to Macsteel.

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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9736 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–323–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

April 8, 1998.

Take notice that on April 1, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP98–323–000 a request pursuant to Sections 157.205, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for approval to abandon by removal a meter station in Garfield County, Colorado, under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to Section 7 of Natural Gas Act, all more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest proposes to abandon the Union Oil Parachute Meter Station (meter station) since the facilities are no longer needed to deliver gas to the Union Oil Company of California (Unocal) plant which the station was built to serve. The meter station consists of three 4-inch turbine meters and appurtenances and is located on Northwest's Union Oil Lateral. No deliveries have been made since 1992. In its February 18, 1998 letter, Unocal stated that it doesn't anticipate a future need for the meter station and that it doesn't require Northwest to maintain it. Northwest currently has no firm transportation obligations to provide service to Unocal at the Union Oil Parachute delivery point. Northwest will remove the turbine meters and appurtenances, including the meter building, but due to the expenses involved in removing the meter building's cement foundation and the underground piping, Northwest will abandon these in place. Northwest will continue to retain and maintain the station site since the Barrett Meter Station is still in operation. Removing the meter facilities will not cause any ground disturbance at the station site and the cost if estimated at $15,500.

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 not 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9739 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–618–009]

PG&E Gas Transmission, Northwest Corporation; Notice of Annual Report

April 8, 1998.

Take notice that on January 29, 1998, PG&E Gas Transmission, Northwest Corporation, (PG&E GT–NW) (formerly Pacific Gas Transmission Company) tendered for filing its Annual Report on Deferred Revenue Recovery Mechanism and Revenue Reconciliation for the Year Ending October 31, 1997 for its Medford, Oregon Extension FTS–1 (E–2).

PG&E GT–NW asserts that the purpose of this filing is to comply with the Commission's Order of January 12, 1995 in Docket Nos. CP93–618, *et al.* That order requires PG&E GT–NW to file an annual report concerning its deferred revenue recovery mechanism and detailing the cost of service for GT–NW's Medford Extension and the status of its deferred revenue recovery mechanism.

PG&E GT–NW further states that copies of its filing has been served on PG&E GT–NW's jurisdictional customers and interested state regulatory agencies, as well as the Official Service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 15, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9734 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–321–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

April 8, 1998.

Take notice that on April 1, 1998, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP98–321–000 a request pursuant to §§ 157.205, 157.208, 157.211, and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.208, 157.211, 157.212) for authorization to install, own, and operate approximately 2.42 miles of 8-inch pipeline loop and install an additional 4-inch meter run at an existing meter station under Texas Gas's blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that it proposes to install, own, and operate approximately 2.42 miles of 8-inch pipeline looping its existing Humboldt 6-inch pipeline located in Madison County, Tennessee. Texas Gas also plans to install an additional 4-inch meter run at its existing 6-inch Jackson No. 4 meter station, also located in Madison County, Tennessee.

Texas Gas states that these facilities are being installed in order to accommodate a total increase in winter firm service of 3,800 MMBtu per day which has been requested by three (3) of Texas Gas's existing local distribution company customers served by Texas Gas's Ripley-Jackson system; Jackson Utility Division, the Town of Humboldt, Tennessee, and the city of Brownsville, Tennessee. The estimated cost of the proposed facilities is $950,000.

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 Section 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.

David P. Boegers,

Acting Secretary.

[FR Doc. 98–9737 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–322–000]

Williams Gas Pipelines Central, Inc.; Notice of Request Under Blanket Authorization

April 8, 1998.

Take notice that on April 1, 1998, Williams Gas Pipelines Central, Inc. (Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP98–322–000 a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for approval to abandon the receipt of transportation of natural gas from J-Brex Company (J-Brex) and to reclaim facilities located in Woods County, Oklahoma, under Applicant's blanket certificate issued in Docket Nos. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that the facilities were originally installed by them in 1995 to receive transportation gas from J-Brex. Applicant further states that J-Brex installed, at its own cost, the meter setting and, as a result, is the owner of the meter setting. It is indicated that Applicants facilities consist of the tap and appurtenant facilities. Applicant asserts that J-Brex has informed it that the measurement facilities have been reclaimed and that the cost to reclaim the above-ground piping and other appurtenances is approximately $2,218.

Any person or the Commission's Staff may, within 45 days of the insurance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene 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 activities 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 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9738 Filed 4–13–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–62–000, et al.]

Hawkeye Power Partners, LLC, et al.; Electric Rate and Corporate Regulation Filings

April 7, 1998.

Take notice that the following filings have been made with the Commission:

1. Hawkeye Power Partners, LLC

[Docket No. EG98–62–000]

Take notice that on April 2, 1998, Hawkeye Power Partners, LLC (Hawkeye), 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.

Hawkeye Power is developing a wind-powered eligible facility with a capacity of 42 megawatts (net), powered by approximately fifty-six (56) wind turbine generators, which will be located in Cerro Gordo County, Iowa.

Comment date: April 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Cinergy Capital & Trading, Inc.

[Docket No. ER98–1063–001]

Take notice that on February 23, 1998, Cinergy Capital & Trading, Inc., tendered for filing its compliance filing in the above-referenced docket.

Comment date: April 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. New Hampshire Electric Cooperative, Inc.; v. Public Service Company of New Hampshire, Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.; Public Service Company of New Hampshire v. New Hampshire Electric Cooperative, Inc.; Public Service Company of New Hampshire

[Docket Nos. EL98–35–000, EL96–53–000, EL95–71–000, and EL97–7–000]

Take notice that on March 23, 1998, New Hampshire Electric Cooperative, Inc., tendered for filing a complaint, motion for summary disposition or, in the alternative, motion for expedited resolution of issues not addressed summarily, and motion for expeditious action in related proceedings of the New Hampshire Electric Cooperative, Inc.

Comment date: May 7, 1998, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before May 7, 1998.

4. PJM Interconnection, L.L.C.

[Docket No. ER98–2348–000]

Take notice that on March 30, 1998, PJM Interconnection, L.L.C., pursuant to §§ 29.1 and 29.5 of the PJM Open Access Transmission Tariff, filed an executed Service Agreement for Network Integration Transmission Service with Citizens Power Sales.

PJM requests a waiver of the Commission's Regulations to allow an effective date of March 1, 1998.

Copies of the filing were served upon Citizens Power Sales, GPU Energy, and the New Jersey Board of Public Utilities.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER98–2359–000]

Take notice that on March 31, 1998, Southern California Edison Company (Edison), tendered for filing unexecuted copies of the Edison-Azusa Interim Scheduling Coordinator Agreement and the Edison-Banning Interim Scheduling Coordinator Agreement (Scheduling Coordinator Agreements) between Edison and each of the Cities of Azusa and Banning (Cities), California.

The Scheduling Coordinator Agreements satisfy the requirement set forth in Section 6.1.5 of the Cities Restructuring Agreements and allow Edison to act as Cities' Scheduling Coordinator in compliance with the Independent System Operator (ISO) and Power Exchange scheduling protocols.

Edison is requesting an effective date concurrent with the date the ISO assumes operational control of Edison's transmission facilities.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER98–2383–000]

Take notice that on March 31, 1998, Southern California Edison Company (Edison), tendered for filing Loss Accounting Procedures for Existing Contracts (Procedures) between Edison and the City of Anaheim (Anaheim), California.

The Procedures allow Edison and Anaheim to account for differences between losses pursuant to the Independent System Operator's (ISO), applicable loss methodology and losses pursuant to existing transmission contracts, as required in the Edison-Anaheim 1997 Restructuring Agreement (Restructuring Agreement). Edison is requesting that the Procedures become effective on the date the ISO assumes operational control of Edison's transmission facilities, which is concurrent with the effective date of the Restructuring Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER98–2386–000]

Take notice that on March 31, 1998, Southern California Edison Company (Edison), tendered for filing the Edison-Anaheim Interim Scheduling Coordinator Agreement (Scheduling Coordinator Agreement) between Edison and the City of Anaheim (Anaheim), California.

The Scheduling Coordinator Agreement satisfies the requirement set forth in Section 6.2 of the Restructuring Agreement and allows Edison to act as Anaheim's Scheduling Coordinator in compliance with the Independent System Operator (ISO) and Power Exchange scheduling protocols.

Edison is requesting an effective date concurrent with the date the ISO assumes operational control of Edison's transmission facilities.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER98–2387–000]

Take notice that on March 31, 1998, Southern California Edison Company (Edison), tendered for filing unexecuted Procedures For The Scheduling Of Riverside's Entitlement In The San Onofre Nuclear Generating Station And Riverside's Satisfaction Of Its Auxiliary Power Obligations (SONGS Procedures) between Edison and the City of Riverside (Riverside), California.

The SONGS Procedures provide for (i) the scheduling of Riverside's ownership share of San Onofre Nuclear Generating Station (SONGS); (ii) exchanges of information related to the availability of SONGS; and (iii) Riverside's satisfaction of its auxiliary power obligations pursuant to the Second Amended San Onofre Operating Agreement.

Edison is requesting an effective date concurrent with the date the Independent System Operator assumes operational control of Edison's transmission facilities.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. MidAmerican Energy Company

[Docket No. ER98–2410–000]

Take notice that on April 2, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50303 submitted for filing with the Commission a Service Agreement dated March 30, 1998, with the City of Denver, IA (Denver) entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (Tariff), and a Power Sales Agreement dated March 30, 1998, with the City of Denver, IA, entered into pursuant to the Service Agreement and the Tariff.

MidAmerican requests an effective date of April 1, 1998, for this Agreement, and accordingly seeks a waiver of the Commission's notice

requirement. MidAmerican has served a copy of the filing on Denver, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Virginia Electric and Power Company

[Docket No. ER98–2414–000]

Take notice that on April 2, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and Consumers Energy Company under the FERC Electric Tariff (First Revised Volume No. 4), which was accepted by order of the Commission dated November 6, 1997 in Docket No. ER97–3561–001. Under the tendered Service Agreement, Virginia Power will provide services to Consumers Energy Company under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of April 2, 1998, for the Service Agreement.

Copies of the filing were served upon Consumers Energy Company, the Michigan Public Service Commission, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER98–2415–000]

Take notice that on April 2, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and OGE Energy Resources, Inc., under the FERC Electric Tariff (First Revised Volume No. 4), which was accepted by order of the Commission dated November 6, 1997 in Docket No. ER97–3561–001. Under the tendered Service Agreement, Virginia Power will provide services to OGE Energy Resources, Inc., under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of March 26, 1998, for the Service Agreement.

Copies of the filing were served upon OGE Energy Resources, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER98–2416–000]

Take notice that on April 2, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Short-Term Firm Transmission Service Agreement between NSP and New Ulm Public Utilities.

NSP requests that the Commission accept the agreement effective March 23, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Northeast Utilities Service Company

[Docket No. ER98–2417–000]

Take notice that on April 2, 1998, Northeast Utilities Service Company (NUSCO), submitted in accordance with Section 205 of the Federal Power Act and Part 35 of the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) 18 CFR Part 35, Service Agreements between NUSCO and Select Energy, Inc. (Select), under with NUSCO may engage in sales of capacity and energy to its retail power marketing affiliate Select.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER98–2418–000]

Take notice that on April 2, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and Avista Energy, Inc.

NSP requests that the Commission accept both the agreements effective March 23, 1998, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Duquesne Light Company

[Docket No. ER98–2419–000]

Take notice that April 2, 1998, Duquesne Light Company (DLC), filed a Service Agreement dated March 12, 1998 with Merchant Energy Group of the Americas, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Merchant Energy Group of the Americas, Inc., as a customer under the Tariff. DLC requests an effective date of March 12, 1998, for the Service Agreement.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Duquesne Light Company

[Docket No. ER98–2420–000]

Take notice that April 2, 1998, Duquesne Light Company (DLC), filed a Service Agreement dated March 12, 1998 with Columbia Power Marketing Corp., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Columbia Power Marketing Corp., as a customer under the Tariff. DLC requests an effective date of March 12, 1998, for the Service Agreement.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Public Service Corporation

[Docket No. ER98–2421–000]

Take notice that on April 2, 1998, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Amoco Energy Trading Corporation, providing for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11, and Revised Attachments E and I, indices of customers with agreements under WPSC's Open Access Transmission Tariff, FERC Volume No. 11.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Public Service Corporation

[Docket No. ER98–2422–000]

Take notice that on April 2, 1998, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Amoco Energy Trading Corporation, provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. The Furst Group, Inc.

[Docket No. ER98–2423–000]

Take notice that on April 2, 1998, The Furst Group, Inc. (Furst), petitioned the Commission for acceptance of Furst Rate Schedule FERC No. 1 the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Furst intends to engage in wholesale electric power and energy purchases and sales as a marketer. Furst is not in the business of generation or transmitting electric power.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Houston Lighting & Power Company

[Docket No. ER98–2424–000]

Take notice that on April 2, 1998, Houston Lighting & Power Company (HL&P), submitted for filing a notice of cancellation of a transmission service agreement with Western Gas Resources Power Marketing, Inc. (Western Gas) under HL&P's tariff for transmission service ''to, from and over'' certain HVDC Interconnections.

HL&P states that a copy of the filing has been served on the affected customer.

Comment date: April 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Green Mountain Power Corporation

[Docket No. OA97–709–000]

Take notice that on July 28, 1998, Green Mountain Power Corporation (GMP), tendered for filing a revised open access tariff in accordance with FERC Order No. 888–A. GMP states that the revised tariff supersedes in its entirety an open access transmission tariff in the form prescribed by FERC Order No. 888 that was previously filed in Docket no. OA96–37–000. GMP has prosed to make its revised tariff effective as of July 14, 1997 or such later date as may be proposed to make its revised tariff effective as July 14, 1997 or such later date as may be prescribed by the commission for the effectiveness of tariffs conforming to FERC Order No. 888–A.

Comment date: April 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Tapoco, Inc.

[Docket No. OA97–615–000]

Take notice that on July 8, 1997, Tapoco, Inc., filed original and revised tariff sheets to its Order No. 888 open access tariff to comply with FERC Order No. 888–A. Tapoco states that it has served copies of this filing on the Tennessee Public Service Commission and all parties listed on the official service list in the above-referenced docket.

Comment date: April 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Northern Lights, Inc.

[Docket No. OA98–10–000]

Take notice that on February 13, 1998, Northern Lights, Inc., tendered for a request for confirmation of non-jurisdictional status or, alternatively, for small public utility waiver of the requirements of Parts 35 and 37, and request for waiver of reciprocity requirement.

Comment date: April 20, 1998, 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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–9732 Filed 4–13–98; 8:45 am]

BILLING CODE 6712–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5995–9]

Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–1996

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of document availability and request for comments.

SUMMARY: The Review Draft of Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–1996, will be made available for public review on March 30, 1998. Annual U.S. emissions for the period of time from 1990–1996 are summarized and presented by source category and sector. The inventory contains estimates of CO2, CH4, N2O, HFCs, PFCs, and SF6 emissions, as well as estimated emissions of VOCs, NOx, CO, and HFCs. The approach used to estimate emissions for the greenhouse gases was adapted from the methodologies recommended by the Intergovernmental Panel on Climate Change. The U.S. Greenhouse Gas Inventory is being prepared to provide a basis for the ongoing development of a comprehensive and accurate system to identify and quantify emissions and sinks of greenhouse gases in the U.S. It will serve as part of the U.S. submission to the Secretariat of the Framework Convention on Climate Change and to contribute to the updates to the U.S. Climate Action Report. To ensure your comments are considered for the final version of this document, please submit your comments prior to April 19, 1998. However, comments received after that date will still be welcome and will be considered for the next edition of this report.

DATES: The review draft will be available for comment on March 30, 1998. Comments are requested by April 20, 1998.

ADDRESSES: Send requests for a copy of the document to: Environmental Protection Agency, Climate Policy and Programs Division (2175), 401 M Street, SW., Washington, DC 20460, Fax : (202) 260–6405.

FOR FURTHER INFORMATION CONTACT: Mr. Wiley Barbour, Environmental Protection Agency, Office of Policy, Climate Policy and Programs Division, (202) 260–6972.

SUPPLEMENTARY INFORMATION: You may view the document referenced above on the US EPA's homepage at *www.epa.gov/globalwarming/inventory*. If you wish to send an email with your comments you may send the email to *barbour.wiley@epamail.epa.gov*.

Dated: April 8, 1998.

Robert M. Wolcott,

Acting Assistant Administrator for Policy.

[FR Doc. 98–9820 Filed 4–13–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5995–7]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Odessa Drum Site, Ector County, Texas with the following settling parties:

Keeling Petroleum
Texas Department of Transportation
Quaker Petroleum Chemical Company
Chem Tech Service, Inc.

The settlement require the settling parties to pay the following amounts to the Hazardous Substances Superfund. Keeling Petroleum ($30,014.41), Texas Department of Transportation ($131,085.89), Quaker Petroleum Chemical Company ($251,317.79), and Chem Tech Services, Inc. ($22,720.34). The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42 U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733.

DATES: Comments must be submitted on or before May 14, 1998.

ADDRESSES: The proposed settlement and additional background information relating to the settlements are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A Copy of the proposed settlement may be obtained from Carl Bolden, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6713. Comments should reference the Odessa Drum Superfund Site in Ector County, Texas and EPA Docket Number 6–12–97, and should be addressed to Carl Bolden at the address listed above.

FOR FURTHER INFORMATION CONTACT: Mike Boydston, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–7376.

Dated: April 3, 1998.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 98–9818 Filed 4–13–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5995–8]

Notice of Proposed Revisions to Approved Program to Administer the National Pollutant Discharge Elimination System Permitting Program in Pennsylvania Resulting in Part From Adoption of the Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notification is hereby given that the Environmental Protection Agency (EPA) has received for review and approval revisions to the National Pollutant Discharge Elimination System (NPDES) program in Pennsylvania. Most of the proposed revisions were adopted to comply with section 118(c) of the Clean Water Act and 40 CFR 132.4, although in some cases, the Commonwealth has also proposed revisions that are not related to those required by section 118(c) of the CWA and 40 CFR 132.4. EPA invites public comment on whether EPA should approve these revisions pursuant to 40 CFR 123.62 and 132.5.

DATES: Comments on whether EPA should approve the revisions to Pennsylvania's NPDES program must be received in writing by May 14, 1998.

ADDRESSES: Written comments on these documents may be submitted to Thomas J. Maslany, Director, Water Protection Division, Attn: Great Lakes Coordinator (3WP11), U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107. In the alternative, EPA will accept comments electronically. Comments should be sent to the following Internet E-mail address: sapp.charles@epamail.epa.gov. Electronic comments must be submitted in an ASCII file avoiding the use of special characters and any form of encryption. EPA will print electronic comments in hard-copy paper form for the official administrative record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) May 14, 1998.

Interested persons may request a public hearing regarding whether EPA should approve, pursuant to 40 CFR 123.62, and 132.5(g), those portions of the Commonwealth's submission that revise the Commonwealth's approved National Pollutant Discharge Elimination System (NPDES) permitting program. EPA will determine based on requests received if there is significant interest to warrant a public hearing. In making a finding of significant interest, EPA will consider the scope and content of comments received concerning those portions of the Commonwealth's submission that revise its approved NPDES permitting program. It should be noted that EPA is not soliciting comment on those portions of the Commonwealth's submission relating to the water quality criteria and methodologies, use designations or antidegradation, or on 40 CFR part 132 itself.

FOR FURTHER INFORMATION CONTACT: Charles W. Sapp, PA/DE Branch (3WP11), Office of Watersheds, Water Protection Division, U.S. Environmental Protection Agency, Region 3, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, or telephone him at (215) 566–5725.

Copies of the rules adopted by the Commonwealth, and other related materials submitted by the Commonwealth in support of these revisions, are available for review at: EPA, Region 3, 841 Chestnut Street, 13th Floor, Philadelphia, Pennsylvania; and Pennsylvania Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, Pennsylvania. To access the docket material in Philadelphia, call (215) 566–5725 between 8 a.m. and 4:30 p.m. (Eastern time) (Monday–Friday); in Meadville, call (814) 332–6942.

SUPPLEMENTARY INFORMATION: On March 23, 1995, EPA published the Final Water Quality Guidance for the Great Lakes System (Guidance) pursuant to section 118(c)(2) of the Clean Water Act, 33 U.S.C. 1268(c)(2). (March 23, 1995, 60 FR 15366). The Guidance, which was codified at 40 CFR part 132, requires the Great Lakes States to adopt and submit to EPA for approval water quality criteria, methodologies, policies and procedures that are consistent with the Guidance. 40 CFR 132.4 and 132.5. EPA is required to approve of the State's

submission within 90 days or notify the State that EPA has determined that all or part of the submission is inconsistent with the Clean Water Act or the Guidance and identify any necessary changes to obtain EPA approval. If the State fails to make the necessary changes within 90 days, EPA must publish a document in the **Federal Register** identifying the approved and disapproved elements of the submission and a final rule identifying the provisions of part 132 that shall apply for discharges within the State.

U.S. EPA has received the submission from Pennsylvania. The bulk of this submission consists of new, revised or existing water quality standards which EPA is reviewing for consistency with the Guidance in accordance with 40 CFR parts 131 and 132.5. EPA is not soliciting comment on those portions of this submission relating to the water quality criteria and methodologies, use designations or antidegradation. EPA also is not soliciting comment on the Guidance itself.

Instead, EPA is only requesting comment on whether it should approve, pursuant to 40 CFR 123.62, and 132.5(g), those portions of this submission that revise the Commonwealth's approved National Pollutant Discharge Elimination System (NPDES) permitting program. In most cases, these revisions relate to the following provisions of 40 CFR part 132, appendix F: Procedure 3 (''Total Maximum Daily Loads, Wasteload Allocations for Point Sources, Load Allocations for Nonpoint Sources, Wasteload Allocations in the Absence of a TMDL, and Preliminary Wasteload Allocations for Purposes of Determining the Need for Water Quality Based Effluent Limits''); Procedure 4 (''Additivity''); Procedure 5 (''Reasonable Potential''); Procedure 6 (''Whole Effluent Toxicity''); Procedure 7 (''Loading Limits''); Procedure 8: (''Water Quality-based Effluent Limitations Below the Quantification Level''); and Procedure 9 (''Compliance Schedules''). EPA is not soliciting comment on the Commonwealth's adoption of requirements pertaining to Implementation Procedure 1 (''Site Specific Modifications'') because those requirements constitute parts of the Commonwealth's water quality standards, not its NPDES program.

Under 40 CFR 123.62(b)(2) and 132.5(e), whenever EPA determines that a proposed revision to a State NPDES program is substantial, EPA must provide notice and allow public comment on the proposed revisions. The extent to which the States have modified their NPDES programs to be consistent with the Guidance varies significantly, depending on the extent to which their existing programs already were ''as protective as'' the implementation procedures in the Guidance. EPA has not conducted a State-by-State review of the submissions to ascertain for each State individually whether their changes constitute substantial program modifications. However, in light of the fact that the States have modified these programs in response to the explicit statutory mandate contained in section 118(c) of the Clean Water Act, EPA believes that it is appropriate to consider the NPDES component of the States' submission to be substantial program modifications, and therefore has decided to solicit public comment regarding those provisions.

Based on General Counsel Opinion 78–7 (April 18, 1978), EPA has long considered a determination to approve or deny a State NPDES program submission to constitute an adjudication because an ''approval,'' within the meaning of the APA, constitutes a ''license,'' which, in turn, is the product of an ''adjudication.'' For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* Under the RFA, whenever a federal agency proposes or promulgates a rule under section 553 (of the Administrative Procedures Act (APA)), after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule.

Even if the NPDES program modification were a rule subject to the RFA, the Agency would certify that approval of the State's modified program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve an NPDES program modification merely recognizes revisions to the program which have already been enacted as a matter of State law; it would, therefore, impose no additional obligations upon those subject to the State's program. Accordingly, the Regional Administrator would certify that this program modification, even if a rule, would not have a significant economic impact on a substantial number of small entities.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–9819 Filed 4–13–98; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Amendment to Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on April 6, 1998 (63 FR 16813) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for April 9, 1998. This notice is to amend the agenda by adding an item for a closed session of that meeting.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board were open to the public (limited space available), and parts of this meeting were closed to the public. The agenda for April 9, 1998, is amended by adding a closed session to read as follows:

Closed Session*

D. Report

—OSMO Report

Session Closed—Exempt pursuant to 5 U.S.C. 552b(c) (8) and (9).

Dated: April 9, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–9947 Filed 4–10–98; 12:10 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

April 7, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction

Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 14, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0444.

Title: 220 and 800 MHz Construction Letter.

Form No.: FCC Form 800A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit.

Number of Respondents: 11,500.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: N/A.

Total Annual Burden: 11,500 hours.

Needs and Uses: Licensees are required to provide this information to verify a station has been placed into operation. The form has been revised to clarify the types of uses of the form and frequency of use. Except under limited circumstances, certain Part 90 licenses may not be transferred or assigned unless the underlying facility is constructed. This form will also be used to determine compliance with the Commission's construction rules when this information is not available for either a previous submission, manual records, or currently in the licensing database.

OMB Control No.: 3060–0813.

Title: Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal governments.

Number of Respondents: 42,031 respondents; 125,996 responses.

Estimated Time Per Response: .25 - 20 hours (range).

Frequency of Response: Recordkeeping; third party disclosure; quarterly and one time reporting requirements.

Cost to Respondents: $7,050,000.

Total Annual Burden: 194,457 hours.

Needs and Uses: The Commission requested and received emergency OMB approval for several burdens placed on the wireless E911 industry and on government entities and phone systems. Most of these public burdens are one time rather than ongoing requirements, and are minimal to ensure the rapid implementation of the technologies needed to bring emergency help to wireless callers throughout the United States. The Commission is now seeking three year approval of this information collection.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–9700 Filed 4–13–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

April 6, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission.

OMB Control No.: 3060–0825.

Expiration Date: 10/31/98.

Title: Requirements for Toll Free Service Access Codes 888/877.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 370,430 respondents; 1 hour per response (avg.); 370,430 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; one time.

Description: On March 31, 1998, the Commission released an Order and Memorandum Opinion and Order, (CC Docket 95–155), FCC 98–48 (Fourth Report and Order) resolving how vanity numbers should be assigned. The Commission delegated authority to the Bureau to resolve those issues necessary for the assignment of the 888 set-aside vanity numbers and implementation of 877, including conservation plans, if needed on any or all toll free codes in use to prevent exhaust of toll free numbers before deployment of the next toll free code. The Commission concluded that vanity numbers in the 877 toll free code, and toll free codes beyond 877, shall be released and made available on a first-come, first-served basis as each toll free code is deployed. The Commission further concluded that 800 subscribers holding 800 vanity numbers that correspond to the 888 vanity numbers that were initially set aside shall be offered a right of first refusal to those 888 set-aside numbers. If the 800 subscriber refrains from exercising its option to reserve the corresponding 888 vanity number, that number shall be released and made available on a first-come, first-served basis. The 888 set-aside numbers are to be made available for assignment 90 days after the 877 code is deployed. This proceeding was initiated to ensure the promotion of efficient, fair, and orderly allocation and use of these limited numbering resources. In a letter order, the Bureau instructs DSMI to release 877 numbers into the general pool of available numbers on April 5, 1998 for reservation on a first-come, first-served basis. Further, the Bureau instructs DSMI to inform RespOrgs to notify their 800 subscribers of their right of first refusal of the set-aside 888 numbers. RespOrgs will have 15 days from the date of 877 deployment to notify customers of their rights of first refusal. These 800 subscribers will have 45 days to respond in writing to their RespOrgs. This means that these

subscribers must submit their written responses to their RespOrgs no later than 60 days from the date of 877 deployment. RespOrgs will then have 30 days to submit all required documentation to DSMI. This means that RespOrgs must submit to DSMI all required documentation no later than 90 days from the date of 877 deployment. If the 800 subscriber chooses to obtain the corresponding number in the 888 code, that number should be placed in the control of that 800 subscriber's RespOrg 90 days after the 877 code is deployed for assignment to that subscriber. We require DSMI to place that number in the control of the appropriate RespOrg only if it receives a letter within the proper time period from that RespOrg making that request along with a letter that the 800 subscriber sent to its RespOrg or Toll Free Service Provider expressing interest in obtaining that 888 number. If the 800 subscriber is not interested in obtaining the set-aside 888 number, that 888 number shall be released into the spare pool of available numbers, 90 days after deployment of 877, for assignment on a first-come, first-served basis. We require that DSMI release any 888 set-aside number into the spare pool of available numbers only if one of three events occur: 1) DSMI receives a letter from the RespOrg authorizing DSMI to release that particular 888 number along with a letter that the current 800 subscriber sent to its RespOrg or Toll Free Service Provider refusing that 888 number; 2) DSMI receives a letter from the RespOrg certifying that the RespOrg notified the 800 subscriber and the subscriber failed to respond within the required period of time; or 3) the 800 number corresponding to the 888 set-aside number is not assigned to a subscriber. Finally, the Bureau directs DSMI to place all ''877–555–XXXX'' numbers in unavailable status along with the ''888–555–XXXX'' numbers until the Commission has reached a decision on the issues related to the development of competitive directory assistance service. The Bureau has provided these requirements to assist DSMI in releasing the 888 vanity numbers pursuant to a right of first refusal and to ensure that toll free subscribers are given adequate notice and opportunity to reserve the numbers of their choice. In order to protect the interest of the involved parties, DSMI will not release any set-aside 888 number until it has received the authorizing letters from both the RespOrg and 800 number subscriber. Burden estimates for the information collection requirements are as follows: a. Notification to Subscribers by RespOrgs (number of respondents: 215; avg. burden per respondent: 1 hour; total annual burden: 215 hours); b. Letter and other documentation from RespOrgs to DSMI (number of respondents: 215; avg. burden per respondent: 1 hour; total annual burden: 215 hours); c. Letter from Subscribers to RespOrgs (number of respondents: 370,000; avg. burden per respondent: 1 hour; total annual burden: 370,000 hours). The requirements are necessary to ensure that toll free subscribers are given notice and opportunity to reserve numbers of their choice. Obligation to respond: Required. Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–9699 Filed 4–13–98; 8:45 am]

BILLING CODE 6712–01–F

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, DC 20573.

Townsend Logistics, Inc., 1177 NW., 81st Street, Miami, FL 33150, *Officer:* Neil M. Townsend, President

FirstAir, Inc., a/b/a/ Seamasters, 980 Lone Oak Road, Suite 323, Eagan, MN 55121, *Officers:* Richard McCrady, Jr., President, Mike Epperson, Executive Vice President

Dated: April 8, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–9731 Filed 4–13–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: *Background.* Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83–I and supporting statement and the approved collection of information instrument is being placed into OMB's public docket files.

FOR FURTHER INFORMATION CONTACT: Robert T. Maahs, Supervisory Financial Analyst (202/872–4935) or Tina Robertson, Supervisory Financial Analyst (202/452–2949) for information concerning the specific bank holding company reporting requirements. The following may also be contacted regarding the information collection:

1. Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)

2. OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7860)

SUPPLEMENTARY INFORMATION:

General Information

On January 29, 1998, the Board issued for public comment proposed revisions to certain bank holding company reports (63 FR 4450). The comment period expired on March 30, 1998. The Board of Governors received two comment letters pertaining to the Y–9C; neither letter addressed proposed revisions to the reports.

One bank holding company requested that the Federal Reserve raise the reporting threshold for filing

consolidated financial statements from $150 million to $200 million in consolidated assets. The Federal Reserve currently collects consolidated financial statements from approximately 1,450 bank holding companies with consolidated assets of $150 million or more. It also collects abbreviated, parent-only financial statements from more than 4,100 bank holding companies. The Federal Reserve reviews the reporting thresholds of its regulatory reports on a regular basis and has found that the current reporting requirements for bank holding companies are appropriate and provide the Federal Reserve with information necessary to meet its supervisory responsibilities.

Another bank holding company questioned why they were required to file detailed information pertaining to risk-based capital on the FR Y–9C report when they were not required to file such detailed information about risk-based capital on the commercial bank Report of Condition and Income (Call Report)(FFIEC 031–034; OMB No. 7100–0036) [1]. The Federal Reserve's risk-based capital guidelines apply on a consolidated basis to bank holding companies with consolidated assets of $150 million or more. Standardized data from all bank holding companies subject to the capital guidelines provide consistency in reporting and are necessary for analytical purposes. Furthermore, the risk-based capital information not separately reported by some banks on the Call Report must still be calculated by all banks in order to complete other mandatory regulatory capital items on the Call Report.

Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The FR Y–9 and FR Y–11 series of reports historically have been, and continue to be, the primary sources of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from these reports, are used to detect emerging financial problems, to review performance for pre-inspection analysis, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall supervisory responsibilities.

[1] A bank with total assets under $1 billion is not required to complete certain regulatory capital items if the bank has total capital greater than or equal to 8 percent of adjusted total assets.

Final Approval Under OMB Delegated Authority of the Revision of the Following Reports

1. Report title: Consolidated Financial Statements for Bank Holding Companies

Agency form number: FR Y–9C.
OMB control number: 7100–0128.
Frequency: Quarterly.
Reporters: Bank holding companies.
Annual reporting hours: 196,578.
Estimated average hours per response: Ranges from 5 to 1,250 hours.
Number of respondents: 1,457.
Small businesses are affected.
General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form. Data reported on the FR Y–9C, Schedule HC–H, Column A, requiring information on ''assets past due 30 through 89 days and still accruing'' and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y–9C consists of standardized financial statements similar to the Call Report. The FR Y–9C is filed quarterly by top-tier bank holding companies with total consolidated assets of $150 million or more and by lower-tier bank holding companies with total consolidated assets of $1 billion or more. In addition, multibank holding companies with total consolidated assets of less than $150 million with debt outstanding to the general public or engaged in certain nonbank activities must file the FR Y–9C.

The Board approved the following changes to the FR Y–9C effective with the March 31, 1998, reporting date to parallel changes to the Call Report.

Schedule HC–B, Part II—Trading Assets and Liabilities. Eliminate the separate reporting of item 6, ''Certificates of deposit in domestic offices,'' item 7, ''Commercial paper in domestic offices,'' and item 8, ''Bankers acceptances in domestic offices.'' Instead, existing items 6 and 8 will be included in existing item 9, ''Other trading assets in domestic offices.'' Commercial paper held for trading will begin to be reported as part of the bank holding company's trading account securities, in existing item 5, ''Other debt securities in domestic offices,'' consistent with the change in balance sheet classification of commercial paper not held for trading and the elimination of the loan schedule memorandum item for commercial paper, both of which took effect as of March 31, 1997.

Schedule HC–I—Risk-Based Capital. (1) Add an item for the reporting of the ''Maximum contractual dollar amount of recourse exposure in low level recourse transactions'' to allow respondents to report low level recourse for capital purposes under the ''direct reduction method.'' Currently, bank holding companies can only report their low level recourse transactions using the ''gross-up'' method. In general, the gross-up method requires the bank holding company to multiply the maximum amount of their recourse exposure by the reciprocal of the full effective minimum risk-based capital requirement for the assets transferred and to report the resulting dollar amount as an off-balance sheet credit equivalent amount in the risk weight category appropriate to the assets transferred. However, the greater the volume of a bank holding company's low level recourse transactions and the higher the bank holding company's risk-based capital in relation to the minimum requirement, the more the bank holding company's calculated risk-based capital ratios become distorted as a result of applying the gross-up method. In these situations, another method of handling the bank holding company's low level recourse transactions, the so-called direct reduction method, results in a more accurate measure of the bank holding company's risk-based capital ratios.

(2) Add two items to incorporate new capital requirements for the measurement of market risk. These items are: ''Market risk equivalent assets'' and ''Tier 3 Capital.'' In addition, include an item to report the amount of ''Tier 2 Capital.''

(3) Revise the caption of Item 3 of Part III to read ''Net risk-weighted assets (gross risk-weighted assets less excess allowance (amount that exceeds 1.25% of gross risk-weighted assets) and all other deductions).''

Allowance for Credit Losses. The American Institute of Certified Public Accountants' (AICPA) Industry Audit Guide for Banks and Savings Institutions, issued as of April 1, 1996, requires the allocation on the balance sheet of the allowance for credit losses between on-balance sheet financial instruments and off-balance sheet credit exposures. Previously, these allowance components often were reported in the aggregate in the allowance for loan and lease losses (ALLL).

Bank holding companies have been advised to allocate the allowance for credit losses on Schedule HC—Balance

Sheet consistent with their allocation methodology for other financial reporting purposes. For example, portions of the allowance for credit losses related to off-balance sheet exposures that are reported as liabilities are to be included in Schedule HC, item 23, ''Other liabilities.'' Bank holding companies have also been advised to aggregate these components of the allowance for credit losses when completing Schedule HI–B, Part II,—Allowance for Loan and Lease Losses. In addition, bank holding companies were advised to disclose the amounts of these components in the ''Notes to the Balance Sheet.''

The Federal Reserve will retain this methodology of reporting the allowance for credit losses. In doing so, Schedule HI–B, Part II will be retitled ''Allowance for Credit Losses,'' and item 4.a, of Schedule HI—Income Statement will be recaptioned ''Provision for credit losses.'' However, Schedule HI–B, Part I—Charge Offs and Recoveries on Loans and Leases will not be changed, that is, bank holding companies will continue to disclose their loan and lease charge-offs and recoveries only.

Schedule HI—Income Statement. Add a memorandum item to determine whether the bank holding company has made a Subchapter S selection for the purposes of the current tax year.

Instructions. Instructional revisions and clarifications will be made as necessary, particularly with respect to implementing certain deferred provisions of Financial Accounting Standards Board Statement No. 125, ''Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities,'' that become effective in 1998. Instructional revisions and clarifications will be done in accordance with changes made to the Call Report instructions and revisions, if any, to the Capital Guidelines.

2. Report title: Parent Company Only Financial Statements for Large Bank Holding Companies

Agency form number: FR Y–9LP.
OMB control number: 7100–0128.
Frequency: Quarterly.
Reporters: Bank holding companies.
Annual reporting hours: The changes are estimated to increase the annual reporting burden from 32,454 hours to 33,032 hours.
Estimated average hours per response: Range from 2.0 to 13.5 hours.
Number of respondents: 1,807.
Small businesses are affected.
General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y–9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y–9C. In addition, for tiered bank holding companies, a separate FR Y–9LP must be filed for each lower tier bank holding company.

The Board approved the following revisions to the FR Y–9LP effective with the March 31, 1998, reporting date.

Schedule PC–B—Memoranda. Revise item 9, ''Total combined nonbank assets of nonbank subsidiaries,'' and expand the information reported about nonbank subsidiaries. In addition, instructional clarifications will be made to the existing item related to combined nonbank assets of nonbank subsidiaries. Existing item 9 will be moved to a new item (item 15), and additional reporting items will be included.

However, all of these items will only be reported by the top-tier bank holding company in a multi-tier bank holding company. In addition to reporting the total combined nonbank assets of nonbank subsidiaries, the top-tier bank holding company will report separately the amount of combined thrift assets and the combined foreign subsidiary assets that are included in the total combined nonbank assets of nonbank subsidiaries. The top-tier bank holding company will also report the total number of nonbank subsidiaries that are included in the combined total assets, combined thrift, and combined foreign nonbank asset balances.

Schedule PI—Income Statement. Change item 2(c)(1), ''Provision for possible loan and lease losses'' to the ''Provision for credit losses'' to parallel the revision made to Schedule HI—Income Statement of the FR Y–9C.

Instructions. Instructional revisions and clarifications will be made as necessary, particularly with respect to the reporting of goodwill, negative goodwill, and other identifiable intangible assets on Schedule PC and Schedule PC–A.

3. Report title: Parent Company Only Financial Statements for Small Bank Holding Companies

Agency form number: FR Y–9SP.
OMB control number: 7100–0128.
Frequency: Semiannual.
Reporters: Bank holding companies.
Annual reporting hours: The changes are estimated to increase the annual reporting burden from 31,245 hours to 31,912 hours.
Estimated average hours per response: Range from 1.5 to 6.0 hours.
Number of respondents: 4,166.
Small businesses are affected.
General description of report: The information collection is mandatory 12 U.S.C. 1844 (b) and (c) and 12 CFR 225.5(b).

Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y–9SP is a parent company only financial statement filed on a semiannual basis by one-bank holding companies with total consolidated assets of less than $150 million, and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This report, an abbreviated version of the more extensive FR Y–9LP, is designed to obtain basic balance sheet and income statement information for the parent company, information on intercompany transactions, and data for capital adequacy evaluation.

The Board approved the following revisions to the FR Y–9SP effective with the June 30, 1998, reporting date.

Balance Sheet. Expand memorandum item 8 for the reporting of additional information about nonbank subsidiaries. Specifically, existing memorandum item 8 will be moved to memorandum item 16, and this item will be completed only by the top-tier bank holding company in a multi-tiered bank holding company. In addition, the top-tier bank holding company will disclose the combined thrift assets included in total combined nonbank assets, as well as the total number of nonbank entities (and separately the number of thrifts) that are included in the amount of total combined nonbank assets reported. Instructional clarifications will also be made to the existing item related to combined nonbank assets of nonbank subsidiaries.

Income Statement. Add a memorandum item to ask whether the bank holding company has made a Subchapter S selection for the purposes of the current tax year.

Instructions. Instructional revisions and clarifications will be made as necessary, particularly with respect to the reporting of goodwill, negative goodwill, and other identifiable intangible assets on the balance sheet.

Final Approval Under OMB Delegated Authority to the Extension for Three Years, With Revision, of the Following Reports:

1. Report title: Quarterly Financial Statements of Nonbank Subsidiaries of Bank Holding Companies

Agency form number: FR Y–11Q.
OMB control number: 7100–0244.
Frequency: Quarterly.
Reporters: Bank holding companies.
Annual reporting hours: 7,589.
Estimated average hours per response: Range from 3.0 to 8.0 hours.
Number of respondents: 306.
Small businesses are affected.
General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to most of the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form. FR Y–11Q, memorandum item 7.a, ''loans and leases past due 30 through 89 days'' and FR Y–11Q, memorandum item 7.d, ''loans and leases restructured and included in past due and nonaccrual loans'' are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y–11Q is filed quarterly by the top tier bank holding companies for each nonbank subsidiary of a bank holding company with total consolidated assets of $150 million or more in which the nonbank subsidiary has total assets of 5 percent or more of the top-tier bank holding company's consolidated Tier 1 capital, or where the nonbank subsidiary's total operating revenue equals 5 percent or more of the top-tier bank holding company's consolidated total operating revenue. The report consists of a balance sheet, income statement, off-balance-sheet items, information on changes in equity capital, and a memoranda section.

The Board approved the following minor revision to the FR Y–11Q effective with the March 31, 1998, reporting date.

Income Statement. Item 4, ''Provision for loan and lease losses'' will be changed to ''Provision for credit losses.'' This revision, which will parallel a proposed change to the FR Y–9C, will conform with the requirements of the American Institute of Certified Public Accountants' (AICPA) *Industry Audit Guide for Banks and Savings Institutions* that was issued as of April 1, 1996.

2. Report title: Annual Financial Statements of Nonbank Subsidiaries

Agency form number: FR Y–11I.
OMB control number: 7100–0244.
Frequency: Annual.
Reporters: Bank holding companies.
Annual reporting hours: 6,720.
Estimated average hours per response: Range from .4 to 8.0 hours.
Number of respondents: 2,100.
Small businesses are affected.
General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form. FR Y–11I, Schedule A, item 7.a, ''loans and leases past due 30 through 89 days'' and FR Y–11I, Schedule A, item 7.d, ''loans and leases restructured and included in past due and nonaccrual loans'' are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y–11I is filed annually by the top tier bank holding companies for each of their nonbank subsidiaries that are not required to file a quarterly FR Y–11Q. The FR Y–11I report consists of similar balance sheet, income statement, off-balance-sheet, and change in equity capital information that is included on the FR Y–11Q. In addition, the FR Y–11I also includes a loan schedule to be submitted only by respondents engaged in credit extending activities.

The Board approved the following minor revision to the FR Y–11I effective with the December 31, 1998, reporting date.

Income Statement. Item 4, ''Provision for loan and lease losses'' will be changed to ''Provision for credit losses.'' This revision, which will parallel a proposed change to the FR Y–9C, will conform with the requirements of the American Institute of Certified Public Accountants' (AICPA) *Industry Audit Guide for Banks and Savings Institutions* that was issued as of April 1, 1996.

Administrative Procedure Act

Because the data collections referred to herein are contained in a substantive rule, the Board has chosen to follow the more detailed notice and comment procedures of substantive rulemaking that are contained in the Administrative Procedure Act and the Paperwork Reduction Act. The Administrative Procedure Act (5 U.S.C. 553(d)) provides that the required publication or service of a substantive rule shall be made not less that 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule. The substantive changes to these reports are proposed to keep the reporting requirements consistent with those changes being incorporated in the Call Report to be filed by commercial banks as of March 31, 1998. In the past, bank holding companies have commented that the reporting burden is minimized by keeping the Call Report and the bank holding company reports consistent and by implementing the changes on the same date. Furthermore, the effective date of the revisions was published in the initial notice and no comments were received addressing the effective date. For these reasons, in accordance with 5 U.S.C. 553(d)(3), the Board finds there is good cause not to follow the 30-day notice requirements of 5 U.S.C. 553(d) and to make the implementation date for the revised FR Y–9C, FR Y–9LP, and FR Y–11Q reports effective for March 31, 1998.

Regulatory Flexibility Act Analysis

The Board certifies that the above bank holding company reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The reporting requirements for the small companies require significantly fewer items of data to be submitted than the amount of information required of large bank holding companies.

The information that is collected on the reports is essential for the detection of emerging financial problems, the assessment of a holding company's financial condition and capital adequacy, the performance of pre-inspection reviews, and the evaluation of expansion activities through mergers and acquisitions. The imposition of the reporting requirements is essential for the Board's supervision of bank holding companies under the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, April 9, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9847 Filed 4–13–98; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

Name: Employee Thrift Advisory Council.
Time: 10:00 a.m..
Date: April 29, 1998.
Place: 4th Floor, Conference Room, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC.
Status: Open..
Matters to be Considered:
1. Approve minutes of the September 16, 1997, meeting.
2. Report of the Executive Director on Thrift Savings Plan status.
3. November 15, 1997–January 31, 1998, Thrift Savings Plan Open Season.
4. Legislation.
5. New Business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 942–1600.

Dated: April 8, 1998.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 98–9764 Filed 4–1–98; 8:45 am]

BILLING CODE 6760–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of Correction for Location of April Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, the notice in the March 31 **Federal Register** (63 FR 15421) is hereby modified to change the location of the Federal Accounting Standards Advisory Board two-day meeting on Thursday, April 16 and Friday, April 17, 1998 to Room 4N30 (not 7C13 as previously announced) of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to discuss the following issues: (1) Management Discussion and Analysis, (2) Natural Resources, (3) Credit Reform proposed amendments, and (4) Internal use Software.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774, (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: April 10, 1998.

Wendy M. Comes,

Executive Director.

[FR Doc. 98–9977 Filed 4–10–98; 12:27 pm]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of a Cooperative Agreement With the Quality Education for Minorities Network

The Office of Minority Health (OMH), Office of Public Health and Science, (OPHS) announces that it will enter into an umbrella cooperative agreement with the Quality Education for Minorities (QEM) Network, a national organization which strives to improve the education for minorities throughout the nation. This cooperative agreement is an umbrella cooperative agreement and will establish the broad programmatic framework in which specific projects can be supported by various agencies during the project period.

The purpose of this cooperative agreement is to assist QEM in building alliances to meet the educational needs of minority students pursuing health related careers, developing programs to increase the number of minorities in the science field, especially the biomedical sciences, and implementing projects to develop model approaches for increasing the representation of minorities in the health related fields. The cooperative agreement will also assist QEM in forming linkages between students pursuing health related careers at minority college and university campuses and nearby low-income communities through outreach and/or community service activities.

The OMH will provide technical assistance and oversight as necessary for the implementation, conduct, and assessment of the project activities. On an as-needed basis, OMH will assist in arranging consultation from other Government agencies and non-governmental agencies.

Authorizing Legislation

This cooperative agreement is authorized under Title XVII, Section 1707(d)(1) of the Public Health Service Act.

Background

Assistance will be provided only to Quality Education for Minorities Network. No other applications are being solicited under this announcement. The Quality Education for Minorities Network is uniquely qualified to accomplish the objectives of this cooperative agreement because it has the following combination of factors:

- An extensive information and communications network at the national and local levels;
- A national catalyst to mobilize communities around needed local educational improvements, particularly in the field of science;
- Extensive experience in working with African American, Alaska Native, American Indian, and Latino/Hispanic individuals and groups to devise strategies and set organizational priorities;
- Experience in mobilizing minority individuals, community groups, and businesses to actively promote and support quality education in their neighborhoods; and
- Experience in working with minority colleges and universities in developing programs to improve education for minorities.

This cooperative agreement will be awarded for a 12-month budget period within a project period of 5 years. Depending upon the types of projects and availability of funds, it is anticipated that this cooperative agreement will receive approximately $50,000 to $100,000. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

The Catalog of Federal Domestic Assistance Number for this cooperative agreement is 93.004.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, contact Ms. Cynthia Amis, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852 or telephone (301) 594–0769.

Dated: April 1, 1998.

Clay E. Simpson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 98–9811 Filed 4–13–98; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0532]

Agency Information Collection Activities; Submission for OMB Review; Radioactive Drug Research Committees; 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 May 14, 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: 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: 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.

Radioactive Drug For Certain Research Uses—21 CFR 361.1—(OMB Control Number 0910–0053—Reinstatement)

Under sections 201, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 355, and 371), FDA has the authority to issue regulations governing the use of radioactive drugs for basic informational research. Section 361.1 (21 CFR 361.1) sets forth specific regulations regarding the establishment and composition of Radioactive Drug Research Committees and their role in approving and monitoring research studies utilizing radiopharmaceuticals. No Study involving any administration of a radioactive drug to research subjects is permitted without the authorization of an FDA approved Radioactive Drug Research Committee (§ 361.1(d)(7)). The type of research that may be undertaken with a radiopharmaceutical drug must be intended to obtain basic information and not carry out a clinical trial. The types of basic research permitted are specified in the regulation, and includes studies of metabolism, human physiology, pathophysiology, or biochemistry.

Section 361.1(c)(2) requires that each Radioactive Drug Research Committee shall select a chairman, who shall sign all applications, minutes, and reports of the committee. Each committee shall meet at least once each quarter in which research activity has been authorized or conducted. Minutes shall be kept and shall include the numerical results of votes on protocols involving use in human subjects. Under § 361.1(c)(3), each Radioactive Drug Research Committee shall submit an annual report to FDA. The annual report shall include the names and qualifications of the members of, and of any consultants used by the Radioactive Drug Research Committee, and for each study conducted during the preceeding year, using FDA Form 2915.

Under § 361.1(d)(5), each investigator shall obtain the proper consent required under the regulations. Each female research subject of childbearing potential must state in writing that she is not pregnant, or on the basis of a pregnancy test to be confirmed are present.

Under § 361.1(d)(8), the investigator shall immediately report to the Radioactive Drug Research Committee all adverse effects associated with use of the drug, and the committee shall then report to FDA all adverse reactions probably attributed to the use of the radioactive drug.

Section 361.1(f) sets forth labeling requirements for radioactive drugs. These requirements are not in the reporting burden estimate because they are information supplied by the Federal Government to the recipient for the purposes of disclosure to the public (5 CFR 1320.3(c)(2)). Types of research studies not permitted under this regulation are also specified, and include those ''intended for (the) immediate therapeutic, diagnostic, or similar purposes or to determine the safety and effectiveness of the drug in humans for such purposes (i.e., to carry out a clinical trial).'' These studies require filing of an investigational new drug application (IND) under 21 CFR 312.1 and the associated information collections are covered in OMB Approval 0910–0014.

The primary purpose of this collection of information is to determine if the research studies are being conducted in accordance with required regulations. If these studies were not reviewed, human subjects could be subjected to inappropriate radiation and/or safety risks.

Respondents to this information collection are chairperson(s) of each individual Radioactive Drug Research Committee, investigators, and participants in the studies.

The source of the burden estimates was a phone survey of three committee chairpersons who were selected from different geographical areas and of varying levels of Radioactive Drug Research Committee membership and activities. These chairpersons were asked for their assessment of time expended, cost, and views on completing the necessary reporting forms.

In the **Federal Register** of January 9, 1998 (63 FR 1484), the agency requested comments on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
361.1(c)(3)	FDA 2914	100	1.0	100	1.0	100
361.1(c)(3)	FDA 2915	62	3.5	217	3.75	814
361.1(d)(5)		62	3.5	217	0.1	22
361.1(d)(8)		62	3.5	217	0	0
Totals						936

[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	Form No.	No. of Recordkeepers	Annual Frequency per Recordkeeping	Hours per Recordkeeper	Total Hours
361.1(c)(2)	FDA 2914 and 2915	100	1 per qtr = 4 per yr	10	1,000
Total					1,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: April 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–9705 Filed 4–13–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0109]

Determination of Regulatory Review Period for Purposes of Patent Extension; LEVAQUIN™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for LEVAQUIN™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product LEVAQUIN™ (levofloxacin). LEVAQUIN™ is indicated for the treatment of adults (≥ 18 years of age) with mild, moderate, and severe infections caused by susceptible strains of the designated microorganisms in the conditions: Acute maxillary sinusitis due to *Streptococcus pneumoniae*, *Haemophilus influenzae*, or *Moraxella catarrhalis*; Community-acquired pneumonia due to *Staphylococcus aureus*, *S. pneumoniae*, *H. influenzae*, *H. parainfluenzae*, *Klebsiella pneumoniae*, *M. catarrhalis*, *Chlamydia pneumoniae*, *Legionella pneumophila*, or *Mycoplasma pneumoniae*; Uncomplicated skin and skin structure infections (mild to moderate) including abscesses, cellulitis, furuncles, impetigo, pyoderma, wound infections, due to *S. aureus* or *S. pyrogenes*; Complicated urinary tract infections (mild to moderate) due to *Enterococcus faecalis*, *Enterobacter cloacae*, *Escherichia coli*, *K. pneumoniae*, *Proteus mirabilis*, or *Pseudomonas aeruginosa*; Acute pyelonephritis (mild to moderate) caused by *E. coli*. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for LEVAQUIN™ (U.S. Patent No. 5,053,407) from Daiichi Pharmaceutical Co., Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 18, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of LEVAQUIN™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for LEVAQUIN™ is 2,059 days. Of this time, 1,693 days occurred during the testing phase of the regulatory review period, 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) became effective*: May 4, 1991. The applicant claims May 3, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was May 4, 1991, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the Federal Food, Drug, and Cosmetic Act*: December 21, 1995. FDA has verified the applicant's claim that the new drug application (NDA) for LEVAQUIN™ NDA 20–634 was initially submitted on December 21, 1995.

3. *The date the application was approved*: December 20, 1996. FDA has verified the applicant's claim that NDA 20–634 was approved on December 20, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension,

this applicant seeks 811 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 15, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 13, 1998, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–9703 Filed 4–13–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings 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: April 21, 1998.

Time: 3 p.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Rehana A. Chowdhury, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: April 27, 1998.

Time: 2 p.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis D. Artis, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: May 1, 1998.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

The meetings 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 meetings 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: April 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9715 Filed 4–13–98; 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; Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the National Institute of Neurological Disorders and Stroke (NINDS).

The National Advisory Neurological Disorders and Stroke Council meeting will be open to the public as indicated below. Attendance by the public will be limited to space available.

The meetings will be closed to the public as indicated below 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, 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.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific Review Administrator listed for the meeting.

Name of Committee: The Planning Subcommittee of the National Advisory Neurological Disorders and Stroke Council.

Date: May 27, 1998.

Place: National Institutes of Health, Building 31, Conference Room 8A28, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: 1:30 p.m. to recess.

Name of Committee: National Advisory Neurological Disorders and Stroke Council.

Date: May 28–29, 1998.

Place: National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 28, 8:30 a.m. to recess.

Agenda: A report by the Acting Director, NINDS; a report by the Director, Division of Extramural Activities, NINDS; a report by the Director, Office of Extramural Research, OD; and a scientific presentation by an NINDS grantee.

Closed: May 29, 8:30 a.m. to adjournment.

Executive Secretary: Constance W. Atwell, Ph.D., Director, Division of Extramural Activities, NINDS, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9248.

The following meetings will be totally closed to review and evaluate grant applications:

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group (Neurological Sciences and Disorders A).

Date: June 18–19, 1998.

Time: June 18, 8:30 a.m. to recess; June 19, 8:30 a.m. to adjournment.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.

Contact Person: Dr. Katherine Woodbury, Scientific Review Administrator, Scientific Review Branch, NINDS, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

Name of Committee: Training Grant and Career Development Review Committee.

Date: June 19, 1998.

Time: 8:00 a.m. to adjournment.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.

Contact Person: Dr. Alfred W. Gordon, Scientific Review Administrator, Scientific Review Branch, NINDS, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group (Neurological Sciences and Disorders B).

Date: June 25–26, 1998.

Time: June 25, 8:00 a.m. to recess. June 26, 8:00 a.m. to adjournment.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, N.W., Washington, DC 20037.

Contact Person: Dr. Paul Sheehy, Scientific Review Administrator, Scientific Review Branch, NINDS, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: June 29–30, 1998.

Time: June 29, 8:00 a.m. to recess. June 30, 8:00 a.m. to adjournment.

Place: Embassy Suites Hotel, 1250 22nd Street, N.W., Washington, DC 20037.

Contact Person: Dr. Alan Willard, Scientific Review Administrator, Scientific Review Branch, NINDS, National Institutes of Health, Federal Building, Room 9C–10, Bethesda, MD 20892, (301) 496–9223.

(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: April 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9716 Filed 4–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences Initial Review Group (IRG) meeting:

Name of IRG: Minority Access to Research Careers (MARC) Subcommittee.

Date: June 11–12, 1998.

Time:

June 11–8:30 a.m.–5:00 p.m.
June 12–8:30 a.m.–adjournment.

Place: National Institutes of Health, Natcher Conference Center, Conf. Room B, Bethesda, Maryland 20892.

Contact Person: Dr. Richard Martinez, Scientific Review Administrator, NIGMS, Natcher Building—Room 1AS–19G, Bethesda, Maryland 20892, Telephone: 301–594–2849.

Purpose/Agenda: To evaluate and review research training grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers (MARC); and 93.375, Minority Biomedical Research Support (MBRS)], National Institutes of Health)

Dated: April 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9717 Filed 4–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting.

Name of SEP: Clinical Trial.

Date: April 27, 1998.

Time: 8:00 a.m.–adjournment.

Place: Washington Dulles Hilton Hotel, 13869 Park Center Road, Herndon, Virginia 20171.

Contact Person: Tommy Broadwater, Ph.D., Chief, Grants Review Branch, Natcher Building, Room 5AS25U, Bethesda, Maryland 20892, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review a grant application.

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 this application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: April 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9718 Filed 4–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, a amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: April 28, 1998 (Telephone Conference).

Time: 1:30 P.M.

Place of Meeting: Willco Building, 6000 Executive Boulevard, Suite 409, Rockville, MD 20892–7003.

Contact Person: Mark R. Green, Ph.D., 6000 Executive Boulevard, Suite 409, Rockville MD 20892–7003, 301–443–4375.

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.

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 Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: April 6, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9719 Filed 4–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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:

Purpose/Agenda: To review and evaluate a grant application.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: April 10, 1998 (Telephone Conference).

Time: 10:00 A.M.

Place of Meeting: Willco Building, 6000 Executive Boulevard, Suite 409, Rockville, MD 20892–7003.

Contact Person: Elsie Taylor, 6000 Executive Boulevard, Suite 409, Rockville, MD 20892–7003, 301–443–9787.

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.

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 Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: April 6, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9720 Filed 4–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Propose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: April 16–17, 1998.

Time: 8:30 a.m.

Place: Holiday Inn-Georgetown, Washington, DC.

Contact Person: Dr. Calbert Laing, Scientific Review Administrator, 6701 Rockledge Drive, Room 4204, Bethesda, Maryland 20892, (301) 435–1221.

Name of SEP: Chemistry and Related Sciences.

Date: April 21, 1998.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 5150, Telephone Conference.

Contact Person: Dr. Zakir Bengali, Scientific Review Administrator, 6701 Rockledge Drive, Room 5150, Bethesda, Maryland 20892, (301) 435–1742.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Clinical Sciences.

Date: May 8, 1998.

Time: 10:30 p.m.

Place: NIH, Rockledge 2, Room 4136, Telephone Conference.

Contact Person: Dr. Gordon Johnson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4136, Bethesda, Maryland 20892, (301) 435–1212.

Name of SEP: Multidisciplinary Sciences.

Date: June 5, 1998.

Time: 8:00 p.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Dharam Dhindsa, Scientific Review Administrator, 6701 Rockledge Drive, Room 5206, Bethesda, Maryland 20892, (301) 435–1174.

Name of SEP: Behavioral and Neurosciences.

Date: June 22–23, 1998.

Time: 8:30 p.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Ralph Nitkin, Scientific Review Administrator, 6701 Rockledge Drive, Room 5184, Bethesda, Maryland 20892, (301) 435–1184.

Name of SEP: Behavioral and Neurosciences.

Date: June 29–30, 1998.

Time: 8:30 p.m.

Place: Ramada Inn, Rockville, MD.

Contact Person: Dr. Joe Marwah, Scientific Review Administrator, 6701 Rockledge Drive, Room 5188, Bethesda, Maryland 20892, (301) 435–1253.

The meetings will be closed in accordance with the provisions set forth in Section 552(b)(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: April 7, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9721 Filed 4–13–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of five Substance Abuse and Mental Health Services Administration (SAMHSA) advisory committees (SAMHSA National Advisory Council, Center for Substance Abuse Treatment National Advisory Council, Center for Substance Abuse Prevention National Advisory Council, Center for Mental Health Services National Advisory Council, and the Advisory Committee for Women's Services) in May, 1998.

There will be a combined session of the committees in an open session which will include discussions of policy and program issues; the SAMHSA Reauthorization; the Fiscal Year 1999 Budget; Knowledge Development and Application Grants; welfare reform issues for populations served by SAMHSA; parity of substance abuse and mental health services; and future policy and program directions at SAMHSA. Attendance by the public will be limited to space available. Public comments are welcome, and interested persons may present information or views, orally or in writing, on issues pending before the committees. Those desiring to make formal presentations should contact Dr. Mary C. Knipmeyer, Acting Associate Administrator for Policy and Program Coordination, SAMHSA, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland 20857, prior to April 20, 1998, and submit a brief statement of: the general nature of the information or arguments they wish to present, the names, addresses, and telephone number of proposed participants, identification of organizational affiliation, and an indication of the approximate time required to make their comments. Time for presentations may be limited by the number of requests. Photocopies, up to five pages of material, may be distributed at the meeting through the Executive Secretary, if provided by April 20. If anyone needs special

accommodations for persons with disabilities, please notify the Contact listed below.

A summary of the meeting and/or a roster of committee members may be obtained from: LeVonne Key, Committee Management Assistant, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone (301) 443–4266, e-mail: lkey @samhsa.gov.

Substantive program information and information pertaining to special accommodations for persons with disabilities may be obtained from the Contact whose name and telephone number are listed below.

Committee Names: Substance Abuse and Mental Health Services Administration, National Advisory Council, Center for Substance Abuse Treatment National Advisory Council, Center for Substance Abuse Prevention National Advisory Council, Center for Mental Health Services National Advisory Council, Advisory Committee for Women's Services.

Meeting Date: May 4, 1998.

Place: Washington National Airport Hilton, Decatur and Farragut Ballrooms, 2399 Jefferson Davis Highway, Arlington, Virginia.

Open: May 4: 8:30 a.m. to 6:00 p.m.

Contact: Toian Vaughn, Executive Secretary, Parklawn Building Room 17–89, Telephone (301) 443–4266 and FAX (301) 443–1587 and email: tvaughn@samhsa.gov.

In addition, the Center for Substance Abuse Treatment (CSAT) National Advisory Council will hold an individual meeting. The meeting will include the review, discussion and evaluation of individual grant applications. Therefore the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2 section 10(d).

A summary of the meeting and roster of CSAT Council members may be obtained from: Mrs. Marjorie Cashion, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: May 3, 1998.

Place: Washington National Airport Hilton, Decatur and Farragut Ballrooms, 2399 Jefferson Davis Highway, Arlington, Virginia.

Closed: May 3, 1998, 6:00 p.m.–6:30 p.m.

Contact: Mrs. Marjorie Cashion, Executive Secretary, Rockwall II Building, Room 619, Telephone: (301) 443–8923 and FAX: (301) 480–6077.

In addition, the Center for Substance Abuse Prevention (CSAP) National Advisory Council will hold an individual meeting. The agenda will include the review, discussion and evaluation of individual contract proposals and discussion of information about the Center's procurement plans. Therefore, a portion of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3),(4), and (6) and 5 U.S.C. App. 2, section 10(d). The agenda of the open portion will include presentations of CSAP programs, reports on the CSAP National Prevention System Regional Meetings, the Secretary's Youth Substance Abuse Prevention Initiatives, CSAP Budget and Year 2000 Planning, discussions of administrative matters and announcements, and reports by workgroups of the SAMHSA National Advisory Council and the CSAP National Advisory Council. Please notify the Contact listed below to make arrangements to comment or to request special accommodations for persons with disabilities.

A summary of the meeting and roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II Building Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–8455.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Dated: May 5, 1998.

Place: Washington National Airport Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia.

Closed: May 5, 1998, 8:30 a.m.–9:30 a.m.

Open: May 5, 1998, 9:30 a.m.–5:30 p.m.

Contact: Yuth Nimit, Ph.D., Executive Secretary, Rockwall II Building, Suite 901, Telephone (301) 443–8455.

In addition, the Center for Mental Health Services (CMHS) National Advisory Council will hold an individual meeting. The agenda will include the presentation and discussion of information about the Center's procurement plans. Therefore, a portion of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3) and 5 U.S.C. App. 2, section 10(d).

The agenda of the open portion will include general announcements and discussions and advice on issues and initiatives relevant to the policy and operation of CMHS/SAMHSA. Public comments are welcome during this open session. Please notify the Contact listed below to make comments or if to request special accommodations for persons with disabilities.

A summary of the meeting and roster of committee members may be obtained from Ms. Patricia Gratton, Committee Management Officer, CMHS, Parklawn Building, Room 11C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–7987.

Committee Name: Center for Mental Health Services National Advisory Council.

Date: May 5, 1998.

Place: Washington National Airport Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia.

Closed: May 5, 1998, 8:30 a.m.–8:45 a.m.

Open: May 5, 1998, 8:45 a.m.–5:00 p.m.

Contact: Anne Matthews-Younes, Ed.D., Executive Secretary, Room 18C–05, Parklawn Building, Telephone (301) 443–0554 and FAX (301)443-7912.

In addition, the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council will hold an individual meeting. The agenda will include the review, discussion and evaluation of individual contract proposals as well as a discussion of information about the Agency's procurement plans. Therefore, a portion of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3),(4), and (6) and 5 U.S.C. App. 2, section 10(d).

The agenda of the open portion will include general announcements, a status report by the Council's workgroup on Data, and a discussion of other SAMHSA program and policy issues. Attendance by the public will be limited to space available. Public comments are welcome during the open session. Please communicate with the individual listed as Contact below to make comments or to request special accommodations for persons with disabilities.

A summary of the meeting and roster of committee members may be obtained from LeVonne Key, Committee Management Specialist, Parklawn Building Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4266.

Committee Name: Substance Abuse and Mental Health Services National Advisory Council.

Date: May 5, 1998.

Place: Washington National Airport Hotel, Dewey Rooms I and II, 2399 Jefferson Davis Highway, Arlington, Virginia.

Closed: May 5, 1998, 8:30 a.m.–10:00 a.m.

Open: May 5, 1998, 10:15 a.m.–12:00 p.m.

Contact: Toian Vaughn, Executive Secretary, Parklawn Building, Room 17–89, Telephone (301) 443–4266 and FAX (301)443–1587 and e-mail: tvaughn@samhsa.gov.

Dated: April 8, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–9701 Filed 4–13–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Geological Survey

RD Instruments Inc.; Proposed Cooperative Research and Development Agreement (CRADA) Negotiations

AGENCY: Geological Survey, Interior.

ACTION: Notice of proposed cooperative research and development agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development (CRADA) with RD Instruments, Inc. to develop software modules compatible with RD Instruments, Inc. Transect for Windows that will make the BB–ADCP easier to use and the data collected more reliable. Any others wishing to pursue the

possibility of a CRADA for similar activities should contact the U.S. Geological Survey no later than 30 days from the publication of this notice.

FOR FURTHER INFORMATION CONTACT: David S. Mueller, U.S. Geological Survey, Water Resources Division, 9818 Bluegrass Parkway, Louisville, KY 40299; telephone (502) 493–1935; fax (502) 493–1909; email dmueller@usgs.gov.

Robert M. Hirsch,

Chief Hydrologist.

[FR Doc. 98–9795 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU–74804]

Notice of Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155. Notice is hereby given that at 1:00 p.m., May 14, 1998, certain coal resources in lands hereinafter described in Carbon County, Utah will be offered for competitive lease by sealed bid of $100.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (41 Stat. 437). However, no bid will be accepted for less than fair market value as determined by the authorized officer. A company or individual is limited to one sealed bid. If a company or individual submits two or more sealed bids for this tract, all of the company's or individual's bids will be rejected.

This lease is being offered for sale under the provisions set forth in the regulations for Leasing on Application at 43 CFR 3425.

The lease sale will be held in the Bureau of Land Management Conference Room, 324 South State Street, Suite 302, Salt Lake City, Utah, at 1:00 p.m. on May 14, 1998. At that time, the sealed bids will be opened and read. No bids received after 10:00 a.m., May 14, 1998, will be considered.

Coal Offered: The coal resources to be offered consist of all recoverable reserves available in the following described lands located in Carbon County, Utah, approximately 15 miles northwest of Price, Utah:

T. 13 S., R. 8 E., SLM, Utah
Sec. 6, SESW, S2SE, NWSE;
Sec. 7, lots 1–3, E2, E2W2;
Sec. 8, SWNE, NWNW, S2NW, N2SW, SWSW, W2SE;
Sec. 17, N2NW, SWNE;
Sec. 18, NENE.

Containing 1,288.49 acres.

One economically recoverable coal bed, the Hiawatha Seam is found in this tract. The seam averages 6.7 feet in thickness. This tract contains an estimated 6.3 million tons of recoverable high volatile B bituminous coal.

The estimated coal quality using weighted averages of samples on an as-received basis is:

12,328: BTU/lb.;
6.72: Percent moisture;
0.53: Percent sulphur;
6.17: Percent ash;
45.09: Percent fixed carbon;
42.17: Percent volatile matter.

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods, and 8 percent of the value of coal mined by underground methods. The value of coal shall be determined in accordance with BLM Manual 3070.

Notice of Availability: Bidding instructions are included in the Detailed Statement of Lease Sale. A copy of the detailed statement and the proposed coal lease are available by mail at the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155 or in the Public Room (Room 400), 324 South State Street, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in the Public Room (Room 400) of the Bureau of Land Management.

Dated: April 8, 1998.

Robert Lopez,

Acting Deputy State Director, Natural Resources.

[FR Doc. 98–9773 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–1990–00]

Resource Advisory Council Meeting, Butte, Montana

AGENCY: Butte District Office, Bureau of Land Management, DOI.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 9 AM, Wednesday, May 20, 1998. Issues to be discussed include the Whitetail/Pipestone off-road vehicle alternatives and BLM's two-tier system. A field trip is tentatively planned to the Tailpipe area.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 AM. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (PO Box 3388), Butte, Montana 59702–3388, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: Jim Owings at the above address or telephone number.

Dated: April 3, 1998.

Michele D. Good,

Acting District Manager.

[FR Doc. 98–9791 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–070–1320–01]

Notice of Intent for a 30-Day Comment Period on the Draft (Proposed) Amendment to the Farmington RMP, Invitation for Public Involvement and Call for Information on Coal, and Other Minerals and Resources; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Farmington Field Office, has prepared a Draft of the Resource Management Plan Amendment (RMP) and Environmental Assessment (EA) for BLM-managed Federal Minerals in San Juan County, New Mexico. The Code of Federal Regulations, Title 43, Subpart 1600 (43 CFR 1600) will be followed in the preparation of this plan amendment.

The public is invited to participate in this land use plan amendment effort. Written comments or suggested additional issues will be accepted through May 19, 1998. This notice is to

solicit comment on coal resources information and indications of other interest and needs pursuant to 43 CFR 3420.1–2, for inclusion in the Farmington RMP Amendment. Coal companies, other mineral extraction companies, state and local governments, and the general public are encouraged to submit information to the BLM to assist in the review of the draft determination of coal development potential and possible conflicts with other resources. If this information is determined to indicate development potential, further consideration for leasing will be given.

DATES: April 8, 1998.

ADDRESSES: Comments to be included with the draft document should be sent to: Bureau of Land Management, 1235 La Plata Highway, Suite A, Farmington, New Mexico 87401. Proprietary data should be identified as such to ensure confidentiality.

FOR FURTHER INFORMATION CONTACT: Robert Moore, Farmington District, 505–599–6311.

SUPPLEMENTARY INFORMATION: The draft Farmington RMP amendment will include the federal coal lease application located in T. 30 N., R. 14 W., in San Juan County, about six miles west of Farmington, New Mexico. The property proposed to be leased contains approximately 4,480 acres and is described as follows:

T. 30 N. R. 14 W., N.M.P.M.
Sec. 17: All
Sec. 18: All
Sec. 19: All
Sec. 20: All
Sec. 29: All
Sec. 30: All
Sec. 31: N½, N½S½, Lots 1 through 4.

The issue addressed by this draft RMP amendment effort is coal leasing and the development within the coal lease. Industry and other interested parties are asked to provide any information that will be useful in meeting the requirements of the Federal Coal Management Program as defined in 43 CFR Part 3420, including a review of the applicable coal planning screens. Information resulting from comments submitted to the BLM will be utilized in the draft finalization and implementation and to determine the potential for coal development and conflicts with other resources within the 4,480-acre tract and any other tracts that may be determined to have additional interest.

Lands already considered in the Farmington RMP, adopted in July 1988, need not be addressed.

The issue of federal coal leasing and development include:

1. Determining areas acceptable for further coal leasing consideration with standard stipulations.
2. Determining areas acceptable for consideration with special stipulations.
3. Determining areas unacceptable for further coal leasing consideration.

The BLM will apply the coal developmental potential, applicable unsuitability criteria, multiple use conflict and consultation screens in order to make these determinations.

The type of information needed includes, but is not limited to, the following:

1. Location.
a. Federal coal tracts desired by mining companies should include a narrative description with areas delineated on a map with a scale of not less than ½-inch to the mile.
b. Descriptions of both public and private industry coal users in the general region.
2. Quantity needs (tonnage, dates) for both public and private industry coal users and coal developers.
3. Quality needs (by type and grade) for end users of the coal.
4. Coal reserve drilling data which may pertain to the planning area.
5. Information relating to surface and mineral ownership:
a. Surface owner consent previously granted, whether consent is transferrable, surface owner leases with coal companies.
b. Non-federal or fee coal ownership adjacent to federal tracts currently leased or mined.
6. Other resource values occurring within the planning area which may conflict with coal development:
a. Describe the resource value and locate it on a map with a scale of not less than ½-inch to the mile.
b. State the reasons the particular resource would conflict with coal development. Any individual, business entity or public body may participate in this process by providing coal or other resource information under this call. This planning issue is presented for public comment and is subject to change based upon such public comment. Comments should be received by Close of Business, May 19, 1998. Public involvement is welcome throughout the amendment process. A formal public hearing/public meeting will be held on May 6, 1998 at 7:00 p.m. at the BLM office at 1235 La Plata Highway, Farmington, New Mexico to provide the public an opportunity to participate in this Draft Amendment effort.

Complete records of all phases of the planning process will be available for review and comment at the Bureau of Land Management, Farmington Office, 1235 La Plata Highway, Farmington, New Mexico.

The final RMP amendment documents will be available upon request.

John A. Phillips,
Acting Manager.

[FR Doc. 98–9911 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(MT–926–08–1420–00)

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Principal Meridian, Montana

T. 6 N., R. 40 E.

The plat, containing the entire survey record, representing the dependent resurvey of portions of the subdivisional lines and the adjusted original meanders of the former left bank of the Yellowstone River, and the survey of a portion of the new meanders of the present left bank of the Yellowstone River, downstream through section 22, and certain division of accretion lines in section 22, Township 6 North, Range 40 East, Principal Meridian, Montana, was accepted March 30, 1998.

This survey was requested by the Miles City District Office. A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filing, the filing will be stayed pending consideration of the protest. This particular plat will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: April 3, 1998.

Daniel T. Mates,
Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 98–9747 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01: N–60594]

Notice of Public Meeting on Proposed Withdrawal of Public Lands; Carson City, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: A public meeting/open house to discuss the proposed withdrawal of approximately 18,595 acres of public lands located in Carson City, Nevada, has been scheduled for May 20, 1998.

SUMMARY: Bureau of Land Management staff will be available in the Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada, to discuss and receive comments on the proposed withdrawal between 3:00 p.m. and 5:00 p.m. on May 20, 1998. This will be the final date to receive comments on the proposed withdrawal. This meeting is held in accordance with the regulations set forth in 43 CFR 2300. The withdrawal has been proposed for a period of 20 years to protect scenic, recreation, wildlife and watershed values located in the open and mountainous terrain surrounding the Carson City urban area. The lands are currently closed from settlement, sale, location, and entry under the general land laws, including the mining laws. A land use plan amendment which addresses management of public lands within the Carson City urban interface has been completed and approved. Jointly prepared by Carson City and the Bureau of Land Management, Carson City Field Office, the plan amendment identifies areas within the Carson City urban interface where public lands will be retained in public ownership; areas where public lands would be available for acquisition by State or local agencies or the private sector; and how public lands will be managed. Further details can be obtained by contacting Chuck Pope, Realty Specialist, at (702) 885–6000

Dated this 7th day of April, 1998.

Clifford D. Ligons,

Assistant District Manager, Carson City Field Office.

[FR Doc. 98–9771 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

National Park Service

Intention to Renew Concession Permit—Channel Islands National Park, Lake Mead National Recreation Area, Pinnacles National Monument, Whiskeytown Unit Whiskeytown-Shasta-Trinity National Recreation Area

SUMMARY: The National Park Service intends to renew a limited concession permit for a period of four years and eleven months at the following four national park areas; Channel Islands National Park, Lake Mead National Recreation Area, Pinnacles National Monument, Whiskeytown Unit Whiskeytown-Shasta-Trinity National Recreation Area. The limited service provided to the visitors at the above locations is accomplished through the Southwest Parks and Monuments cooperating association outlets. These are independent operations and provide the visitors with limited convenience items indicative to the needs of the visitors or in conjunction with items being sold under the cooperative association authorization at each park. The amount of sales are relativity small. The service is restricted to a limited number of items, ranging from 1–5 items, and would not be profitable as a free standing business. The current operator has performed satisfactory and this administrative action is pursuant to the provisions of section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20 *et esq*) and 36 CFR 51.4 and 51.5.

SUPPLEMENTARY INFORMATION: Inquiries may be directed to Mr. Mac Foreman, Office of Concession Program Management at (415) 427–1368.

Dated: April 3, 1998.

John J. Reynolds,

Regional Director, Pacific West Region.

[FR Doc. 98–9814 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contract Negotiations; Gateway National Recreation Area, MA; Recreational Vehicle Park and Campground Facilities Operation

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing the operation of a recreational vehicle park and campground facilities for the public within the Gateway National Recreation Area for a period of approximately fifteen (15) years from date of contract execution.

EFFECTIVE DATE: July 13, 1998.

ADDRESSES: Interested parties should contact National Park Service, Boston Support Office, Concession Management Program, 15 State Street, Boston, MA 02109–3572 ATTN: Lynne Koser, Telephone (617) 223–5209, to obtain a copy of the prospectus describing the requirements of the proposed contract. The cost for each prospectus is $50.00. Checks or money orders, made payable to the National Park Service, should be sent to the above address.

SUPPLEMENTARY INFORMATION: This campground was recognized in the General Management Plan approved in 1979, further planned and impact analyzed by draft Development Concept Plan-Environmental Assessment, 1980–82, resulting in a Record of Decision of April 22, 1983, (completing National Environmental Policy Act compliance) and final Development Concept Plan of August, 1983.

There is no existing concessioner. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal must be received by the National Park Service, Boston Support Office, Concession Management Program, 15 State Street, Boston, Massachusetts 02109–3572, not later than the ninetieth (90th) day following publication of this notice to be considered and evaluated.

Dated: March 19, 1998.

Terry Savage,

Acting Regional Director, Northeast Region.

[FR Doc. 98–9816 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Winter Use Plans, Environmental Impact Statement, Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway, Wyoming

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Intent to prepare an environmental impact statement for the Winter Use Plans, Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway.

SUMMARY: Under the provisions of the National Environmental Policy Act

(NEPA), the National Park Service is preparing an environmental impact statement (EIS) for the Winter Use Plans for Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway. This statement will be approved by John Cook, Intermountain Regional Director, National Park Service.

Winter visitation in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway is currently managed under a joint Winter Use Plan approved in 1990. Winter use in Yellowstone has increased dramatically from virtually none 30 years ago to more than 140,000 visits per season in the early 1990s. The rapid increase in winter visitation has raised concerns regarding a number of issues. These include, but are not limited to, impacts on natural resources, wildlife, noise and air pollution, crowding, availability of facilities and services, use restrictions, user group conflicts, and the importance of winter visitation to the local and regional economy.

The objective for the Winter Use Plans is to provide future winter visitors in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway with a full range of quality winter use experiences and settings from highly developed to primitive. These recreational experiences will be offered in an appropriate location or setting; they will not take place where they will adversely impact sensitive natural resources, wildlife, cultural areas, or the experiences of other park visitors. In order to ensure the safety of all park visitors and employees, conflicts between different types of user groups will be minimized. Finally, winter recreation within Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr., Memorial Parkway should complement or remain subordinate to the unique aspects of each landscape within the ecosystem.

The Winter Use Plans will define specific resource conditions and visitor experiences that are to be achieved and maintained over time. The parks will be subdivided into meaningful geographic management units or zones. The kinds and levels of visitor use, management activities and development that are appropriate for each unit will be identified. The articulation of desired conditions is particularly important since it is the resulting condition, not the action, that is the basis for decision making. Identifying the desired resource condition and visitor experience provides the framework or parameters for establishing and monitoring visitor capacities. The qualitative terms identified in the plans will then be translated into quantitative standards over time during monitoring and implementation. Generally speaking, decision making in this planning effort will be focused on desired resource conditions and experiences rather than on the details of how they should be achieved.

The environmental impact statement will document the possible effects of a full range of plan scenarios that satisfy the above purpose and need for action.

Public Information

In 1994 the National Park Service and the U.S. Forest Service began to work on a coordinated interagency report on winter visitor use management. The interagency planning team produced a draft report on the results of their work in the summer of 1997. The preliminary report, Winter Visitor Use Management: A Multi-Agency Assessment (1997) was on public review from June through September 1997. In addition to soliciting written comments, the team held a series of eight public meetings throughout the Greater Yellowstone Area from February through May 1996. The issues and concerns identified in the interagency planning process will be carried forward to the Winter Use Plans and EIS.

Additional public open houses or workshops will be held in the summer of 1998. These workshops will be advertised through press releases, park information media and public notices (details will be available upon request via the contacts listed below). A series of newsletters will also be published at key points during the progress of the document.

The States of Idaho, Montana and Wyoming, as well as Teton County, Wyoming; Park County, Wyoming; Fremont County, Idaho; Park County, Montana; Gallatin County, Montana and the U.S. Forest Service have been invited to participate in the NEPA process as cooperating agencies. The National Park Service is the lead agency on this project.

A scoping brochure will be prepared that details the issues identified to date. Copies of that information can be obtained via the contact listed below.

Comments: All individuals, organizations, agencies or entities that are interested in or may be affected by the proposed plans are encouraged to share comments about issues or concerns that should be addressed during the environmental impact statement process. Written comments concerning the Winter Use Plans and EIS should be postmarked no later than ninety (90) days from the publication of this notice. Written comments on the Winter Use Plans or EIS should be addressed to Winter Use Plan, Planning Office, Box 168, Yellowstone National Park, Wyoming 82190. Telephone inquiries regarding public meetings may be directed to the contacts listed below.

FOR FURTHER INFORMATION: Contact Planning Office, Box 168, Yellowstone National Park, Wyoming 82190, (307) 344–2024 or Planning Office, Box 170, Grand Teton National Park, Moose, Wyoming 83012, (307) 739–3486.

Information may also be obtained via the Internet at www.nps.gov/yell/winteruseplan/htm

Dated: April 9, 1998.

Abigail Miller,

Deputy Associate Director, Natural Resource Stewardship and Science.

[FR Doc. 98–9817 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 4, 1998. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 29, 1998.

Beth Savage,

Acting Keeper of the National Register.

ALABAMA

Clarke County

Clarke Mills (Clarke County MPS), 301 W. Church St., Jackson, 98000411

Grove Hill Courthouse Square Historic District (Clarke County MPS), Roughly along Cobb, Court, Jackson, and Main Sts., Grove Hill, 98000410

Whatley Historic District (Clarke County MPS), Roughly along Whatley Rd., from Grove Hill to the RR tracks, Whatley, 98000409

NEW YORK

Tioga County

Silk Street Bridge (Newark County MPS), Silk St., over E Branch of Owego Cr., Newark Valley, 98000430

PENNSYLVANIA

Westmoreland County

Aluminum Club (Aluminum Industry Resources of Southwestern Pennslyvania MPS), 200 Freeport Rd., New Kensington, 98000412

Aluminum Research Laboratories (Aluminum Industry Resources of Southwestern Pennslyvania MPS), Freeport Rd., New Kensington, 98000413

SOUTH CAROLINA

Allendale County

Colding—Walker House, SC 52, Appleton, 98000415

Anderson County

Woodson Farmstead, 3 Powdersville Rd., Greenville, 98000422

Charleston County

Lucas Family Cemetery, Ellen Dr., Mt. Pleasant, 98000425

Dorchester County

St. Paul Camp Ground, 940 St. Paul Rd., Harleyville vicinity, 98000424

Georgetown County

Peasant Hill Consolidated School, 11957 Pleasant Hill Dr., Hemingway vicinity, 98000421

Greenville County

Paris Mountain State Park Historic District (South Carolina State Parks MPS), 2401 State Park Rd., Greenville vicinity, 98000416

Greenwood County

Mays, Benjamin, Birthplace, 0.1 mi NW of jct. of US 179 and Scott Ferry Rd., Epworth vicinity, 98000414

Jasper County

White Hall Plantation House Ruins and Oak Avenue, Address Restricted, Ridgeland vicinity, 98000423

Lexington County

Robinson—Hiller House, 113 Virginia St., Chapin, 98000420

McCormick County

Lower Long Cane Associate Reformed Presbyterian Church, SC 33–36, 4 mi. W of Troy, Troy vicinity, 98000426

Richland County

Curtiss—Wright Hangar, 1400 Jim Hamilton Blvd., Columbia, 98000418

Ladson Presbyterian Church, 1720 Sumter St., Columbia, 98000419

Price, George R., House, 3000 Forest Dr., Columbia, 98000417

TEXAS

El Paso County

Fort Bliss Main Post Historic District, Fort Bliss, El Paso, 98000427

Harris County

Logue House, 1101 Milford, Houston, 98000428

Tarrant County

Guinn, James E., School, 1200 South Freeway, Fort Worth, 98000429

VERMONT

Windham County

Crows Nest, 36 Sturgis Dr., Wilmington, 98000431

WASHINGTON

Snohomish County

Butler—Jackson House, 1703 Grand Ave., Everett, 98000432

WISCONSIN

Dane County

Smith, Adam and Mary, House, 3427 US–151, Sun Prairie, 98000434

Manitowoc County

Heins, Carl Gottlieb, House, 324 Fremont St., Keil, 98000433

WYOMING

Fremont County

Lander Public School, Jct. of Sixth and Garfield, Lander, 98000435

A removal request is made for the following property:

PENNSYLVANIA

Erie County

SS NIAGARA (Freighter), Erie Sand and Gravel Co., foot of Sassafrass St., Erie, 87001255

A proposed move is made for the following property:

MINNESOTA

Hennepin County

Schubert, Sam S., Theatre, 22 Seventh St., N., Minneapolis, 95001230

Move to;

MINNESOTA

Hennepin County

Hennepin Ave., between 6th and 5th Sts., N., Minneapolis, 95001230

[FR Doc. 98–9780 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Natural Park Service

Availability of Draft Wild and Scenic River Eligibility Report for the Lumber River, North Carolina

AGENCY: National Park Service, Interior.

ACTION: Publication of draft report for public comment.

SUMMARY: The National Park Service is publishing for public review and comment a draft study report on designating the Lumber River, North Carolina, into the National Wild and Scenic Rivers System. The National Park Service has found that the Lumber River, North Carolina (from the headwaters at State Route 1412/1203 to the Scotland/Robeson County lines and from Jacob Branch to the North Carolina/South Carolina border) is eligible for the national system and is recommending that this section of the river be designated.

DATES: Comments must be postmarked by May 22, 1998.

ADDRESSES: Copies of the draft report are available for public inspection at: National Park Service, Southeast Regional Office, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303; National Park Service, 1849 C Street, NW, Washington, DC 20240–0001. Hours of availability are between 8:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Additional copies for review are located in the Columbus County Library, Whiteville, North Carolina, Hoke County Library, Raeford, North Carolina, Mary Livermore Library, Pembroke, North Carolina, Robeson County Library, Lumberton, North Carolina and Scotland County Library, Laurinburg, North Carolina; during normal hours of operation. Copies of the draft report may be obtained from Mary Rountree, National Park Service, Southeast Regional Office, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia, 30303, 404–562–3175.

Comments should be directed to the National Park Service, Southeast Regional Office, attention Mary Rountree at the address above.

FOR FURTHER INFORMATION CONTACT: Mary Rountree, National Park Service, Southeast Regional Office, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303, (404) 562–3175.

SUPPLEMENTARY INFORMATION: On April 15, 1996, North Carolina Governor James Hunt petitioned the Secretary of the Interior to add 115 miles of the Lumber River to the National Wild and Scenic Rivers System. The section of river under consideration extends from the headwaters at State Route 1412/1203 to the North Carolina/South Carolina border. Under section 2(a)(ii) of the National Wild and Scenic Rivers Act (Pub. L. 90–542, as amended), the Secretary has the authority to add a river to the National System at the request of a state, provided the state has met certain prior conditions and the river meets eligibility criteria, based upon an evaluation of natural and cultural resources.

These conditions are:

(1) The river must have been designated as a component of a states

wild or scenic rivers system by, or pursuant to, an act of the legislature of that state.

(2) Management of the river must be administered by an agency or political subdivision of the state, except for those lands administered by an agency of the Federal government.

(3) The river meets National Wild and Scenic River eligibility criteria, that is, that the river is free-flowing and possesses one or more outstanding resources of significance to the region or nation.

(4) There must be effective mechanisms and regulations in place—local, state or federal—to provide for the long-term protection of those resources for which the river was deemed eligible.

Upon the request of a state governor to the Secretary of the Interior, the National Park Service, acting for the Secretary, undertakes an evaluation of the state's request.

As a result of the evaluation, the National Park Service has concluded that the following requirements that were fully met for all 115 miles of the Lumber River include: (1) Designation of the river into a State wild and scenic river system; (2) management of the river by a political subdivision of the State; and (3) possession of eligibility criteria common to all national wild and scenic rivers.

However, 51 miles (from the Scotland/Robeson County lines to Jacob Branch) of the 115-mile nomination failed to fully meet the fourth requirement, existence of effective local and State mechanisms and regulations to protect the Lumber River without federal management. The National Park Service is recommending that this reach be designated if and when the state of North Carolina and local jurisdictions develop a management plan that affords future protection of the river in accordance with the National Wild and Scenic Rivers Act.

The National Park Service recommends that the Lumber River, from State Route 1412/1203 (River Mile 0) to the Scotland/Robeson County lines at the end of the Maxton Airport Swamp (River Mile 22) and from Jacob Branch (River Mile 73) to the North Carolina/South Carolina border (River Mile 115) be included in the National Wild and Scenic River System. The National Park Service recommends that the following segments of the Lumber River be classified as scenic: State route 1412/1203 to the Scotland/Robeson County lines, Jacob Branch to the upstream town limit of Fair Bluff, and the downstream town limit of Fair Bluff to the North Carolina/South Carolina border. The National Park Service recommends that the segment of the Lumber River within the town limits of Fair Bluff be classified as recreational.

Dated: April 6, 1998.

Robert Stanton,

Director, National Park Service.

[FR Doc. 98–9815 Filed 4–13–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Hicks, Muse, Tate & Furst Incorporated and Capstar Broadcasting Partners, Inc. and SFX Broadcasting, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the Eastern District of New York in *United States* v. *Hicks, Muse, Tate & Furst Incorporated and Capstar Broadcasting Partners, Inc. and SFX Broadcasting, Inc.* Civil Action No. 98–2422. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

Plaintiff filed a civil antitrust Complaint on March 31, 1998, alleging that the proposed acquisition of SFX Broadcasting, Inc. (''SFX'') by Capstar Broadcasting Partners, Inc. (''Capstar'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Capstar or its related entity Chancellor Media Corporation, (''Chancellor''), and SFX own and operate numerous radio stations throughout the United States, and the proposed transaction would give defendants or Chancellor a significant share of the radio advertising market in Greenville, SC, Houston, TX, Jackson, MS, Pittsburgh, PA and Suffolk County, NY. As a result, the combination of these radio stations would lessen competition substantially in the sale of radio advertising time in the Greenville, Houston, Jackson, Pittsburgh and Suffolk areas.

The prayer for relief seeks: (a) An adjudication that Capstar's proposed acquisition described in the complaint would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed transaction; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits Capstar to complete its transactions with SFX, yet preserves competition in the markets in which the transactions would raise significant competitive concerns. A Stipulation and Order and a proposed Final Judgment embodying the settlement were filed at the same time the Complaint was filed.

Unless the plaintiff grants a time extension, the proposed Final Judgment orders Capstar to divest either within six months after the filing of the complaint or within five (5) business days after notice of entry of the Final Judgment, whichever is later, radio stations WESC–FM, WESC–AM, WJMZ–FM, WTPT–FM in Greenville, SC, KKPN–FM in Houston, TX, WJDX–FM in Jackson, MS and WTAE–AM in Pittsburgh, PA. The proposed Final Judgment also orders Capstar to divest either within three months after the filing of the Complaint or within five (5) business days after notice of entry of the Final Judgment, whichever is later, radio stations WBLI–FM, WBAB–FM, WGBB–AM and WHFM–FM in Suffolk, NY. If Capstar does not divest the stations described above within the divestiture period, the Court shall, upon plaintiff's application, appoint a trustee to sell the assets. The proposed Final Judgment also requires Capstar to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, WESC–FM, WESC–AM, WJMZ–FM, WTPT–FM, KKPN–FM, WJDX–FM, WTAE–AM, WBLI–FM, WBAB–FM, WGBB–AM and WHFM–FM will be operated independently as a viable, ongoing business, and kept separate and apart from defendants' other radio stations located in those areas. Further, the proposed Final Judgment requires defendants to give plaintiff prior notice regarding future radio station acquisitions or certain agreements pertaining to the sale of radio advertising time in the Greenville-Spartanburg, SC, Houston, TX, Jackson, MS, Pittsburgh, PA and Suffolk County, NY areas.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies available to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, 1401 H Street,

N.W., Suite 4000, Washington, D.C. 20530 (telephone: (202) 307–0001). Copies of the Complaint, Stipulation and Order, proposed Final Judgment and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, D.C. 20530 (telephone: (202) 514–2481) and at the office of the Clerk of the United States District Court for the Eastern District of New York, United States Courthouse, 2 Uniondale Avenue, Uniondale, New York 11553.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations & Merger Enforcement, Antitrust Division.

United States District Court for the Eastern District of New York

United States of America, Plaintiff, v. Hicks, Muse, Tate & Furst Incorporated, and Capstar Broadcasting Partners, Inc., and SFX Broadcasting, Inc., Defendants. Hon. J. Seybert/M. Orenstein. Civil Action No. CV 98 2422.

Stipulation and Order

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

(1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the Eastern District of New York.

(2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

(3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an Order of the Court.

(4) Defendant Capstar agrees that the transactions contemplated by Letter Agreement dated February 20, 1998, between Chancellor and Capstar, when consummated, will require Capstar to obtain from Chancellor a commitment to be bound to the provisions of the Final Judgment pursuant to Section III(B).

(5) The parties recognize that there could be a delay in obtaining approval by or a ruling of a government agency related to the divestitures required by Section IV of the Final Judgment, notwithstanding the good faith efforts of the defendants and any prospective Acquirer, as defined in the Final Judgment. In this circumstance, plaintiff will, in the exercise of its sole discretion, acting in good faith, give special consideration to forebearing from applying for the appointment of a trustee pursuant to Section V of the Final Judgment, or from pursuing legal remedies available to it as a result of such delay, provided that: (i) Defendants have entered into one or more definitive agreements to divest the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets, as defined in the Final Judgment, and such agreements and the Acquirer or Acquirers have been approved by plaintiff; (ii) All papers necessary to secure any governmental approvals and/or rulings to effectuate such divestitures (including but not limited to FCC, SEC and IRS approvals or rulings) have been filed with the appropriate agency; (iii) Receipt of such approvals are the only closing conditions that have not been satisfied or waived; and (iv) Defendants have demonstrated that neither they nor the prospective Acquirer or Acquirers are responsible for any such delay.

(6) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(7) In the event plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(8) Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Dated: March 31, 1998.

For Plaintiff United States of America

Asuncion Cummings (AC–1850),

U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20005.

For Defendants Capstar Broadcasting Partners, Inc., and Hicks, Muse, Tate & Furst, Incorporated

Neil Imus (NI–3536),

Vinson & Elkins, L.L.P., 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

For Defendant SFX Broadcasting, Inc.

David A. Clanton (DC–2683),

Baker & McKenzie, 815 Connecticut Avenue, N.W., Washington, D.C. 20006–4078.

SO ORDERED

Dated, _____, New York, 1998.

_____

United States District Judge

Certificate of Service

I hereby certify that, on this 31st day of March, 1998, I caused to be served by hand delivery a copy of the foregoing proposed Final Judgment and Stipulation and Order upon the following:

David A. Clanton, Baker & McKenzie, 815 Connecticut Avenue, N.W., Washington, D.C. 20006–4078

Neil Imus, Vinson & Elkins, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004

Asuncion Cummings

United States District Court for the Eastern District of New York

United States of America, Plaintiff v. Hicks, Muse, Tate & Furst Incorporated, and Capstar Broadcasting Partners, Inc., and SFX Broadcasting, Inc., Defendants. Hon. J. Seybert/M. Orenstein. Civil Action No. CV 98 2422.

Final Judgment

Whereas, plaintiff, the United States of America, filed its Complaint in this action on March 31, 1998, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without the Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the purpose of this Final Judgment is prompt and certain divestiture of certain assets to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to plaintiff that the divestitures ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ordered, adjudged, and decreed as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants Hicks, Muse, Tate & Furst Incorporated (Hicks Muse), Capstar Broadcasting Partners, Inc. (Capstar), and SFX Broadcasting, Inc. (SFX), as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''Capstar'' means defendant Capstar Broadcasting Partners, Inc., a Delaware corporation with its headquarters in Austin, Texas, and includes its predecessors, successors and assigns, divisions, subsidiaries, companies, groups, partnerships and joint ventures that Capstar controls, directly or indirectly, and their directors, officers, managers, agents and representatives, and their respective successors and assigns.

B. ''Chancellor'' means Chancellor Media Corporation (successor in interest to Chancellor Media Company, Inc.), a Delaware corporation with its headquarters in Irving, Texas, and includes its predecessors, successors and assigns, divisions, subsidiaries, companies, groups, partnerships and joint ventures that Chancellor controls, directly or indirectly, and their directors, officers, managers, agents and representatives, and their respective successors and assigns.

C. ''SFX'' means defendant SFX Broadcasting, Inc., a Delaware corporation with its headquarters in New York, New York, and includes its predecessors, successors and assigns, divisions, subsidiaries, companies, groups, partnerships and joint ventures that SFX controls, directly or indirectly, and their directors, officers, managers, agents and representatives, and their respective successors and assigns.

D. ''Hicks Muse'' means Hicks, Muse, Tate & Furst Incorporated, an investment firm headquartered in Dallas, Texas, its domestic and foreign parents, predecessors, divisions, subsidiaries, partnerships and joint ventures that Hicks Muse controls, directly or indirectly, and all directors, officers, employees, agents and representatives of the foregoing.

E. ''Greenville Assets'' means all of the assets, tangible or intangible, used respectively in the operation of the WESC 92.5 FM radio station in Greenville, South Carolina; the WESC 660 AM radio station in Greenville, South Carolina; the WJMZ 107.3 FM radio station in Anderson, South Carolina; and the WTPT 93.3 FM radio station in Forest City, North Carolina; including but not limited to: all real property (owned or leased) used in the operation of each station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property or improvements used in the operation of each station; all licenses, permits and authorizations and applications therefor issued by the Federal Communications Commission (''FCC'') and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

F. ''Houston Assets'' means all of the assets, tangible or intangible, used in the operation of the KKPN 102.9 FM radio station in Houston, Texas, including but not limited to: all real property (owned or leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property or improvements used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

G. ''Jackson Assets'' means all of the assets, tangible or intangible, used in the operation of the WJDX 96.3 FM radio station in Jackson, Mississippi, including but not limited to: All real property (owned or leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property or improvements used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

H. ''Pittsburgh Assets'' means all of the assets, tangible or intangible, used in the operation of the WTAE 1250 AM radio station in Pittsburgh, Pennsylvania, including but not limited to: All real property (owned or leased) used in the operation of that station; all broadcast equipment, personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property or improvements used in the operation of that station; all licenses, permits and authorizations and applications therefor issued by the FCC and other governmental agencies relating to that station; all contracts, agreements, leases and commitments of defendants pertaining to that station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to that station; and all logs and other records maintained by defendants or that station in connection with its business.

I. ''The SFX Long Island Assets'' means all of the assets, tangible or intangible, used in the operation of the SBLI 106.1 FM radio station in Patchogue, Long Island, New York; the WBAB 102.3 FM radio station in Babylon, Long Island, New York; the WHFM 95.3 FM radio station in Southampton, Long Island, New York; and the WGBB 1240 AM radio station in Freeport, New York; including but not limited to: all real property (owned or leased) used in the operation of each station; all broadcast equipment,

personal property, inventory, office furniture, fixed assets and fixtures, materials, supplies and other tangible property or improvements used in the operation of each station; all licenses, permits, authorizations, and applications therefor issued by the FCC and other governmental agencies related to each station; all contracts, agreements, leases and commitments of defendants pertaining to each station and its operations; all trademarks, service marks, trade names, copyrights, patents, slogans, programming materials and promotional materials relating to each station; and all logs and other records maintained by defendants or each station in connection with its business.

J. ''Greenville Area'' means the Greenville-Spartanburg, South Carolina area, as identified by the Spring 1997 Arbitron Radio Market Report for Greenville-Spartanburg.

K. ''Houston Area'' means the Houston, Texas area, as identified by the Spring 1997 Arbitron Radio Market Report for Houston, Texas.

L. ''Jackson Area'' means the Jackson, Mississippi area, as identified by the Spring 1997 Arbitron Radio Market Report for Jackson, Mississippi.

M. ''Pittsburgh Area'' means the Pittsburgh, Pennsylvania area, as identified by the Spring 1997 Arbitron Radio Market Report for Pittsburgh, Pennsylvania.

N. ''Suffolk Area'' means the Nassau-Suffolk area, as identified by the Spring 1997 Arbitron Radio Market Report for Nassau and Suffolk Counties in New York.

O. ''Hicks Muse Radio Station'' means any radio station owned, operated, or controlled by Chancellor, Capstar, SFX or Hicks Muse and licensed to a community in the Greenville, Houston, Jackson or Pittsburgh areas, or broadcasting from a transmitter site located in Nassau-Suffolk Area.

P. ''Non-Hicks Muse Radio Station'' means any radio station that is licensed to a community in the Greenville, Houston, Jackson or Pittsburgh Areas, or broadcasting from a transmitter site located in the Nassau-Suffolk Area, and is not a Hicks Muse Radio Station.

Q. ''Acquirer'' means the entity or entities to whom defendants divest the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets under this Final Judgment.

R. ''LMA'' means the Local Marketing Agreement that Chancellor and SFX entered into on or about July 1, 1996, as part of their July 1, 1996 asset exchange agreement whereby SFX agreed to exchange its four Long Island-based radio stations for Chancellor's two Jacksonville, Florida radio stations and an additional $11 million.

III. Applicability

A. The provisions of this Final Judgment apply to each of the defendants, their successors and assigns, subsidiaries, their directors, officers, managers, agents and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of the assets used in their business of owning and operating radio stations in the Greenville area, the Houston area, the Jackson area, the Pittsburgh area or the Nassau-Suffolk area, that the respective acquiring party of parties agree to be bound, as a successor or assign, by the provisions of this Final Judgment, provided, however, that defendants need not obtain such an agreement from an Acquirer.

C. The term ''sale or other disposition'' used in paragraph (B) of this Section shall include in whole or in part, without limitation, any agreement (such as Local Marketing Agreement or Joint Sales Agreement) pursuant to which another entity has the right to operate, program or sell advertising time on a radio station in the relevant Area.

IV. Divestitures

A. Hicks Muse and Capstar are hereby ordered and directed, in accordance with the terms of this Final Judgment, within six (6) months after the filing of the complaint in this action, or within five (5) business days after notice of entry of this final judgment, whichever is later, to divest the Greenville Assets, the Houston Assets, the Jackson Assets, and the Pittsburgh Assets to one or more Acquirers acceptable to plaintiff in its sole discretion.

B. Hicks Muse and Capstar are hereby ordered and directed, in accordance with the terms of this Final Judgment, within three (3) months after the filing of the complaint in this action, or within five (5) business days after notice of entry of this final judgment, whichever is later, to divest the SFX Long Island Assets to one or more Acquirers acceptable to plaintiff in its sole discretion.

C. Defendants shall use their best efforts to divest the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets, and to obtain all regulatory approvals necessary for such divestitures, as expeditiously as possible. Plaintiff, in its sole discretion, may extend the time period for the divestitures for two (2) additional thirty (30)-day periods of time, not to exceed sixty (60) calendar days in total.

D. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability for sale of the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets. Defendants shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of the Final Judgment. Defendants shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets customarily provided in a due diligence process, except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to plaintiff at the same time that such information is made available to any other person.

E. Defendants shall permit prospective purchasers of the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets to have access to personnel and to make such inspection of the assets, and any and all financial, operational or other documents and information customarily provided as part of a due diligence process.

F. Unless plaintiff otherwise consents in writing, the divestitures pursuant to Section IV of this Final Judgment, or by the trustee appointed pursuant to Section V, shall include all the Greenville Assets, Houston Assets, Jackson Assets, Pittsburgh Assets, and SFX Long Island Assets, and shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets can and will be used by an Acquirer or Acquirers as viable, ongoing commercial radio businesses. The divestitures, whether pursuant to Sections IV or V of this Final Judgment, shall be made (I) to an Acquirer or Acquirers that in plaintiff's sole discretion, has or have the capability and intent of competing effectively, and has or have the managerial, operational and financial capability to compete effectively as

radio station operators in the Greenville, Houston, Jackson, Pittsburgh or Nassau-Suffolk Areas, as the case may be, and intends in good faith to continue the operations of the radio station as were in effect in the period immediately prior to the filing of the complaint in this action (unless any significant change in the operations planned by the acquirer is accepted by the plaintiff in its sole discretion); and (ii) pursuant to agreements the terms of which shall not, in the sole judgment of plaintiff, interfere with or otherwise diminish the ability of the purchaser(s) to compete effectively against defendants.

G. Defendants shall not interfere with any efforts by any Acquirer or Acquirers to employ the general manager or any other person working at any of the Greenville, Houston, Jackson, Pittsburgh, or SFX Long Island Assets.

V. Appointment of Trustee

A. In the event that defendants have not divested the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by plaintiff to effect the divestiture of the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets described in Section II of this Final Judgment. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the plaintiff, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiff and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VII of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the assets to be divested, and defendants shall develop financial or other information relevant to the assets to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall permit prospective acquirers of the assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the assets to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the assets to be divested.

F. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by plaintiff.

VI. Preservation of Assets

Until the divestitures of the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets and the SFX Long Island Assets, as required by Section IV of the Final Judgment, have been accomplished:

A. Prior to the consummation of Capstar's acquisition of SFX, defendants shall maintain the independence of their respective radio station operations in the Areas, and following the consummation of Capstar's acquisition of SFX, defendants shall take all steps necessary to operate the Greenville Assets, the Houston Assets, the Jackson Assets, and the Pittsburgh Assets as separate, independent, ongoing, economically viable and active competitors to defendants' other stations in the Greenville, Houston, Jackson, or Pittsburgh Areas, respectively, and shall take all steps necessary to insure that, except as necessary to comply with Section IV and paragraphs B and C of this Section of the Final Judgment, the management of said Assets, including the performance of decision-making functions regarding marketing and pricing, will be kept separate and apart from, and not influenced by, defendants.

B. Defendants shall use all reasonable efforts to maintain and increase sales of advertising time by the Greenville, Houston, Jackson, and Pittsburgh Assets, and shall maintain at 1997 or previously approved levels for 1998, whichever are higher, promotional advertising, sales, marketing and merchandising support for said stations.

C. Defendants shall take all steps necessary to ensure that the assets used in the operation of the Greenville, Houston, Jackson, and Pittsburgh Assets, are fully maintained. Sales and marketing employees shall not be transferred or reassigned to any other station, except for transfer bids initiated by employees pursuant to defendants' regular, established job posting policies, provided that defendants give plaintiff and Acquirer ten (10) days' notice of any such transfer.

D. Defendants shall use their best efforts, consistent with their rights and obligations under the LMA, to cause the SFX Long Island Assets to be operated in a manner consistent with the obligations in paragraphs B and C of this Section; provided, however, that, in the event the LMA is terminated, paragraphs A, B and C of this Section shall apply fully to the operation of the SFX Long Island Assets by or on behalf of defendants.

E. Defendants shall not, except as part of a divestiture approved by plaintiff, in its sole discretion, or a transfer to a trust approved by the FCC, also approved by plaintiff, in its sole discretion, sell any Greenville Assets, Houston Assets, Jackson Assets, Pittsburgh Assets or SFX Long Island Assets.

F. Defendants shall take no action that would jeopardize the sale of the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets.

G. Defendants shall appoint a person or persons to oversee the Assets to be held separate and who will be responsible for defendants' compliance with Section VI of this Final Judgment.

VII. Notification

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestitures pursuant to Section IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify plaintiff of the proposed divestitures. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets, as the case may be, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may request from defendants, the proposed purchaser or purchasers, or any other third party, additional information concerning the proposed divestitures and the proposed purchaser. Defendants and the trustee shall furnish any additional information from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiff has been provided the additional information requested from defendants, the proposed purchaser or purchasers, and any third party, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff provides written notice to defendants and the trustee that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser or upon objection by the plaintiff, a divestiture proposed under Sections IV or V may not be consummated. Upon objection by defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VIII. Financing

Defendants are ordered and directed not to finance all or any part of any purchase by an Acquirer made pursuant to Sections IV or V of this Final Judgment, without the prior written consent of plaintiff.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of this Final Judgment and every thirty (30) calendar days thereafter until the divestitures have been completed whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of their compliance with Section IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entering into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, and the SFX Long Island Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit a buyer or buyers for the Greenville Assets, the Houston Assets, the Jackson Assets, the Pittsburgh Assets, or the SFX Long Island Assets, as the case may be.

B. Within twenty (20) calendar days of the filing of the complaint in this action, defendants shall deliver to plaintiff an affidavit which describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an on-going basis to preserve Greenville, Houston, Jackson, and Pittsburgh Assets, and the SFX Long Island Assets, pursuant to Section VI of this Final Judgment. Defendants shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in their earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after such change is implemented.

C. Defendants shall preserve all records of efforts made to preserve the assets to be divested and effect the divestitures.

X. Notice

A. Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the ''HSR Act''), defendants, without providing advance notification to the plaintiff, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in any Non-Hicks Muse Radio Station, or would transfer the power to market or sell advertising time or to establish advertising prices for Hicks Muse Radio Stations in an Area to any other owner or operator of Non-Hicks Muse Radio Station.

B. Defendants, without providing advance notification to the plaintiff, shall not directly or indirectly enter into any agreement or understanding (including a Local Marketing Agreement (''LMA'') or Joint Sales Agreement (''JSA'')), that would allow defendants to market or sell advertising time or to

establish advertising prices for any Non-Hicks Muse Radio Station.

C. The notification obligations required by paragraphs (A), (B), or (E) of this Section X shall not apply to defendants with respect to an Area at such time as there are no Hicks Muse Radio stations in that Area, provided that the provisions of Section III have been complied with.

D. Notification described in Section X (A) and (B) or (E) shall be provided to the United States Department of Justice in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5–9 of the instructions must be provided only with respect to radio stations owned or operated by defendants in the Area or Areas in which the notifiable transaction takes place. Notification shall be provided at least thirty (30) days prior to acquiring any such interest covered in (A) or (B) above, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the Department make a written request for additional information, defendants shall not consummate the proposed transaction or agreement until twenty (20) days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder.

E. Hicks Muse shall notify plaintiff in writing (or arrange for Chancellor to provide such notification) ten (10) days prior to (I) consummation of any direct or indirect acquisition of a Non-Hicks Muse Radio Station by Chancellor, or (ii) entry into force of any agreement or understanding (including an LMA or JSA), that would allow Chancellor to market or sell advertising time or to establish advertising prices for any Non-Hicks Muse Radio Station.

F. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XI. Compliance Inspection

For the purpose of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the plaintiff, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to their principal offices, shall be permitted:

(1) Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, directors, officers, employees and agents of defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in the Final Judgment as may be requested.

C. No information or documents obtained by the means provided in Section IX or this Section XI shall be divulged by any representative of plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which plaintiff is a party (including grand jury proceedings), or for the purpose of securing complinance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by either defendant to plaintiff, and such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such defendant is not a party.

XII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIV. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____ 1998.

_____

United States District Judge

United States District Court for the Eastern District of New York

United States of America, Plaintiff, v. Hicks, Muse, Tate & Furst Incorporated, and Capstar Broadcasting Partners, Inc., and SFX Broadcasting Partners, Inc., Defendants. Hon. J. Seybert/M. Orenstein. Civil Action No. CV 98 2422.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The plaintiff filed a civil antitrust Complaint on March 31, 1998, alleging that a proposed acquisition of SFX Broadcasting, Inc. (''SFX'') by Capstar Broadcasting Partners, Inc. (''Capstar'') [1] would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The complaint alleges that Capstar, or its related entity, Chancellor Media Corporation (''Chancellor''), and SFX own and operate several radio stations throughout the United States, and that the transaction will combine radio

[1] Capstar is wholly owned by Hicks, Muse, Tate & Furst, Incorporated (''Hicks Muse''). Hicks Muse is also the largest and controlling shareholder of Chancellor Media Corporation.

station assets such that defendants would control stations that have approximately 74 percent of the radio advertising revenue in Greenville-Spartanburg (''Greenville''), SC, 41 percent in Houston, TX, 49 percent in Jackson, MS, 45 percent in Pittsburgh, PA, and 65 percent in Suffolk County, NY.[2] This acquisition would give defendants the majority of the most competitively significant radio signals in the Greenville, Houston, Jackson, Pittsburgh and Suffolk markets, and a significant share of radio advertising in these markets. As a result, this acquisition would substantially lessen competition in the sale of radio advertising time in the Greenville, Houston, Jackson, Pittsburgh and Suffolk markets.

The prayer for relief seeks: (a) Adjudication that Capstar's proposed acquisition of the radio stations from SFX would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed acquisition; (c) an award to the United States of the costs of this action; and (d) such other relief as is proper.

Shortly before this suit was filed, a proposed settlement was reached that permits Capstar to complete its acquisition of SFX, yet preserves competition in the markets for which the transaction would raise significant competitive concerns. A Stipulation and proposed Final Judgment embodying the settlement were filed at the same time the Complaint was filed.

The proposed Final Judgment orders Capstar and Hicks Muse to divest WESC–FM, WESC–AM, WJMZ–FM and WTPT–FM in Greenville; KKPN–FM in Houston; WJDX–FM in Jackson and WTAE–AM in Pittsburgh, WBLI–FM, WBAB–FM, WHFM and WGBB–AM in Suffolk (the ''divestiture stations''). Unless the United States grants an extension of time, Capstar and Hicks Muse must divest these radio stations within six months after the filing of the Final Judgment (three months in the case of the Suffolk stations). If the parties do not divest these stations within the divestiture period, the Court shall appoint a trustee to sell the assets. The proposed Final Judgment also requires the defendants to ensure that, until the divestitures mandated by the Final Judgment have been accomplished, the divestiture stations will be operated independently as viable, ongoing businesses, and kept separate and apart from the other radio stations of Capstar, Chancellor and SFX in the Greenville, Houston, Jackson, and Pittsburgh areas.[3] The proposed Final Judgment also requires that the divestitures be made to an acquirer or acquirers that have the capability and intent to compete effectively as radio station operators in the Greenville, Houston, Jackson, Pittsburgh and Suffolk markets.

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. The Alleged Violation

A. The Parties

Defendant Capstar is a Delaware corporation headquartered in Austin, Texas. Capstar currently owns and operates approximately 245 radio stations in 60 markets in the United States. In 1997, its revenues were approximately $190 million. In Greenville, Capstar currently owns WJMZ–FM, WTPT–FM, WESC–FM and WESC–AM. In Jackson, Capstar owned WJMI–FM, WKXI–FM, WOAD–AM and WKXI–AM, until a recent sale made in anticipation of this lawsuit. Capstar is wholly owned by Hicks Muse.

Defendant Hicks Muse is an investment firm headquartered in Dallas, Texas. Hicks Muse, through investment funds it controls, owns all the stock of Capstar and has a significant ownership interest in Chancellor.

Chancellor is a Delaware corporation headquartered in Irving, Texas. In 1997, it was the second largest owner of radio stations in the United States and owned 97 radio stations in 22 major U.S. markets, including in each of the 12 largest markets. Chancellor revenues in 1997 were approximately $582.1 million. In Houston, Chancellor owns KLDE–FM, KKBQ–FM, KLOL–FM, KTRH–AM and KKBQ–AM. In Pittsburgh, Chancellor owns WWSW–FM and WWSW–AM. In Suffolk, Chancellor owns WALK–FM and WALK–AM. Chancellor is a Hicks Muse-related company. Hicks Muse owns a significant portion of Chancellor stock and Hicks Muse management and owners influence or control Chancellor competitive behavior to such an extent that Chancellor/Capstar ownership of otherwise competing radio stations would substantially lessen competition.

Defendant SFX is a Delaware corporation headquartered in New York, New York. SFX owns and operates approximately 85 radio stations located in 23 markets in the United States. SFX revenues in 1997 were approximately $322 million. In Greenville, SFX owns WSSL–FM, WTPT–FM, WYMI–FM, WROQ–FM and WGVL–AM. In Houston, SFX owns KKPN–FM, KODA–FM, KKRW–FM and KQUE–AM. In Jackson, SFX owns WMSI–FM, WJDX–FM, WSTZ–FM, WKTF–FM, WZRX–AM and WJDS–AM. WJDX–FM was recently acquired by SFX, in 1996. In Pittsburgh, SFX owns WDVE–FM, WVTY–FM, WXDX–FM, WJJJ–FM and WTAE–AM. In Suffolk, SFX owns WBAB–FM, WBLI–FM, WHFM–FM and WGBB–AM.

B. Description of the Events Giving Rise to the Alleged Violations

On or about August 24, 1997, Capstar agreed to purchase SFX for approximately $2.1 billion. Capstar or Chancellor and SFX own or operate radio broadcast stations in five overlapping markets in which there would be a lessening of competition: Greenville, Jackson, Houston, Pittsburgh and Suffolk. As a result of this transaction, defendants and Chancellor would control stations that have approximately 74 percent of radio advertising revenue in Greenville, 41 percent in Houston, 49 percent in Jackson, 45 percent in Pittsburgh and 65 percent in Suffolk. Prior to the agreement, the Capstar/Chancellor and SFX stations in the Greenville, Houston, Jackson, Pittsburgh and Suffolk markets were vigorous competitors of each other. The proposed acquisition of SFX by Capstar, and the threatened loss of such competition that would be caused thereby, precipitated the Government's suit.

C. Anticompetitive Consequences of the Proposed Merger

1. Sale of Radio Advertising Time In Greenville, Houston, Jackson, Pittsburgh and Suffolk

The Complaint alleges that the sale of advertising time on radio stations

[2] Following the acquisition, defendants and Chancellor would own eight radio stations in the Greenville area (6 FMs and 2 AMs), nine radio stations in the Houston area (6 FMs and 3 AMs), six radio stations in the Jackson area (4 FMs and 2 AMs) seven radio stations in the Pittsburgh area (5 FMs and 2 AMs) and six radio stations in the Suffolk area (4 FMs and 2 AMs).

[3] In Suffolk County, the Chancellor and SFX stations are currently being operated together by Chancellor under a local marketing agreement. Under the terms of another proposed Final Judgment, the parties have agreed to terminate this agreement on or before August 1, 1998, after which time, the parties must operate the Chancellor and SFX stations as separate entities, pending the divestiture required by this Final Judgment.

serving the Greenville, Houston, Jackson, and Pittsburgh Metro Service Areas (''MSA'') each constitute a line of commerce and section of the country—or relevant market—for antitrust purposes. The Greenville MSA includes four counties: Anderson, Greenville, Pickens and Spartanburg. The Houston MSA includes eight counties: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller. The Jackson MSA includes three counties: Hinds, Madison and Rankin. The Pittsburgh MSA includes six counties: Allegheny, Beaver, Butler, Fayette, Washington and Westmoreland. The relevant market for Suffolk County is Suffolk County. Local and national advertising that is placed on radio stations within Greenville, Houston, Jackson, Pittsburgh and Suffolk markets is aimed at reaching listening audiences in each of these markets, and radio stations located outside of Greenville, Houston, Jackson, Pittsburgh and Suffolk do not provide effective access to these audiences. Thus, if there were a small but significant nontransitory increase in radio advertising within one of these markets, advertisers would not buy enough advertising time from radio stations located outside the Greenville, Houston, Jackson, Pittsburgh and Suffolk markets to defeat the increase.

The defendants' radio stations, like most commercial radio stations, generate almost all their revenues from the sale of advertising time. In general, radio stations attract listeners, and then sell access to those listeners (that is, advertising time) to businesses who wish to advertise their products.

Radio stations price their advertising time in large part on the basis of the number of listeners that they reach. Traditionally, this is expressed on a cost-per-thousand (CPM) basis. When buying radio advertising time, advertisers consider the CPM and the overlap of the number and demographic characteristics of a radio station's listeners with the advertisers' likely customers. If a station individually or number of stations in combination efficiently reach an advertiser's likely customers (target audience), the advertiser has a choice in how to reach its potential customers. This choice creates competition between radio stations and results in lower prices and better services.

In Greenville, Houston, Jackson, Pittsburgh and Suffolk, the defendants' radio stations compete to serve a single distinct geographic area. When the Capstar/Chancellor and SFX stations operate independently, they are good substitutes for each other. The stations compete head-to-head to reach listeners. Many local and regional advertisers seeking to reach listeners in Greenville, Houston, Jackson, Pittsburgh and Suffolk can reach a target efficiently by purchasing time on Capstar and Chancellor or SFX stations or by using a combination of Capstar, Chancellor, SFX and other stations in the market. However, other stations, either alone or in combination with other stations, cannot offer a sufficient number of listeners in demographic groups to be an effective substitute for Capstar, Chancellor and SFX.

When the Capstar and SFX stations operate independently, advertisers can obtain lower prices by ''playing off'' Capstar-owned or Chancellor-owned stations against SFX stations. Advertisers use the threat to move their business between the Capstar/Chancellor and the SFX stations to get more favorable prices and services at each. Advertisers in Greenville, Houston, Jackson, Pittsburgh and Suffolk have paid less for advertising as a result of price competition between the Capstar/Chancellor and SFX radio stations.

2. Harm to Competition

The Complaint alleges that Capstar's acquisition of the SFX will give defendants the ability to raise price to many advertisers—especially local and regional advertisers. Price increases made possible by the acquisition are likely to be profitable. Radio stations see other radio stations as their principal competition. Moreover, for many advertisers, other media do not serve as substitutes for radio advertising. Radio enjoys unique access to certain audiences. A radio is portable; people can listen to radio anywhere especially in places and situations where other media are not present, such as in the car. In addition, radio formats can target listeners in specific demographics. These features make is a more effective means for many advertisers to achieve what the advertising industry refers to as ''frequency.''

Many advertisers who purchase time on radio stations consider such purchases preferable to purchases of other media to meet their specific needs. When these advertisers use radio as part of a ''media mix,'' they often view the other advertising media (such as television or newspapers) as a complement to, and not a substitute for, radio advertising.

Radio stations also provide certain value-added services or promotional opportunitites—such as contests, disc jockey endorsements, live remote broadcasts and greater flexibility in ad placement—that many advertisers significantly value, and which many advertisers cannot exploit as effectively using other media.

For many advertisers, radio advertising is more cost effective than other media, like television and newspapers, in reaching their likely customers. Many advertisers who use radio as part of a multi-media campaign do so because they believe that the radio component enhances the effectiveness of their overall advertising campaign. Many advertisers, especially local and regional advertisers, would not switch their radio advertising purchases to other media if radio prices rose a small but significant amount in relation to other media prices.

Because radio stations in Greenville, Houston, Jackson, Pittsburgh and Suffolk would be able to charge higher prices to these customers without losing the business of other advertisers, a small but significant price increase would be profitable. This is because Capstar will be able to raise price selectively without losing a significant amount of business. Radio stations know a great deal about how likely an advertiser is to turn to an alternative. In the negotiation process, for example, radio stations obtain significant information about an advertiser's objectives. As a result, radio stations know that some advertisers are more likely than others to turn to alternatives. Because prices are set through individual negotiation, station can charge higher prices to advertisers that are less likely to use alternatives, while charging lower prices to those advertisers that would more readily switch. Consequently, defendants will be able to raise price profitably to the many advertisers that would readily switch between Capstar and Chancellor and SFX long before they would consider other alternatives.

Accordingly, the complaint alleges that the relevant product market within which to assess the competitive effects of this acquisition is the sale of radio advertising time in the Greenville, Houston, Jackson, Pittsburgh and Suffolk markets.

Using a measure of market concentration called the Herfindahl-Hirschman Index (''HHI''), explained in Appendix A annexed hereto, the transaction would substantially increase concentration in the Greenville, Houston, Jackson, Pittsburgh and Suffolk radio advertising markets.

a. Greenville. After the proposed transaction, defendants' share of the Greenville market will be 74 percent, measured by radio advertising revenues. The acquisition would yield a post-merger HHI of 5836, representing an increase of 2571. Post-merger,

defendants will own and operate WSSL–FM and WESC–FM, the only two successful country stations in the market. Accordingly, advertisers who desire to target country listeners will not be able to buy around defendants' stations.

b. Houston. In Houston, after the acquisition, defendants and Chancellor together would have a 41 percent market share, measured by radio advertising revenues. The acquisition would yield a postmerger HHI of 2330, representing an increase of 765.

c. Jackson. In Jackson, defendants' share of the market would be 49 percent, measured by radio advertising revenues. After the acquisition, there would be an HHI of 3320; it would have been significantly higher, if certain stations had not already been sold by defendant Capstar in anticipation of this lawsuit. Furthermore, the prior acquisition of WJDX-FM by defendant SFX previously had increased the HHI by 1080. That acquisition substantially lessened competition and resulted in a market in which defendants would own three out of the four top-rated stations.

d. Pittsburgh. In Pittsburgh, after the acquisition, defendants and Chancellor together would have a 45 percent market share, measured by radio advertising revenues. The acquisition would yield a post-merger HHI of 3162, representing an increase of 626. The ownership of some Pittsburgh stations by Chancellor and others by defendants would substantially lessen competition because of the relationship between Chancellor and defendants Capstar and Hicks Muse.

e. Suffolk. In Suffolk, Chancellor and SFX are the number one and number two radio companies. After the proposed acquisition, defendants and Chancellor together would control over 65 percent of the radio advertising market. A previous attempt to combine the Chancellor and SFX stations in Suffolk was the subject of an earlier lawsuit, *United States* v. *Chancellor Media Co. and SFX Broadcasting, Inc.*, CV 97–6497. A proposed final judgment in that matter also was field today, pursuant to which that transaction will be abandoned.

For the reasons outlined above, the Department of Justice concludes that the acquisition of SFX by Capstar would substantially lessen competition in the sale of radio advertising time in Greenville, Houston, Pittsburgh and Suffolk, and result in increased prices and reduced quality of service for radio advertising time in each of these overlapping markets, and that the prior acquisition of WJDX in Jackson similarly substantially lessened competition, all in violation of Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the sale of radio advertising time in Greenville, Houston, Jackson, Pittsburgh and Suffolk. It requires the divestiture of several radio stations in the affected markets. This relief-will reduce the market share Capstar would have achieved through the acquisition in the overlapping markets. The divestitures will preserve choices for advertisers, preserve competition among these radio stations, and help ensure that radio advertising rates do not increase and that services to do not decline in the overlapping markets as a result of the acquisition.

The diverstitures will ensure that the affected markets will remain competitive. First, no firm will dominate the competitively significantly radio signals in any market. Second, advertisers will have sufficient alternatives to the merged firm in reaching groups of radio listeners most affected by the transaction; that is, advertisers can reasonably efficiently reach such audiences (''buy around'') without using the merged firm. Third, the ownership structure in each market is such that it allows for the possibility of at least three significant competitors who may compete for advertisers' business.

Unless the United States grants an extension of time, the parties must divest the divestiture stations within six months after the Final Judgment has been filed (three months in Suffolk). Until the divestitures take place, these stations will be maintained as independent competitors to the other stations in Greenville, Houston, Jackson, Pittsburgh and Suffolk. If the parties fail to divest any of the divestiture stations and their respective Assets within the time period specified in the Final Judgment, or extension thereof, the Court, upon application of the United States, shall appoint a trustee nominated by the United States to effect the required divestiture or divestitures. If a trustee is appointed, the proposed Final Judgment provides that the defendants will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of the divestitures stations, and shall be based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished. After appointment, the trustee will file monthly reports with the plaintiff, the defendants and the Court, setting forth the trustee's efforts to accomplish the divestitures ordered under the proposed Final Judgment. If the trustee has not accomplished the divestitures within three (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. At the same time, the trustee will furnish such report to the plaintiff and defendants, who will each have the right to be heard and to make additional recommendations consistent with the purpose of the trust.

The proposed Final Judgment requires that defendants maintain each of the divestiture stations separate and apart from their other stations, pending divestiture of those stations, in the Greenville, Houston, Jackson and Pittsburgh areas. The Judgment also contains provisions to ensure that these stations will be preserved, so that they will remain viable, aggressive competitors after divestiture. The defendants, without providing advance notification to the plaintiff, may not acquire any assets in any Non-Hicks Muse Radio Stations. Also, the defendants may not, without providing advance notice to the plaintiff, enter into any agreement (including a Local marketing agreement or a Joint Sales Agreement), that would allow defendant to market or sell advertising time or to establish adverting prices for any Non-Hicks Muse Radio Station.

The Judgment requires that the defendants or the trustee notify the plaintiff of any proposed divestitures, within two (2) days following the execution of a definitive agreement. Within fifteen (15) days of receipt by plaintiff of notice, the plaintiff may request additional information regarding the proposed divestiture and the proposed purchaser. The defendants and the trustee must furnish the additional information within fifteen (15) days of the receipt of the request. Within thirty (30) days after receipt of the notice, or within twenty days after plaintiff has been provided the additional information requested from the defendants, the proposed purchaser or purchasers, and any third party, plaintiff will provide written notice to the defendants or the trustee stating whether or not it objects to the proposed divestiture. Absent written notice that plaintiff does not object to the proposed

divestiture, a divestiture may not be consummated.

The relief in the proposed Final Judgment is intended to remedy the likely anticompetitive effects of the proposed acquisition of SFX by Capstar. Nothing in this Final Judgment is intended to limit the plaintiff's ability to investigate or bring actions, where appropriate, challenging other past or future activities of defendants in Greenville, Houston, Jackson, Pittsburgh and Suffolk or any other markets, including their entry into any JSAs. LMAs, or any other agreements related to the sale of advertising time.

IV. Remedies Available To Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available For the Modification of the Proposed Final Judgment

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Any such written comments should be submitted to: Craig W. Conrath, Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives To The Proposed Final Judgment

The plaintiff considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its complaint against defendants. The plaintiff is satisfied, however, that the divestiture of the divestiture stations and other relief contained in the proposed Final Judgment will preserve viable competition in the sale of radio advertising time in Greenville, Houston, Jackson, Pittsburgh and Suffolk. Thus, the proposed Final Judgment would achieve the relief the Government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court may consider—

> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(a). As the United States Court of Appeals for the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States* v. *Microsoft*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''[t]he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.''[4] Rather,

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making it public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-American Dairymen, Inc.*, 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), citing *United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.,), *cert. denied*, 454 U.S. 1083 (1981); see also *Mircosoft*, 56 F.2d at 1460–62. Precedent requires that

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements undermine the effectiveness of antitrust enforcement by consent decree.[5]

The proposed Final Judgment, therefore, should not be reviewed under a

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[4] 119 Cong. Rec. 24598 (1973). See *United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comment filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. 93–1463, 93rd Cong., 2d Sess. 8–9 (1974), reprinted in the U.S.C.C.A.N. 6535, 6538.

[5] *Bectel*, 648 F.2d at 666 (citations omitted) (emphasis added); see 858 *BNS*, F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. See also *Microsoft*, 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '') (citation omitted).

standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' [6]

This is strong and effective relief that should fully address the competitive harm posed by the proposed acquisition.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Respectfully submitted,

Asuncion Cummings (AC–1850),

Merger Task Force, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W.; Suite 4000, Washington, D.C. 20530, (202) 307–0001.

Dated March 31, 1998.

Appendix A—Herfindahl-Hirschman Index Calculations

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2+30^2+20^2+20^2=2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be concentrated. Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See *Merger Guidelines* § 1.51.

[6] *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd. sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), quoting *Gillette Co.*, 406 F. Supp. at 716 (citations omitted); *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

Certificate of Service

I hereby certify that, on this 31st day of March 1998, I caused to be served by hand delivery a copy of the foregoing Competitive Impact Statement upon the following:

David A. Clanton, Baker & McKenzie, 815 Connecticut Avenue, N.W., Washington, D.C. 20006–4078

Neil Imus, Vinson & Elkins, 1455 Pennsylvania Avenue, N.W., Washington, D.C. 20004

Asuncion Cummings

[FR Doc. 98–9800 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Imaging Group, Inc.

Notice is hereby given that, on December 17, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Digital Imaging Group, Inc. (''Corporation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following entities have become members of the Corporation: AGF–GEVAERT N.V., Belgium; Canto Software, San Francisco, CA; Creative Wonders, Redwood City, CA; FotoNation, San Mateo, CA; InMedia Presentations Inc., Vancouver, Canada; Konica, Tokyo, Japan; Koyosha Graphics of America, Inc., San Francisco, CA; LEAD Technologies, Charlotte, NC; Live Picture Corp., Scotts Valley, CA; LSI Logic, Milpitas, CA; MGI Incorporated, Ontario, Canada; Microsoft Corporation, Redmond, CA; Photo Spin Corp., Rolling Hills Estates, CA; Pixo Arts Corporation, Mountain View, CA; Polaroid Corporation, Cambridge, MA; SSG Thomson Microelectronics, San Diego, CA; Storm Technologies, Mountain View, CA; True Spectra, Ontario, Canada; Visioneer, Freemont, CA; and Warp 10 Technologies, Ontario, Canada.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Digital Imaging Group., Inc. intends to file additional written notifications disclosing all changes in membership.

On September 25, 1997 Digital Imaging Group, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1997 (62 FR 60530).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–9798 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OBI Consortium Inc.

Notice is hereby given that, on December 9, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the OBI Consortium Inc., (''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following entities have become members of the venture: Requisite Technology, Inc., Boulder, CO; Bellcore, Piscataway, NJ; Ariba Technologies, Sunnyvale, CA; Chemdex Corporation, Palo Alto, CA; Southern California Gas Co., Los Angeles, CA; Sigma-Aldrich Research, St. Louis, MO; SciQuest, RTP, NC; Visa International, San Francisco, CA; Affymax Research Institute, Santa Clara, CA; DMR Consulting Group, Inc., Ottawa, Ontario, CANADA; Fisher Scientific, Pittsburgh, PA; Rohm and Haas Company, Philadelphia, PA; Johnson & Johnson, New Brunswick, NJ; Graybar Electric Co., St. Louis, MO; GE Global Services, Fairfield, CT; NEC Corporation, Minato-ku, Tokyo, JAPAN; National Semiconductor Corp., Santa Clara, CA; and Staples, Inc., Westboro, MA; Applied Industrial Technologies, Cleveland, OH; First Union National Bank, Charlotte, NC; Newark Electronics, Chicago, IL; Perot Systems, Westchester, PA; SAP America, Foster City, CA; IBM Corporation, Hawthorne, NJ; Microsoft Corporation, Redmond, WA; Hewlett-Packard, Roseville, CA;

and Lexmark International, Inc., Lexington, KY.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OBI intends to file additional written notification disclosing all changes in membership.

On September 10, 1997, OBI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 10, 1997 (62 FR 60531).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–9796 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—(''PERF'') Project No. 97–08

Notice is hereby given that, on January 26, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Petroleum Environmental Research Forum (''PERF'') Project No. 97–08, titled ''Scientifically-Sound Risk-Based Decision Tools for E&P Sites,'' has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: Chevron Research and Technology Co., Richmond, CA; Arthur D. Little, Inc., Cambridge, MA; Unocal, Inc., Brea, CA; Exxon Production Research Co., Houston, TX; Shell Oil Co., Houston, TX; and Canadian Association of Petroleum Producers, Calgary, AB T2P 3N9, Canada. The objective of this Project is to develop and/or improve methods, data, models, and tools in support of risk-based decision making based on the concentrations of total petroleum hydrocarbons (TPH), polyaromatic hydrocarbons (PAH), metals or salts in E&P wastes or site soils.

Participation in this Project will remain open to interested persons and organizations until the Project Completion Date, which is presently anticipated to occur approximately by December 1998, but no later than July 1999.

The Participants intend to file additional written notification disclosing all changes in membership. Information regarding participation in the Project may be obtained from Ms. Sara J. McMillen, Chevron Research and Technology Company, 100 Chevron Way, Richmond, CA 94802–0627, Telephone: (510) 242–3485, Facsimile: (510) 242–1954.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–9799 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—VSI Alliance

Notice is hereby given that, on November 19, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the VSI Alliance (''VSI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following organizations have joined VSI: Alpine Microsystems, Campbell, CA; Boeing Company, Seattle, WA; Cadworx Consulting, Inc., Milpitas, CA; Denali Software, Inc., North Andover, MA; Dolphin Integration, Meylan, France; Enablix Design, Inc., San Jose, CA; Fincitec Oy, Kemi, Finland; General Instrument Corporation, Phoenix, AZ; IBM Corporation, IBM Microelectronics, Essex Junction, VT; IMODL, Inc., San Jose, CA; In-Chip Systems, Inc., Los Altos, CA; Indus, Inc. Santa Clara, CA; Knowledge Based Silicon Corporation, Columbia, SC; LSI Logic Corporation, Milpitas, CA; Lucent Technologies, Allentown, PA; Maingate Electronics, Inc., Kanagawa, Japan; Motorola, Phoenix, AZ; NoeParadigm Labs, Inc., San Jose, CA; NewLogic Consulting & Technology GmbH, Vorarlberg, Austria; Nokia Mobile Phones, Oulu, Finland; Packet Engines, Inc., Spokane, WA; Portability, Los Altos, CA; Precedence, Inc., Campbell, CA; Richard Watts Associates, Ltd., Bedfordshire, England; Rockwell Semiconductor Systems, Inc., Newport Beach, CA; Sagantec North America, Inc., Milpit as, CA; Sarnoff Digital Communications, Sunnyvale, CA; Schlumberger Technologies, Inc., San Jose, CA; SIDSA, Design Tech Dept., Madrid, Spain; Silicon Access Technology, Inc., San Jose, CA; SipCore, Inc., Saratoga, CA; Sonics, Inc., Los Altos, CA; Systems Science, Palo Alto, CA; Telefonaktiebolaget LM Ericsson, Stockholm, Sweden; Tseng Labs, Inc., Newton, PA; Unisys Corporation, Bismark, ND; VAutomation, Inc., Nashua, NH; Verysys Corporation, Fremont, CA.

No other changes have been made in either the membership or planned activities of VSI. Membership remains open and VSI intends to file additional notifications disclosing all changes in membership.

On November 27, 1996, VSI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 4, 1997 (62 FR 9812). The last notification was filed with the Department on March 21, 1997, and the Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 19, 1997 (62 FR 27279).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–9797 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 3, 1997, and published in the **Federal Register** on December 19, 1997 (62 FR 66667), Ansys Diagnostics, Inc., 2 Goodyear, Irvine, California 92718, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (PCC) (8603).	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce

standards and controls for in-vitro diagnostic drug testing systems.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Ansys Diagnostics, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 3, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–9825 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 15, 1997, Lilly del Caribe, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00680, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of dextropropoxyphene (9273) a basic class of controlled substance listed in Schedule II.

This firm plans to manufacture bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 15, 1998.

Dated: April 3, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–9826 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Revision of a Currently Approved Collection; The Annual Survey of Jails, Forms CJ–5, CJ–5A, CJ–5B.

Office of Management and Budget approval is being sought for the information collection listed below. This collection was previously published in the **Federal Register** on February 27, 1998, allowing for a 60-day public comment period. No substantive comments were received by the Bureau of Justice Statistics or the Justice Management Division.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 14, 1998. This process is conducted in accordance with 5 CFR 3120.10–.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Dennis Marvich, (202) 395–3122, Department of Justice Desk Officer, Washington, DC 20503, by May 1, 1998. You may also submit comments to Mr. Boyd via facsimile and (202) 395–7285. Your comments 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) enhanced 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 technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Annual Survey of Jails.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms CJ–5, CJ–5A, CJ–5B. Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: County and City jail authorities and Tribal authorities. The ''Annual Survey of Jails'' (ASJ) is the only collection effort that provides an ability to maintain important jail statistics in years between the jail censuses. The AJS enables the Bureau; Federal, State, and local correctional administrators; legislators; researchers; and planners to track growth in the number of jails and their capacities nationally; as well as, track changes in the demographics and supervision status of the jail population and the prevalence of crowding.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 900 respondents at .75 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Total annual burden hours are 1,125.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Allen J. Beck, Ph.D., Chief, Corrections Statistics Program, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, NW., Washington, DC 20531 (202–616–3277).

If additional information is required contact Robert B. Briggs, Department Clearance Officer, U.S. Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: April 9, 1998.

Robert B. Briggs,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 98–9808 Filed 4–13–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF THE LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 8, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1 p.m. and 4 p.m. Eastern time, Monday-Friday.

Comment should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Claim for Reimbursement—Assisted Reemployment.

OMB Number: 1215–0178 (Extension).

Form Number: CA–2231.

Frequency: Quarterly.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 180.

Total Responses: 720.

Estimated Time per Respondent: .5 hour.

Total Burden Hours: 360.

Total annualized capital/startup costs: –0–.

Total annual costs (operating/maintaining systems or purchasing services): $234.40.

Description: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA). The Act provides vocational rehabilitation services to eligible injured Federal employees which are paid from the Employees' Compensation Fund. Authority has been granted to provide amounts from the fund to reimburse the employer for a portion of the salary of reemployed disabled Federal workers. The information collected on the Form CA–2231 is used to facilitate prompt reimbursement to certain employers who employ such workers.

Agency: Employment Standards Administration.

Title: Records to be Kept by Employers (Fair Labor Standards Act).

OMB Number: 1215–0017 (extension).

Frequency: Weekly.

Affected Public: Individuals or households; farms; businesses or other for-profit; not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 3.7 million.

Total Responses: 3.7 million.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 819,231.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Fair Labor Standards Act (FLSA) sets minimum wage, overtime pay, child labor and record keeping standards for employees engaged in interstate commerce or in the production of goods for interstate commerce and to employees in certain enterprises. The Fair Labor Standards Act requires that all employers covered by the Act make, keep and preserve records of employees and of wages, hours and other conditions and practices of employment.

Agency: Employment Standards Administration.

Title: Certification by School Official (Black Lung Benefits Act).

OMB Number: 1215–0061 (extension).

Form Number: CM–981.

Frequency: Annually.

Affected Public: State, Local or Tribal Government; business or other for-profit; not-for-profit institutions.

Number of Respondents: 1,000.

Total Responses: 1,000.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 167 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: In order to be a dependent who is eligible for black lung benefits, a child aged 18 to 23 must be a full-time student as described in the Black Lung Benefits Act, 30 U.S.C. 902 (g) and 20 CFR 725.209 or 20 CFR 410.370. The CM–981 is completed by a school official to verify whether a beneficiary's dependent, aged 18 to 23 qualifies as a full-time student.

Agency: Employment Standards Administration.

Title: Vehicle Mechanical Inspection Report for Transportation Subject to Department of Transportation Requirements; Subject to Department of Labor Safety Standards.

OMB Number: 1215–0036 (extension).

Form Number: WH–514 and WH–514a.

Frequency: On occasion.

Affected Public: Business or other for profit; farms.

Number of Respondents: 1,050.

Total Response: 3,150.

Estimated Time Per Respondent: 45 minutes.

Total Burden Hours: 2,363.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Section 401 of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires that farm labor contractors, agricultural employers, or agricultural associations who use any vehicle to transport a migrant or seasonal agricultural worker, ensure that such a vehicle conforms to vehicle safety standards prescribed by MSPA and other applicable Federal and State safety standards. The use of forms WH–514 and the 514a enable an applicant to verify to the Department of Labor or the appropriate State agency that the vehicles used to transport such workers meet these safety standards. The WH–514 is used to verify that Department of Transportation safety standards are met for all vehicles other than passenger automobiles or station wagons and the WH–514a is used to

verify that Department of Labor safety standards are met for all vehicles including passenger automobiles or station wagons.

Agency: Occupational Safety and Health Administration.

Title: Respiratory Protection (29 CFR 1910.134).

OMB Number: 1218–0099 (revision).

Frequency: On occasion.

Affected Public: Business or other for-profit, Federal Government; State, Local or Tribal government.

Number of Respondents: 1,300,000.

Total Response: 15,642,571.

Estimated Time per Respondent: Response time ranges from five minutes to maintain a record to eight hours for new employers to develop a written respiratory protection program.

Total Burden Hours: 8,926,558 (1st year); 5,643,712 (2nd year).

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $179,850,680.

Description: The final Respiratory Protection standard is an occupational health standard that will minimize occupational exposure to toxic substances. The standard's information collection requirements are essential components that will protect employees from occupational exposure to these toxins. The information will be used by employers and employees to implement the protection required by the standard. OSHA will use some of the information to determine compliance with the standard.

Agency: Occupational Safety and Health Administration.

Title: Portable Fire Extinguishers (29 CFR 1910.157(e)(3))—Annual Maintenance Certification Record.

OMB Number: 1218–ONEW.

Frequency: Annually.

Affected Public: Business or other for-profit; farms; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 127,500.

Total Response: 127,500.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 63,750.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $9,180,000.

Description: The Occupational Safety and Health Act of 1970 (the Act) authorizes the promulgation of such health and safety standards as necessary or appropriate to provide safe or healthful employment and places of employment. The statute specifically authorizes information collection by employers as necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. The inspection certification record required in 29 CFR 1910.157(e)(3) is necessary to assure compliance with the inspection requirements for portable fire extinguishers. It is intended to assure that portable fire extinguishers have an annual maintenance check.

Agency: Occupational Safety and Health Administration.

Title: Student Data Form.

OMB Number: 1218–0172 (reinstatement without change).

Frequency: On occasion.

Affected Public: Individuals.

Number of Respondents: 5,500.

Total Responses: 5,500.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 463 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Information collected on the Student Data Form identifies whom the student want contacted in case of an emergency and student group information for record keeping, reporting and the collection of tuition from private sector students.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–9832 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs; U.S. National Administrative Office; National Advisory Committee for the North American Agreement on Labor Cooperation; Notice of One Open Meeting by Teleconference

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of open meeting by teleconference on April 15, 1998.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463), the U.S. National Administrative Office (NAO) gives notice of one meeting of the National Advisory Committee for the North American Agreement on Labor Cooperation (NAALC), which was established by the Secretary of Labor. The meeting will take place on April 15, 1998. Due to scheduling difficulties and the need for immediate action, we are unable to give the full 15 days advance notice for the April 15, 1998 meeting.

The Committee was established to provide advice to the U.S. Department of Labor on matters pertaining to the implementation and further elaboration of the NAALC, the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC. The Committee consists of 12 independent representatives drawn from among labor organizations, business and industry, and educational institutions.

DATES: The Committee will meet on April 15, 1998. The meeting will be by teleconference.

ADDRESSES: U.S. Department of labor, 200 Constitution Avenue N.W., Room C–5515 (Executive Conference Room), Washington, D.C. 20210. The meeting is open to the public on a first-come, first served basis.

FOR FURTHER INFORMATION CONTACT: Irasema Garza, Designated Federal Officer, U.S. NAO, U.S. Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone 202–501–6653 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Please refer to the notice published in the **Federal Register** on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington, D.C. on April 10, 1998.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 98–9976 Filed 4–10–98; 12:17 pm]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Office of the Secretary

Delegation of Authority; Office of the Chief Financial Officer

On March 26, 1998, I issued a memorandum confirming the current delegation (Secretary's Order 01–97, dated January 10, 1997 and published on February 3, 1997 at 62 FR 5047) of the authority of the Secretary of Labor to the Chief Financial Officer to waive claims arising out of erroneous payments of pay or allowances, or arising out of erroneous payments of travel, transportation or relocation expenses and allowances.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Bresnahan, Deputy Chief Financial Officer, Office of the Chief

Financial Officer, telephone no. 202–219–6891.

Signed at Washington, DC, this 26th day of March, 1998.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–9829 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letter Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 18–98

The Department of Labor (DOL) has noticed that some States treat the ''between seasons'' denial involving athletic services in the same manner as the ''between and within terms'' denial involving educational services. UIPL 18–98 explains the differences between these two sections of the Federal Unemployment Tax Act (FUTA) and advises the States of DOL's position on when UC is payable on athletic services.

Under the between seasons denial provision, DOL interpreted FUTA as requiring States to deny UC to athletes on the basis of any services where ''substantially all'' of the services performed by the individual during the base period are based on athletically-related services. If ''substantially all'' of the services have been performed in athletics, and a reasonable assurance of participating in athletics in the later season exists, then none of the wages may be used to establish eligibility and all UC must be denied. Conversely, if the ''substantially all'' test has not been met, the use of all wages for both athletic services and other services, is permissible to determine eligibility for UC. Under the between and within terms denial provision, DOL interpreted FUTA as requiring that UC not be paid based on certain educational services between and within academic periods under certain conditions. The denial requirement under this provision of FUTA pertains only to UC based on educational, and not athletic, services.

Dated: April 8, 1998.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration, Washington, D.C. 20210

CLASSIFICATION: UI
CORRESPONDENCE SYMBOL: TEUL
DATE: March 30, 1998
DIRECTIVE: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 18–98
TO: ALL STATE EMPLOYMENT SECURITY AGENCIES
FROM: GRACE A. KILBANE, Director, Unemployment Insurance Service
SUBJECT: Use of Services Performed by Professional Athletes Between Seasons

1. *Purpose.* To remind States of the Department of Labor's (DOL's) position concerning how services performed by professional athletes (''athletes'') are used in determining eligibility for unemployment compensation (UC).

2. *References.* Section 3304(a), Federal Unemployment Tax Act (FUTA); Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94–566 (''1976 Draft Language'') and Supplements 1–5; Employment and Training Administration (ETA) Handbook 301; Unemployment Insurance Program Letter (UIPL) No. 43–80, dated May 23, 1980.

3. *Background.* As a result of implementing its new method of measuring nonmonetary performance, DOL has discovered that some States treat the ''between seasons'' denial involving athletic services in the same manner as the ''between and within terms'' denial involving educational services. Although there are similarities in the language of these laws, the applications are different. As a result, DOL is issuing this UIPL to remind the States of its position on when UC is not payable on athletic services and to explain the differences between the two sections.

4. *The Between Seasons Denial.* Section 3304(a)(13), FUTA, requires, as a condition of employers in a State receiving credit against the Federal unemployment tax, that—

Compensation shall not be payable to any individual *on the basis of any services,* substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods). [Emphasis added.]

The Department, thus, interpreted FUTA as requiring States to deny UC to athletes on the basis of *any* services where ''substantially all'' of the services performed by the individual during the base period are based on athletically-related services. (See page 22, of Supplement 1, to the 1976 Draft Language.) To determine whether ''substantially all'' of the services were athletically-related, all services (athletic and non-athletic) must be considered together. If ''substantially all'' of the services have been performed in athletics, and a reasonable assurance that the individual will participate in athletics in the later season exists, then none of the wages may be used to establish eligibility, and all UC must be denied. Conversely, if the ''substantially all'' test has not been met, then FUTA permits the use of all wages to determine eligibility for UC.

Concerning what constitutes ''substantially all,'' DOL has previously stated that, at a minimum, ''an individual shall be deemed to have performed substantially all services in such sports or athletic events if the individual engaged in such sports or athletic events for 90 percent or more of the total time spent in the base period in the performance of all covered services.'' (See page 22, of Supplement 1, to the 1976 Draft Language.)

The definition of ''substantially all'' as 90 percent as a basis for denial of athletic services under Section 3304(a)(13), FUTA, is a minimum requirement. FUTA does not prohibit a more stringent denial. Therefore, a State may enact a law to deny benefits between seasons if the amount of time spent in athletic services was less than 90 percent of the total time spent in the performance of all services in the base period. (1976 Draft Language, Supplement 4, page 11.) For example, a State may choose to deny an athlete if only 80 percent or more of the total time in the base period was spent participating in athletic services.

Finally, a State may also deny benefits to athletes between sport seasons where there is no reasonable assurance.

5. *The Between and Within Terms Denial.* Section 3304(a)(6)(A), FUTA, requires that UC not be paid based on certain educational services between and within periods under certain conditions. This denial pertains only to UC based on educational services. It does not apply to UC based on any other covered employment.

As noted in UIPL 34–80, ''since compensation is based only on base period employment, the denial must apply only to the amount of benefits based on school service performed in the base period. An individual who has participated in the labor force in a capacity other than as a school employee cannot be denied benefit entitlement based on the non-school work simply because of also being a school employee.''

Thus, an unemployed individual who performed services for an educational employer and also performed services for a non-educational employer could receive reduced UC during the summer based on the non-educational employment (even if a reasonable assurance of school employment in the next school term exists). The denial would apply only to that portion of benefits based on educational employment during the base period.

Also, unlike the athletic services provision, the States may not apply a stricter denial to educational services.

6. *Reasonable Assurance.* Reasonable assurance in the ''between seasons'' denial for athletic services is used in a different manner than in the ''between and within terms'' denial for educational services. For the professional athlete, a mere indication of his/her intent to participate in the subsequent sports season without any verification from any sports organization can constitute ''reasonable assurance.'' (See page 56, of the 1976 Draft Language.) However, the term ''reasonable assurance,'' as it applies to educational employees under the ''between and within terms'' denial, must be verified by the educational institution before it can be established as a fact. (See page 54, of the 1976 Draft Language and page 17, Supplement 1, to the 1976 Draft Language).

7. *Action Required.* Administrators are to provide this information to appropriate staff.

8. *Inquiries.* Inquiries should be directed to the appropriate Regional Office.

[FR Doc. 98–9830 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed revision collection of FECA Medical Report Forms: CA–7, CA–8, CA–16b, CA–20, CA–20a, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, CA–1336, OWCP–5a, OWCP–5b, and OWCP–5c. Copies of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSEE** section below on or before June 15, 1998. The Department of Labor is particularly interested in comments which:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Contact Ms. Patricia Forkel at the U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601. The Fax number is (202) 219–6592. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Statute 5 U.S.C. 8101 *et seq.* of the Federal Employees' Compensation Act provides for the payment of benefits for wage loss and/or for permanent payment to a scheduled member, arising out of a work related injury or disease. The CA–7 and CA–8 request information allowing the Office of Workers' Compensation Programs to fulfill its statutory requirements for the period of compensation claimed (e.g., the pay rate, dependents, earnings, dual benefits, and third party information). The other forms in this proposed revision collection collect medical information necessary to determine entitlements to benefits.

II. Current Actions

The Department of Labor (DOL) seeks approval of the revision of this information collection to collect information in order to carry out its responsibility to determine eligibility for and the compensation of benefits. For ease of completion, the CA–8 has been eliminated and the CA–7 has been extensively revised to combine all elements from the CA–8. The CA–20a has been eliminated; former respondents to the CA–20a will now complete the CA–20. All other forms remain unchanged.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: FECA Medical Report Forms.

OMB Number: 1215–0103.

Agency Numbers: CA–7, CA–16b, CA–17b, CA–20, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, CA–1336, OWCP–5a, OWCP–5b, OWCP–5c.

Affected Public: Business or other for-profit; Federal Government; individuals or households.

Total Respondents: 441,855.

Frequency: As needed.

Total Responses: 441,855.

Estimated Total Burden Hours: 43,414.

Form	Respondents	Responses	Average minutes per response	Burden hours
CA–7	400	400	13	87
CA–16b	157,000	157,000	5	13,083
CA–17b	134,000	134,000	5	11,167
CA–20	112,000	112,000	5	9,333
CA–1090	800	800	5	67
CA–1303	4,000	4,000	20	1,333
CA–1305	80	80	20	27
CA–1306	25	25	10	4
CA–1314	1,200	1,200	20	400
CA–1316	1,100	1,100	10	183
CA–1331	750	750	5	63
CA–1332	1,500	1,500	30	750
CA–1336	2,000	2,000	5	167

Form	Respondents	Responses	Average minutes per response	Burden hours
OWCP–5a	7,000	7,000	15	1,750
OWCP–5b	5,000	5,000	15	1,250
OWCP–5c	15,000	15,000	15	3,750

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating and maintenance): $154,649.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 7, 1998.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 98–9831 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Energy West Mining Company

[Docket No. M–98–19–C]

Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528 has filed a petition requesting an amendment to the Proposed Decision and Order (PDO) of its previously granted petition for modification of 30 CFR 75.350 (air courses and belt haulage entries), docket number M–98–166–C, for its Trail Mountain Mine (I.D. No. 42–01211) located in Emery County, Utah. The petitioner requests that Item (u) of the previous PDO be amended to replace the existing language with the language specified in this petition in the ''Requirements Applicable to Two-Entry Development, Longwall Set-Up and Recovery and Retreat Mining Systems'' to address installation and maintenance of hydraulic fluid pump stations. The petitioner asserts that the changes outlined in this petition are necessary for the high-pressure emulsion stations within the two-entry longwall retreat sections at the Energy West's Trail Mountain Mine. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Energy West Mining Company

[Docket No. M–98–20–C]

Energy West Mining Company, P.O. Box 310, Huntington, Utah 84528 has filed a petition requesting an amendment to the Proposed Decision and Order (PDO) of its previously granted petition for modification of 30 CFR 75.352 (return air courses), docket number M–94–167–C, for its Trail Mountain Mine (I.D. No. 42–01211) located in Emery County, Utah. The petitioner requests that Item (u) of the previous PDO be amended to replace the existing language with the language specified in this petition in the ''Requirements Applicable to Two-Entry Development, Longwall Set-Up and Recovery and Retreat Mining Systems'' to address installation and maintenance of hydraulic fluid pump stations. The petitioner asserts that changes outlined in this petition are necessary for the high-pressure emulsion station within the two-entry longwall retreat sections at the Energy West's Trail Mountain Mine. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Peabody Coal Company

[Docket No. M–98–21–C]

Peabody Coal Company, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.364(a)(1) (weekly examination) to its Camp No. 1 Mine (I.D. No. 15–02709) located in Union County, Kentucky. Due to hazardous roof conditions in the air course entries, traveling the affected area would be unsafe. The petitioner proposes to have a certified person conduct weekly examinations at established evaluation points immediately inby and outby the affected area to determine methane and oxygen concentrations and the volume of air, and record the results in a book maintained on the surface of the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Consolidation Coal Company

[Docket No. M–98–22–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Rend Lake Mine (I.D. No.11–00601) located in Jefferson County, Pennsylvania. The petitioner proposes to use a spring-loaded metal locking device instead of padlocks for securing battery-charging plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered scoop cars. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Fray Mining, Inc.

[Docket No. M–98–23–C]

Fray Mining, Inc., P.O. Box 942, Tazewell, Virginia 24651 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Mine No. 3 (I.D. No. 44-03524) located in Buchanan County, Virginia. The petitioner requests a modification of the standard to allow construction of a refuse bench fill in an area containing abandoned mine openings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Mountaineer Mining Management, Inc.

[Docket No. M–98–24–C]

Mountaineer Mining Management, Inc., P.O. Box 1090, Oceana, West Virginia 24890 has filed a petition to modify the application of 30 CFR 75.364 (weekly examination) to its No. 3 Mine (I.D. No. 46–08369) located in Boone County, West Virginia. Due to fallen material in the old mine workings (Kopperton No. 2 Mine) where the No. 3 mine is mined into, the area is unsafe to seal off. The petitioner proposes to install a continuous gas monitoring system to monitor the air quality for air coming out of the old mine workings. The petitioner states that the monitoring system would include an audible warning signal and a visual strobe light

signal to alert surface personnel of any problems underground. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Marrowbone Development Company

[Docket No. M–98–25–C]

Marrowbone Development Company, P.O. Box 119, Naugatuck, West Virginia 25685 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its North Marrowbone Creek Mine (I.D. No. 46–08680) located in Mingo County, West Virginia. The petitioner proposes to use an automatic fire detection system based on carbon monoxide monitoring of the underground conveyor entries to allow air coursed through conveyor belt entries to be used to ventilate active working places. The petitioner proposes to install a carbon monoxide detection system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Marrowbone Development Company

[Docket No. M–98–26–C]

Marrowbone Development Company, P.O. box 119, Naugatuck, West Virginia 25685 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its North Marrowbone Creek Mine (I.D. No. 46–08680) located in Mingo County, West Virginia. The petitioner proposes to use permanently installed spring-loaded locking devices instead of padlocks on battery plugs. The petitioner proposes to install and maintain spring-loaded locking devices on battery plugs to prevent the threaded rings that secures the battery plugs to the battery receptacles from loosening unintentionally. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Eagle Energy, Inc.

[Docket No. M–98–27–C]

Eagle Energy, Inc., P.O. Box 368, Madison, West Virginia 25130 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Mine No. 1 (I.D. No. 46-07711) located in Boone County, West Virginia. The petitioner proposes to use 4,160 volt cables to power longwall equipment. The petitioner states that all personnel who perform maintenance on the longwall or miners who work in proximity of the high-voltage equipment would receive training in high-voltage safety and maintenance procedures before this proposed alternative method is implemented.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov'', or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 14, 1998. Copies of these petitions are available for inspection at that address.

Dated: April 8, 1998.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 98–9722 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–16; Exemption Application No. D–10523]

Grant of Individual Exemptions: Overland, Ordal, Thorson & Fennell Pulmonary Consultants, P.C.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of typographical corrections.

SUMMARY: This document contains a Notice of Typographical Correction with respect to a Notice of Grant of Individual Exemptions published on April 7, 1998 at 63 FR 17034 and 17035 (the Prior Notice).

Correction

The Prior Notice identified Exemption Application No. D–10523, Overland, Ordal, Thorson & Fennell Pulmonary Consultants, P.C., as Prohibited Transaction Exemption 98–15. The correct Prohibited Transaction number is 98–16.

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, D.C., this 9th day of April, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–9828 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–052]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). The reports will be utilized by the Inventions and Contributions Board to evaluate the progress of development and commercialization for waived inventions.

DATES: All comments should be submitted on or before June 15, 1998.

ADDRESSES: All comments should be addressed to Mr. Robert J. Bobek, Code ICB National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Patent Waiver Report.

OMB Number: 2700–0050.

Type of review: Reinstatement.

Need and Uses: Reports are analyzed by the NASA Inventions and Contributions Board to evaluate the progress made by NASA contractors who received waiver of patent rights in terms of development and commercialization of waived inventions.

Affected Public: Business or other for-profit.

Number of Respondents: 66.

Responses Per Respondent: 1.

Annual Responses: 66.

Hours Per Request: 2.

Annual Burden Hours: 147.

Frequency of Report: Annually.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 98–9782 Filed 4–13–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–054]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautic and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee.

DATES: Wednesday, May 6, 1998, 8:00 a.m. to 4:30 p.m.

ADDRESSES: NASA Headquarters, Room 9H40, 300 E Street SW, Washington DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Livingston, Code UX, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0697.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Discussion of National Academy of Public Administration Review of Commercial Space Centers
—Space Development and Commercial Research Performance Goals
—Overview of Commercial Activities.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 9, 1998.

Mathew M. Crouch,

Advisory Committee Officer, National Aeronautics and Space Administration.

[FR Doc. 98–9784 Filed 4–13–98; 8:45 am]

BILLING CODE 7501–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–053]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Aqua Man, Inc., of Westlake Village, California, has applied for an exclusive patent license to practice the invention described and claimed in U.S. Patent No. 4,762,619, entitled ''Method of Forming Dynamic Membrane on Stainless Steel Support,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATES: Reponses to this notice must be received by June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696, telephone (281) 483–1003.

Dated: April 3, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–9783 Filed 4–13–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used in issuing a building pass to National Archives and Records Administration (NARA) volunteers and employees of NARA contractors so that they can enter NARA facilities to perform their duties. NARA uses the information to ensure that only authorized persons have access. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 15, 1998, to be assured of consideration.

ADDRESSES: *Comments should be sent to:* Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; *or faxed to:* 301–713–6913; *or electronically mailed to:* tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Request for and Record of Pass.

OMB number: 3095–0026.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households, business or other for-profit organizations and institutions, and Federal government.

Estimated number of respondents: 1,266.

Estimated time per response: 3 minutes.

Frequency of response: On occasion (when respondent wishes to enter NARA facilities). Respondents who are contractors are given a building pass which expires at the end of each fiscal year; those who are volunteers are given a pass valid for 5 years.

Estimated total annual burden hours: 64 hours.

Abstract: The collection of information is necessary as a security measure to protect employees, information, and property in National Archives and Records Administration (NARA) facilities and to facilitate the issuance of passes. Use of the form is authorized by 44 U.S.C. 2104. At the NARA College Park facility, individuals receive an access card with the pass that is electronically coded to permit access to secure zones ranging from a general

nominal level to stricter access levels for classified records zones. The access card system is part of the security management system which meets the accreditation standards of the Government intelligence agencies for storage of classified information, and serves to comply with E.O. 12958.

Dated: April 7, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–9729 Filed 4–13–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to conduct a Customer Satisfaction Survey at the National Personnel Records Center (Military Personnel Records [MPR] facility) of the National Archives and Records Administration. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 15, 1998 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Military Personnel Records (MPR) Customer Satisfaction Survey.

OMB number: 3095–00XX.

Agency form number: N/A.

Type of review: Regular.

Affected public: Federal, state and local government agencies, veterans, and individuals who write the Military Personnel Records (MPR) facility for information from or copies of official military personnel files.

Estimated number of respondents: 21,333.

Estimated time per response: 15 minutes.

Frequency of response: On occasion (when respondent writes to MPR requesting information from official military personnel files).

Estimated total annual burden hours: 5,333 hours.

Abstract: The information collection is prescribed by EO 12862 issued September 11, 1993, which requires Federal agencies to survey their customers concerning customer service. The general purpose of this data collection is to initially support the business process reengineering (BPR) of the MPR reference service process and then provide MPR management with an ongoing mechanism for monitoring customer satisfaction. In particular, the purpose of the proposed MPR Customer Satisfaction Survey is to (1) provide baseline data concerning customer satisfaction with MPR's reference service process, (2) identify areas within the reference service process for improvement, and (3) provide MPR management with customer feedback on the effectiveness of BPR initiatives designed to improve customer service as they are implemented. In addition to supporting the BPR effort, the proposed MPR Customer Satisfaction Survey will help NARA in responding to performance planning and reporting requirements contained in the Government Performance and Results Act (GPRA).

Dated: April 7, 1998.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 98–9730 Filed 4–13–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act

TIME AND DATE: 10:00 a.m., Thursday, April 16, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from Credit Union to Convert Insurance.

2. Requests from Three (3) Federal Credit Unions to Convert to Community Charters.

3. Appeal from a Federal Credit Union of the Regional Director's Approval of a Field of Membership Overlap.

4. Final Rule: Amendments to Part 703, Investment and Deposit Activities, and Part 704, Corporate Credit Unions, NCUA's Rules and Regulations.

5. Interpretive Ruling and Policy Statement (IRPS). (IRPS 98–2 adoption; IRPS 92–1 rescission.)

6. Year 2000 Issues: NCUA's Y2K Efforts.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, April 16, 1998.

PLACE : Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Four (4) Administrative Actions under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

2. Four (4) Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–9966 Filed 4–10–98; 12:10 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681]

International Uranium (USA) Corp.; Notice of Receipt of License Amendment Application; Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received an application, by letter dated March 3, 1998, from International Uranium (USA) Corporation (IUSA) to amend NRC Source Material License No. SUA–1358. By this submittal, IUSA is requesting NRC approval for a performance-based license condition (PBLC) regarding the acceptance of alternate feed materials for processing at its White Mesa Uranium Mill, located near Blanding, Utah.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Park, Uranium Recovery Branch, Mail Stop TWFN 7-J8, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301/415–6699.

SUPPLEMENTARY INFORMATION: On September 15, 1995, the NRC published in the **Federal Register** staff guidance entitled, ''Final Position and Guidance on the Use of Uranium Mill Feed Material Other Than Natural Ores'' (60 FR 49296). Under this guidance, NRC-licensed uranium or thorium mills may process ''* * * natural or native matter that may be mined and treated for the extraction of any of its constituents or any other matter from which source material is extracted * * *'' subject to NRC approval. By this amendment application, IUSA is requesting that it be allowed to accept alternate feed materials for processing at the White Mesa mill, subject to operating procedures approved by the NRC, without having to seek NRC approval on a case-by-case basis.

The inspection role of the NRC would remain unchanged with the administration of a PBLC. Operational changes, regulatory commitments, and record keeping requirements implemented by IUSA through a PBLC are subject to NRC inspection and enforcement actions, if appropriate.

In the past, the NRC has granted approval to IUSA for the processing of alternate feed materials on several occasions. The two most recent approvals concerned the Cotter Concentrate materials, formerly stored on the Nevada Test Site (Amendment 1 to SUA–1358; April 2, 1997), and uranium-bearing materials received from Cabot Corporation's facility near Boyerstown, Pennsylvania (Amendment 4 to SUA–1358; August 15, 1997).

IUSA's application to amend Source Material License No. SUA–1358, which describes the proposed change and the reasons for the request, is available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street N.W., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders in 10 CFR part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, International Uranium (USA) Corporation, Independence Plaza, Suite 950, 1050 Seventeenth Street, Denver, CO 80265;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 7th day of April 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material, Safety and Safeguards.

[FR Doc. 98–9812 Filed 4–13–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Augmented Inspection of Pressurized-Water Reactor Class 1 High Pressure Safety Injection Piping (TAC NO. M99226)

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of public comment period.

SUMMARY: On March 30, 1998, (63 FR 15233) the NRC published for public comment a proposed generic letter concerning the identification of a discrepancy in the American Society of Mechanical Engineers (ASME) Code inspection requirements regarding the inservice inspection of those portions of the high-pressure safety injection system piping designated as Code Class 1 with nominal pipe sizes between 4 inches and 1½ inches, inclusive, and the need for addressees to maintain the integrity of this reactor coolant pressure boundary piping in accordance with the provisions of their current facility licensing bases and report to the NRC their previous actions for verifying the integrity of the subject piping and their plans regarding future inspections. The comment period for this proposed generic letter was originally scheduled to expire on April 29, 1998. In a letter dated March 31, 1998, the Nuclear Energy Institute requested a 30-day

extension of the comment period to permit sufficient time to reach consensus on a coordinated industry response. In response to this request, the NRC has decided to extend the comment period.

DATES: The comment period has been extended 30 days and will now expire on May 29, 1998. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSEES: Submit written comments to Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T6–D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Matthew A. Mitchell (301) 415–3303.

Dated at Rockville, Maryland, this 9th day of April 1998.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–9813 Filed 4–13–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of April 13, 20, 27, and May 4, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 13

There are no meetings the week of April 13.

Week of April 20—Tentative

There are no meetings the week of April 20.

Week of April 27—Tentative

Wednesday, April 29

11:30 a.m.

Affirmation Session (PUBLIC MEETING) (if needed)

Thursday, April 30

9:00 a.m.

Briefing on Investigative Matters (Closed—Ex. 5 and 7)

2:00 p.m.

Discussion of Management Issues (Closed—Ex. 2 and 6)

Friday, May 1

8:30 a.m.

Briefing on Selected Issues Related to Proposed Restart of Millstone Unit 3. (PUBLIC MEETING) (Contact: Bill Travers, 301–415–1200) [1]

* * * * *

1:00 p.m.

(Continuation of Millstone meeting.)

Week of May 4—Tentative

There are no meetings the week of May 4.

* * * * *

ADDITIONAL INFORMATION: By a vote of 4–0 on March 23, the Commission determined pursuant to U.S.C. 552b(c)(1) and 10 CFR Sec. 9.104(a)(1) of the Commission's rules that ''Briefing by Executive Branch'' (Closed—Ex. 1) be held on March 23, and on less than one week's notice to the public.

By a vote of 3–1 on April 3, the Commission determined pursuant to U.S.C. 552b(c)(1) and 10 CFR Sec. 9.104(a)(1) of the Commission's rules that ''Affirmation of Louisiana Energy Services—Review of LBP–96–25 (NEPA Issues); Review of LBP–97–8 (Environmental Justice)'' be held on April 3, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary, 4/10/98.

[FR Doc. 98–10036 Filed 4–10–98; 2:49 pm]

BILLING CODE 7590–01–M

[1] Note: A follow-on meeting to discuss the remaining issues related to Millstone Unit 3 restart will be held at a later date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form U–6B–2—File No. 270–169, OMB Control No. 3235–0163

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget request for extension of the previously approved collection of information discussed below.

The Public Utility Holding Company Act of 1935 (15 U.S.C. Section 79a *et seq.*) requires the filing of an application and/or declaration on Form U–1 for prior Commission approval both for the issue and sale of a security and its acquisition by a company in a registered holding company system.[1] Section 6(b) provides that the Commission shall exempt from the requirement of filing a declaration on Form U–1, by rules and regulations or orders and subject to such terms and conditions as it deems appropriate in the public interest or for the protection of investors or consumers, certain security issuances and sales.

Section 6(b) also contains a reporting requirement. It directs the issuer of securities exempted under section 6(b) to file with the Commission within 10 days of the issue or sale a certificate of notification and directs the Commission to prescribe the form of and information required in this certificate. Rule 20(d) prescribes Form U–6B–2 as the form of certificate of notification to be filed pursuant to section 6(b). Form U–6B–2 is also prescribed by rule 52(b) (17 CFR 250.52(b)) and rule 47(b) (17 CFR

[1] *See* section 6(a) (requiring prior Commission approval under the standards of section 7 for the issue and sale of securities) and section 9(a)(1) (requiring prior Commission approval under the standards of section 10 for the acquisition of securities).

250.47(b)) as the form of certificate of notification to be filed by a public-utility subsidiary company of a registered holding company to notify the Commission of exempt issuances and sales of securities under rules 52 (exemption for certain issuances and sales of securities approved by state commissions) and 47 (exemption for certain issuances and sales of securities to the Rural Electrification Administration). The Commission estimates that approximately 52 respondents file Form U–6B–2 each year for a total annual burden of 52 hours.

The estimates of average burden hours are made for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

There is no recordkeeping requirement of this information collection. It is mandatory that qualifying companies provide the information required by the Form U–6B–2. There is no requirement to keep the information confidential because it is public information.

It should be noted that ''an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.''

General comments regarding the above information should be directed to the following persons: (i) Desk officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget (''OMB''), Room 3208, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB by May 14, 1998.

Dated: March 30, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9804 Filed 4–13–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copy available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension

Rules 8b–1 to 8b–32—SEC File No. 270–135, OMB Control No. 3235–0176

Rule 604; Rule 605 and Form 1–E—SEC File No. 270–221, OMB Control No. 3235–0232

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') requests for extension of previously approved collections of information discussed below.

Rules under section 8(b) of the Investment Company Act of 1940. Rules 8b–1 to 8b–32 under the Investment Company Act of 1940 (the Act), [17 CFR 270.8b–1 to 8b–32], are the procedural rules an investment company must follow when preparing and filing a registration statement. These rules were adopted to standardize the mechanics of registration under the Act and to provide more specific guidance for persons registering under the Act than the information contained in the statute. For the most part, these procedural rules do not require the disclosure of information. Two of the rules, however, require limited disclosure of information.[1] The information required by the rules is necessary to ensure that investors have clear and complete information upon which to base an investment decision. The Commission uses the information that investment companies provide on registration statements in its regulatory, disclosure review, inspection and policy making roles. The respondents to the collection of information are investment companies filing registration statements under the Act.

The Commission does not estimate separately the total annual reporting and recordkeeping burden associated with rules 8b–1 to 8b–32 because the burden associated with these rules are included in the burden estimates the Commission submits for the investment company registration statement forms (*e.g.*, Form N–1A, Form N–2, Form N–3, and Form N–4). For example, a mutual fund that prepares a registration statement on Form N–1A must comply with the rules under section 8(b), including rules on riders, amendments, the form of the registration statement, and the number of copies to be submitted. Because the fund only incurs a burden from the section 8(b) rules when preparing a registration statement, it would be impractical to measure the compliance burden of these rules separately. The Commission believes that including the burden of the section 8(b) rules with the burden estimates for the investment company registration statement forms provides a more accurate and complete estimate of the total burdens associated with the registration process.

Investment companies seeking to register under the Investment Company Act are required to provide the information specified in rules 8b–1 to –32 if applicable. Responses will not be kept confidential.

Rule 604—Filing of Notification on Form 1–E. Rule 604 of Regulation E [17 CFR 230.604] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (''Securities Act'') requires a small business investment company (''SBIC'') or a business development company (''BDC'') claiming an exemption from registering its securities under the Securities Act to file a notification with the Commission on Form 1–E.

Rule 605—Filing and Use of the Offering Circular. Rule 605 of Regulation E [17 CFR 230.605] requires an SBIC or BDC claiming an exemption from registering its securities under the Securities Act to file an offering circular with the Commission that must also be provided to persons to whom an offer is made.

Form 1–E—Notification Under Regulation E. Form 1–E is the form that an SBIC or BDC uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Form 1–E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdiction in which the issuer intends to offer its securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1–E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1–E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. Each year approximately one issuer files a notification on Form 1–E and an offering circular. The Commission estimates that preparing Form 1–E and

[1] Rule 8b–3, 17 CFR 270.8b–3, provides that whenever a registration form requires the title of securities to be stated, the registrant must indicate the type and general character of the securities to be issued. Rule 8b–22, 17 CFR 270.8b–22, provides that if the existence of control is open to reasonable doubt, the registrant may disclaim the existence of control, but it must state the material facts pertinent to the possible existence of control.

an offering circular require an issuer to spend approximately 100 staff hours.

Estimates of the burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 6, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9805 Filed 4–13–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Cambrex Corporation, Common Stock, $.10 Par Value; Common Stock Purchase Rights) File No. 1–10638

April 8, 1998.

Cambrex Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities also are listed for trading on the New York Stock Exchange, Inc. (''NYSE'') pursuant to a Registration Statement Form 8–A that became effective on February 11, 1998. Trading in the Securities on the NYSE commenced on March 5, 1998.

The Company has complied with Amex Rule 18 by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing and registration on the Exchange and by setting forth in detail to the Exchange the facts and reasons supporting the proposed withdrawal.

In deciding to withdraw its Securities from listing and registration on the Amex, the Company considered the costs and expenses attendant on maintaining the dual-listing of its Securities on the NYSE and the Amex. The Company does not see any particular advantage in the dual-trading of its Securities and believes that the dual-listing may fragment the market for its Securities.

By letter dated February 23, 1998, the Exchange informed the Company that it would not object to the withdrawal of the Company's Securities from listing and registration on the Amex.

By reason of Section 12(b) of the Act and the rules thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before April 29, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–9807 Filed 4–13–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of April 13, 1998.

An open meeting will be held on Thursday, April 16, 1998, at 10:15 a.m.

The subject matter of the open meeting scheduled for Thursday, April 16, 1998, at 10:15 a.m., will be: The Commission will consider a proposal regarding the regulation of alternative trading systems under the Securities Exchange Act. In addition, the Commission will consider proposed Rule 19b–5 and amendments to Rule 19b–4, under the Securities Exchange Act, that address the rule filing requirements for self-regulatory organizations. For further information contact: Marianne H. Duffy at (202) 942–4163 or Kevin Ehrlich at (202) 942–0778.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: April 9, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–9880 Filed 4–9–98; 4:23 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39836; File No. SR–DTC–98–01]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change to Conform DTC's Rules to Revised Article 8 of the Uniform Commercial Code of the State of New York

April 7, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 14, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–98–01) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend DTC's rules so that they are consistent with the revisions to Article 8 of the Uniform Commercial

[1] 15 U.S.C. 78s(b)(1).

Code of the State of New York. The proposed rule change also will amend DTC's rules to specifically state that DTC's board of directors may by resolution delegate to the chairman of the board the authority to establish fees and charges.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Recently, New York State revised its version of Article 8 (with related changes in other Articles) of the Uniform Commercial Code. As a result, DTC is amending its rules to make them consistent with revised Article 8. The proposed rule change will add new terminology to DTC's rules,[3] will revise certain definitions,[4] and will delete section references based on the prior version of Article 8. The amendments will not change the substance or meaning of DTC's current rules. The proposed rule change also will amend DTC Rule 20 to specifically state that DTC's board of directors may by resolution delegate to the chairman of the board the power to approve fees and charges.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder because it promotes the safeguarding of securities and funds in DTC's custody or under its control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change. All participants will be informed of the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–98–01 and should be submitted by May 5, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9802 Filed 4–13–98; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] The proposed rule change will add the following terms to DTC's rules: (1) Certificated security; (2) control; (3) deposit; (4) entitlement holder; (5) entitlement order; (6) free pledge; (7) free release; (8) NYUCC; (9) person; (10) pledge; (11) pledge versus payment; (12) release; (13) release versus payment; (14) security entitlement; (15) security certificate; (16) uncertificated security; and (17) withdrawal.

[4] The proposed rule change will make technical revisions to the following terms: (1) clearing agency agreement; (2) deliverer; (3) delivery; (4) deposited security; (5) incomplete transaction; (6) instructor; (7) minimum amount securities; (8) net addition securities; (9) participant; (10) payee; (11) payor; (12) pledged security; (13) pledgee; (14) pledgor; (15) receiver; (16) securities account; (17) security; (18) segregated account; and (19) settlement amount.

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39838; File No. SR–DTC–98–04]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Charges

April 8, 1998.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on February 20, 1998, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC amended the proposed rule change on February 25, 1998. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises DTC's fee schedule for its transfer agent drop (''TAD'') service, which is attached as Exhibit 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise the fees associated with DTC's TAD service. The TAD service provides transfer agents located outside of New York City with a central location within Manhattan for the receipt of securities from banks, broker-dealers, depositories, and shareholders.[3] Until 1996, a similar service was offered by the New York office of the Midwest Clearing Corporation (''MCC'').[4]

DTC continually strives to align service fees with estimated service costs, and the subject revisions are part of that effort. DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[5] and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among DTC's participants and other parties who use DTC's TAD service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were solicited and two comment letters from transfer agents were received.[6] Both comment letters express concern with certain fee increases and questioned the rationale of certain fees.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[7] of the Act and pursuant to Rule 19b–4(e)(2)[8] promulgated thereunder because the proposal establishes or changes a due, fee, or other change imposed by DTC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–98–04 and should be submitted by May 5, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

TRANSFER AGENT DROP SERVICE (TAD) FEE SCHEDULE

Description	1997 Fee	1998 Fee
Monthly Service Fee	$500	No change.
Window Tickets	1	No change.
Microfilm Labor	15	No change.
Microfilm Roll	16	No change.
Daily Valuation:		
Up to 25 window tickets	$25 per day	$25 per day.
More than 25 tickets	175 per day	
26 to 75 tickets		75 per day.
76 to 100 tickets		150 per day.
More than 100 tickets		250 per day.
Late Closings:		
• Midnight	$1,000 per occurrence	2,000 per occurrence.
• Same Day Notification	No Charge	5,000 per occurrence.
• Cancellation—same day	No Charge	1,000 per occurrence.
• DTC holiday—closing	$2,000 per occurrence	5,000 per occurrence.
Items Returned to DTC in Error	No Charge	$50 per Item.
Aging Untransferred Items (Older Than 15 Business Days).	No Charge	50 per Item.

[3] For a complete description of the TAD services, refer to Securities Exchange Act Release No. 37562 (August 13, 1996), 61 FR 43283 [File No. SR–DTC–96–09] (order approving proposed rule change).

[4] MCC withdrew from the clearing business in 1996. Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 [File Nos. SR–CHX–95–27, SR–DTC–95–22, SR–MCC–95–04, SR–MSTC–95–10, SR–NSCC–95–15] (order approving MCC's withdrawal from the clearance and settlement business).

[5] 15 U.S.C. 78q–1.

[6] Letters from Achille Retolatto, Vice President, First Chicago Trust Company of New York, to Al DeMaio, The Depository Trust Company (January 23, 1998) and from William P. Tatler, Vice President, Registrar and Transfer Company, to Mario Delli Pizzi, Securities Processing Director, The Depository Trust Company (January 28, 1998).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(e)(2).

[9] 17 CFR 200.30–3(a)(12).

[FR Doc. 98–9803 Filed 4–13–98; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39835; File No. SR–MSRB–98–5]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to the Board's Transaction Reporting Program

April 7, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 1, 1998, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–98–5). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 MSRB is filing herewith a proposed rule change concerning the Board's Transaction Reporting Program (''Reporting Program''). The proposed rule change states the Board's intention to publish for comment five sample Daily Reports containing summary price and volume information on inter-dealer and customer municipal securities transactions reported by dealers under rule G–14. The proposed rule change also states that the Board intends to make the Daily Report available on an operational basis in the third quarter of 1998. The proposed rule change is as follows.

Notice—Sample Transaction Reporting Data Available for Review

Since 1995, rule G–14 has required dealers to report to the MSRB their inter-dealer transactions in municipal securities via the automated comparison system for municipal securities operated by National Securities Clearing Corporation (''NSCC''). The Board has used this information to create a database of transaction information used by regulators for market surveillance purposes. The Board also uses the reported transaction information to create a daily public report summarizing price and volume information for municipal securities that were reported as trading in the inter-dealer market four or more times on the previous business day. The Daily Report, which is made available on T+1 prior to the beginning of the trading day, is used by market participants to help gauge the value of municipal securities. The Board currently has eight subscribers to the Daily Report. Most of the subscribers are information vendors that redistribute the information to their own subscribers and/or use the information in various securities valuation products that they market.

In 1996, the Board filed plans with the Commission to add transactions between dealers and customers to the Reporting Program. Customer transaction data will be included in the surveillance database that the Board makes available to market regulators, and in the Daily Reports of price and volume activity. Since March 1, 1998, dealers have been required to submit customer transaction data on a daily basis.[1] Beginning April 9, 1998, the MSRB will publish samples of a proposed Daily Report that includes both customer and inter-dealer transaction data and will invite public comment on the sample reports.

The criteria for inclusion of municipal securities on the sample Daily Reports are the same as for the current inter-dealer Daily Report. If a municipal security (identified by a CUSIP number) is reported as having been traded four or more times on a given day, the high, low and average price and par value total of all of the trades reported in that security will be on the Daily Report on the next morning. Calculation of average price also is the same as in the current inter-dealer Daily Report. It is an arithmetic mean and is based exclusively on reported transactions (if any) between $100,000 and $1,000,000 in par value.

In applying the criteria for producing the sample Daily Reports, inter-dealer and customer transactions are considered together. This means that any combination of inter-dealer and customer transactions totaling four or more qualifies that CUSIP for inclusion of price information for that CUSIP on the Daily Report. In determining whether a reported transaction will be included for purposes of the Daily Report eligibility, certain transaction records are eliminated from consideration if they contain what appear to be obvious errors (*e.g.*, invalid or unknown CUSIP number, missing dollar price). An attempt is made to calculate a dollar price on when-issued transactions submitted with a yield, but no dollar price. However, such transactions are not considered for Daily Report purposes if there is insufficient securities data (*e.g.*, coupon and dated date) to calculate dollar price from yield or if there is an indication that the securities are not calculated using a standard semiannual compounding formula and a 30/360 day-count.

The sample Daily Reports will be available beginning Thursday, April 9, 1998. The five sample Daily Reports will include information on transactions reported to the Board, by midnight on trade date, between March 30, 1998 and April 3, 1998. Market participants may wish to comment on the Daily Reports, particularly with respect to the format of the reports, so that the Board can make the Daily Reports as useful as possible. The sample Daily Reports will be available on the Board's Web site at WWW.MSRB.ORG and will be available in printed form from the Board's offices. Subscribers to the current inter-dealer Daily Report will be able to access the sample Daily Reports through the computer bulletin board that they normally use to access Daily Reports.

The Board requests that comment on the sample Daily Report be made in writing prior to May 8, 1998. The Board plans to make the Daily Report available on a daily basis during the third quarter of 1998. Prior to that time, the Board must file a plan with the Commission that specifies the final format of the report and that announces the yearly subscription price.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comment it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board 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

Since 1995, rule G–14 has required dealers to report to the MSRB their inter-dealer transactions in municipal

[1] See Exchange Act Release No. 37998 (Nov. 29, 1996), 61 FR 64782 (December 6, 1996) (approval of amendment to rule G–14); Exchange Act Release No. 39495 (December 29, 1997), 63 FR 585 (January 6, 1998) (delay of effectiveness to March 1, 1998).

securities via the automated comparison system for municipal securities operated by the NSCC. The Board has used this information to create a database of transaction information that can be used for market surveillance purposes and to produce daily report summarizing price and volume information for municipal securities that traded four or more times in the inter-dealer market on the previous business day.

In 1996, the Board filed plans with the Commission to add transactions between dealers and customers to the Transaction Reporting Program.[2] This will allow the Board to include customer transaction data in the surveillance database that the Board makes available to market regulators, and in the Daily Reports of price and volume activity in the market. The 1996 filing included an amendment to rule G–14, requiring dealers to report their customer transactions in municipal securities to the Board in certain prescribed formats.[3] The Commission approved this amendment and it became effective March 1, 1998.[4] The Board has been receiving customer transaction data since that time and is now ready to publish samples of a proposed Daily Report that includes both customer and inter-dealer transactions.

The criteria for inclusion of municipal securities on the sample Daily Reports will be the same as in the current inter-dealer Daily Report. If a municipal security (*i.e.*, CUSIP number) is reported as having been traded four or more times on a given day, the high, low and average price and par value total of all of the trades reported in that security will be on the Daily Report on the next morning. Calculation of average price will be an arithmetic mean and will be based exclusively on reported transactions (if any) between $100,000 and $1,000,000 in par value. In applying these criteria, inter-dealer and customer transactions will be considered together. This means that any combination of inter-dealer and customer transactions totaling four or more will trigger the inclusion of price information for that CUSIP on the Daily Report.

The five sample Daily Reports being released for comment will include information on inter-dealer and customer transactions reported to the Board, on trade date, between March 30, 1998 and April 3, 1998. They will be released during the week of April 7, 1998. The sample Daily Reports will be available on the Board's Web site at WWW.MSRB.ORG will be available in printed form from the Board's offices. Subscribers to the current inter-dealer Daily Report will be able to access the sample Daily Reports through the normal means of accessing Daily Reports, which is a computer bulletin board.

Although the Board is now receiving customer transaction data from dealers, it is not yet prepared to begin production of Daily Reports containing summary price and volume information on an operational basis. This is due to several factors, including the need for further testing of the software that produces the Daily Report, the need for additional efforts to assure that the data within the Daily Report reliably reflects transaction data reported to the Board, and the need for additional analysis to help assure that the data submitted by dealers is accurate, timely and complete. Prior to operational status being achieved, it also will be necessary for the Board to convert its current testing and development computer systems to operational systems, which require higher standards of reliability and operational readiness. The Board estimates that these objectives can be attained during the third quarter of 1998. Prior to that time, the Board will file a more complete plan with the final format of the Daily Reports and a detailed description of the process by which the Daily Report is produced.

2. Statutory Basis

The Board believes that the proposed rule change is consistent with Section 15B(b) (C) of the Act, which provides that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The Board believes that the proposed rule change is necessary so that Daily Report operations can begin as soon as possible. The Board believes that the operation of the Reporting Program, in general, will facilitate the statutory purposes noted above because the Reporting Program will provide an additional degree of price transparency in the municipal securities market and will provide a surveillance audit trail that may be used by market regulators in furtherance of their regulatory purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers and merely provides sample data for comment for a program the general parameters of which previously have been approved by the Commission.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither requested nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement or an existing Board rule under Section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt of this filing by the Commission. The proposed rule change merely describes the plan for the Board to provide a sample of transaction data from the municipal securities market so that the Board can expeditiously continue with its plan, previously approved by the Commission, to add customer transaction data to the existing Reporting Program. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 submission, all subsequent

[2] Exchange Act Release No. 37859 (Oct. 23, 1996), 61 FR 56072 (October 23, 1996).

[3] See MSRB Rule G–14(b)(ii) and Rule G–14 Transaction Reporting Procedures.

[4] Securities Exchange Act Release 37998 (Nov. 29, 1996) (approval of amendment to rule G–14); Securities Exchange Act Release 39495 (Dec. 29, 1997) (delay of effectiveness to March 1, 1998).

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, 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. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–5 and should be submitted by May 5, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9806 Filed 4–13–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39837; File No. SR–NYSE–97–38]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Amend Rule 13 to Create a New Percentage Order Type to be Called ''Immediate Execution or Cancel Election''

April 8, 1998.

I. Introduction

On January 2, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Rule 13 to create a new percentage order type to be called ''Immediate Execution or Cancel Election.''

The proposed rule change was published for comment in the **Federal Register** on February 4, 1998.[3] No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Currently, NYSE Rule 13 provides for three types of percentage orders: straight limit, last sale, and ''buy minus/sell plus.'' The Exchange believes that the election provisions of these existing types of percentage orders do not adequately meet the need of some investors placing percentage orders, particularly straight limit and last sale percentage orders. For example, investors rely on percentage orders as a way to trade along with the trend of the market without initiating price changes or otherwise influencing the equilibrium or buying and selling interest. However, certain executions of the existing types of percentage orders may initiate price changes, contrary to the ''go along'' expectations of the customer. In addition, executions of last sale percentage orders may not always be able to be effected, as the market trend may continue to move away from the price at which the order may be executed.

In response, the Exchange proposes to amend Rule 13 to create a new percentage order type to be called ''Immediate Execution or Cancel Election.'' Under the terms of the proposal, the elected portion of a percentage order marked ''Immediate Execution or Cancel Election'' would be required to be executed immediately in whole or in part at the price of the electing transaction, or better.[4] If the elected portion cannot be executed at that price or better, the election would be deemed canceled, and the unexecuted elected portion would revert back to a percentage order, subject to subsequent election or conversion.

For example, where an ''Immediate Execution or Cancel Election'' buy percentage order for 1000 shares at 30½ is placed with the specialist and the next transaction is for 500 shares at 30¼, the specialist would elect 500 shares and must immediately execute the order at the price of the electing transaction, 30¼, or better. If there is liquidity sufficient to execute only 300 shares at the price of the electing transaction, 30¼, or better, the specialist would execute 300 shares at that price and the election of the remaining 200 shares would be canceled and the 200 shares would revert back to an unelected percentage order. If, instead, the market moves away from the price of the electing transaction to, for instance, 30⅜, the election would be canceled [5] and the unexecuted elected portion would revert back to a percentage order.[6]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [7] and the rules and regulations thereunder applicable to a national securities exchange.[8] The Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act [9] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market by providing additional flexibility to investors entering percentage orders. Specifically, the proposed ''Immediate Execution or Cancel Election'' percentage order should allow investors to achieve their investment goals while continuing to limit the specialist's discretion in representing such orders. The Commission believes that requiring the specialist to treat an election as canceled, unless the elected portion can be executed immediately at the price of the electing transaction or better,[10] should ensure that the investor will not be trading ahead of, nor lagging behind, the market when there is insufficient interest to execute the elected portion of

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 39583 (January 27, 1998) 63 FR 5829.

[4] The Commission notes that the rule language does not explicitly state that the elected portion of the percentage order must be executed at a better price than the electing price, if immediately available. According to the Exchange, it is clearly implied that the percentage order must be executed at a better price than the price of the electing transaction, if immediately available. Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Michael Walinskas, Senior Special Counsel, Division, Commission, on April 7, 1998.

[5] The specialist would not execute the order at 30⅜, even though such an execution is within the maximum limit of the percentage order (30½). In this regard, an Immediate Execution or Cancel Election percentage order is treated similar to a last sale percentage order.

[6] According to the NYSE, the Exchange's interpretation of the manner in which the proposed ''Immediate Execution or Cancel Election'' percentage order would operate corresponds with the examples developed by Commission staff and set forth above. Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Michael Walinskas, Senior Special Counsel, Division, Commission, on April 7, 1998.

[7] 15 U.S.C. 78f.

[8] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] See note 4, *supra.*

the order at the price of the electing transaction.

The Commission also believes that the proposed approach sets forth adequate objective criteria to guide the specialist's representation of the order. Although the execution of certain percentage orders, particularly percentage orders that have been converted by a specialist, present issues relating to the proper amount of discretion allowed to the specialist executing such orders, ''Immediate Execution or Cancel Election'' percentage orders do not raise such concerns. Specifically, a specialist must execute an ''Immediate Execution or Cancel Election'' percentage order at the instructed election price immediately upon the occurrence of a trade at the electing price or better, or treat the transaction as canceled.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NYSE–97–38) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9801 Filed 4–13–98; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0232]

Notice of Issuance of a Small Business Investment Company License

An application was filed by White River Partners, L.P., Indianapolis, Indiana 46219 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0232 on February 26, 1998 to White River Partners, L.P. to operate as a small business investment company.

The Licensee has initial committed capital of $5,000,100, and Mr. Sam Sutphin and Marc DeLong will manage the fund. The capital of the Licensee is owned by two entity institutional investors and two individual institutional investors. With the exception of the above entities, no one investor is expected to own more than 10% of the partnership.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 7, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–9763 Filed 4–13–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–95–246]

North American Free Trade Agreement's Land Transportation Standards Subcommittee and Transportation Consultative Group: Annual Plenary Session

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice (1) announces the fifth joint annual plenary session of the North American Free Trade Agreement's (NAFTA) Land Transportation Standards Subcommittee (LTSS) and the Transportation Consultative Group (TCG) and other related meetings; and (2) invites representatives of non-governmental entities with an interest in land transportation issues to participate in a listening session immediately preceding the plenary meeting and to attend a briefing at a later date. Only U.S., Canadian, and Mexican government officials may attend the plenary and working group meetings.

BACKGROUND: The Land Transportation Standards Subcommittee (LTSS) was established by the North American Free Trade Agreement's (NAFTA) Committee on Standards-Related Measures to examine the land transportation regulatory regimes in the United States, Canada, and Mexico, and to seek to make certain standards more compatible. The Transportation Consultative Group (TCG) was formed by the three countries' departments of transportation to address non-standards-related issues that affect cross-border movements among the countries, but that are not included in the NAFTA's LTSS work program.

MEETINGS AND DEADLINES: The fifth joint annual LTSS/TCG plenary session will be held from June 8 to 11, 1998, at the Delta Montreal Hotel, 475 President Kennedy Avenue, Montreal, Quebec, Canada, HRA 2T4. The following LTSS working groups will meet during the same week and at the same location: (1) Compliance and Driver and Vehicle Standards; (2) Vehicle Weights and Dimensions; and (3) Hazardous Materials Transportation Standards. Similarly, the following TCG working groups are expected to meet: (1) Cross-Border Operations and Facilitation; (2) Rail Safety and Economic Issues; (3) Automated Data Exchange; (4) Science and Technology; and (5) Maritime and Ports Policy

Also at the same Montreal site, on June 8, 1998, from 2:00 p.m. to 6:00 p.m., a listening session will be held for representatives of the truck, bus, and rail industries, transportation labor unions, brokers and shippers, chemical manufacturers, insurance industry, public safety advocates, and others who have notified us of their interest to attend and have submitted copies of their presentations, in English and Spanish, to the address below by May 15. This is an opportunity for presenters to voice their concerns, provide technical information, and offer suggestions relevant to achieving greater standards compatibility and improving cross-border trade. While written statements may be of any length, oral presentations will be limited to 10 minutes per presenter. After May 15, statements may be submitted for the record, and requests to present oral comments at the listening session will be accommodated only on a time-available basis.

Although participation in the LTSS and TCG plenary and working group meetings is limited to government officials only, representatives of non-governmental entities also are invited to take part in parallel topical discussions, visits to transport facilities, and a final briefing by the heads of the U.S., Canadian, and Mexican delegations to be held on June 12.

Hotel reservations may be arranged by calling the Delta Montreal directly at (514) 286–1986 or 1-800–268–1133. In order to ensure that they receive the special group rate, callers must mention the group name ''NAFTA 1998 Conference'' and reserve before May 7, 1998.

A briefing to report on the outcome of the Montreal meetings will be conducted at DOT at the address below, in Room 8236–38, on June 30, from 10:00 a.m. to noon. Interested parties may notify DOT of their interest to attend this briefing by calling (202) 366–2892 by June 26.

SUPPLEMENTARY INFORMATION: LTSS-related documents, including working group reports and statements received

by DOT from industry associations, transportation labor unions, public safety advocates, and others will be available for review in Docket No. OST–95–246, at the address below, Room PL–401, between 9:00 a.m. and 5:00 p.m., e.s.t., Monday through Friday, except national holidays.

ADDRESS AND PHONE NUMBERS: Individuals and organizations interested in participating in the listening session must send notice of their interest and copies of their presentations to Maria Lameiro, U.S. Department of Transportation, OST/X–20, Room 10300, 400 Seventh Street, SW., Washington, DC 20590. Respondents may also send information by fax at (202) 366–7417. For additional information, call (202) 366–2892.

Dated: April 9, 1998.

Bernard Gaillard,

Director, Office of International Transportation and Trade.

[FR Doc. 98–9848 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waco Regional Airport, Waco, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waco Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 14, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Walter C. Shrupp, Director of Aviation, at the following address: Mr. Walter C. Shrupp, Director of Aviation, City of Waco, Route 10, Box 173T, Waco, Texas 76708.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waco Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 3, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 30, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1998.

Proposed charge expiration date: June 1, 2013.

Total estimated PFC revenue: $2,081,400.

PFC application number: 98–02–C–00–ACT.

Brief description of proposed projects:

Projects To Impose and Use PFC's

Terminal Renovation and Expansion, and PFC Application Costs.

Proposed class or classes of air carriers to be exempted from collection PFC's:

None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Waco Regional Airport.

Issued in Forth Worth, Texas on April 3, 1998.

Edward N. Agnew,

Acting Manager, Airports Division.

[FR Doc. 98–9834 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: City of Lafayette, Lafayette Parish, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Lafayette, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Farr, Program Operations Manager, Federal Highway Administration, P.O. Box 3929, Baton Rouge, LA 70821, Telephone: (504) 389–0465.

SUPPLEMENTARY INFORMATION: An Environmental Impact Statement (EIS) will be prepared on a proposal to improve U.S. Routes 90 and 167 (Evangeline Thruway) in Lafayette, Louisiana. The proposed improvement, called the I–49 Connector, would involve an upgrade of the existing transportation corridor between the Lafayette Regional Airport and just south of the existing I–10/I–49 interchange, a distance of 5 miles.

In 1987, the U.S. Congress authorized and funded a demonstration study ''to provide limited continuous access between an Interstate route and a highway on the Federal-Aid Primary System in Lafayette, Louisiana.'' In October, 1990, the Louisiana Department of Transportation and Development (LDOTD) and Federal Highway Administration (FHWA) began work on a comprehensive location study and Environmental Impact Statement (EIS) of potential transportation improvements in the U.S. 90/U.S. 167 Evangeline Thruway corridor in Lafayette. A Notice of Intent to prepare an EIS was issued on January 17, 1991. That work resulted in an approved Draft EIS in May, 1992, and a Public Hearing on the proposed project was held in July, 1992. Following the Public Hearing, FHWA withdrew the Draft EIS on December 11, 1992. This is a reopening of that project.

Improvements to the corridor are considered warranted to improve mobility for local traffic and provide route continuity for I–49, which currently terminates at I–10 north of the urban area. Any improvement under consideration would be adequate to accommodate existing and projected traffic demand. Alternatives under consideration include (1) taking no action; and (2) constructing a fully controlled access highway on new alignment or existing alignment. Incorporated into and studied with the build alternative will be design variations of grade and alignment. A re-examination of four (EA–1 Elevated, RR–3, RR–4, and RR–5 Elevated) of the six alternatives developed in the preparation of the 1992 Draft EIS will be conducted. In addition, an at-grade alignment through the corridor study area with the main line going over at selected interchange and or grade separation locations will be developed and evaluated (At-Grade, Over at selected Interchange Locations). Alternatively, an at-grade alignment through the corridor study area with selected cross streets going over at interchange locations will also be developed and evaluated (At-Grade, with selected cross streets over at Interchange Locations). The Lafayette MPO has identified the following locations and cross streets to be considered for these alternatives; Willow Street, Mudd Avenue, Johnston Street, Pinhook Road, University Avenue and Kaliste Saloom Road The EA–1 Depressed and the RR–5 Depressed alternatives will not be re-examined, but they will be referenced to as alternatives considered but eliminated with an explanation of the reason for elimination, as well as a history of these alternatives and their analysis.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held in Lafayette between March, 1998 and the conclusion of the study. In addition, a Public Hearing will be held. Public notices will be given with the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comment prior to the formal public hearing. A formal agency scoping meting will be held.

To insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Mr. William C. Farr at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Mr. William A. Sussmann,

FHWA Division Administrator, Baton Rouge, LA.

[FR Doc. 98–9793 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Phase I Regional Rail Project, Raleigh-Durham, NC

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Research Triangle Regional Public Transportation Authority, locally known as Triangle Transit Authority or TTA, intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed regional rail transit project in Wake and Durham Counties, North Carolina.

The EIS will evaluate the following alternatives: A No-build alternative; a Transportation System Management alternative consisting of low to medium cost improvements to the facilities and operation of TTA and local bus services in addition to currently planned transit improvements; and the regional rail transit alignment (including line, sixteen stations and support facilities). Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State and local agencies, and through public and agency meetings.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the Triangle Transit Authority by May 15, 1998. See **ADDRESSES** below. *Scoping Meetings:* A public scoping meeting will be held on Monday, April 27, 1998 from 4 pm to 8 pm at the NC Biotechnology Center in Research Triangle Park. An agency scoping meeting will be held on Monday, April 27, 1998 at 9 am at the NC Biotechnology Center. See **ADDRESSES** below.

ADDRESSES: *Written comments* on the scope of alternatives and impacts to be studied should be sent to Mr. Jim Ritchey, General Manager, Triangle Transit Authority, PO Box 13787, Research Triangle Park, North Carolina 27709. *Scoping meetings* will be held at the following location: NC Biotechnology Center, 15 T.W. Alexander Drive, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Dittmeier, Federal Transit Administration, Region IV, (404) 562–3512.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and TTA invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated and identifying any significant social, economic or environmental issue related to the alternatives. Specific suggestions related to additional alternatives to be examined and issues to be addressed are welcome and will be considered in the development of the final scope. Scoping comments may be made at the scoping meetings or in writing no later than May 15, 1998 (see **DATES** and **ADDRESSES** above). During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated, and suggesting alternatives that are less costly or less environmentally damaging which achieve similar transit objectives. Comments should focus on the issues and alternatives for analysis, and not on a preference for a particular alternative.

Scoping materials will be available at the meeting or in advance of the meeting by contacting Triangle Transit Authority as indicated above. If you wish to be placed on the mailing list to receive further information as the project continues contact Mr. Jim Ritchey at the Triangle Transit Authority (see **ADDRESSES** above).

II. Description of Study Area and Project Need

The proposed project consists of an approximately 35 mile regional rail transit system. The technology proposed is diesel multiple units (DMU's), self-propelled, diesel-powered trainsets. The regional rail alignment will be located within the existing North Carolina Railroad and CSX railroad rights-of-way. The sixteen proposed stations connect the region's major activity centers, including universities, major

employment centers, and residential areas. The system would also serve the planned Durham and Raleigh Multi-Modal Centers.

The corridor generally parallels NC 147 (Durham Freeway), Interstate 40 and NC 54, and US 1 (Capital Blvd), which are major highway facilities providing regional connections in this corridor. The region has a history of relying heavily on roadway expansion to meet the needs of the growing population. However, with the anticipated continuation of population and employment growth, congestion in the region is projected to worsen, with very limited alternatives to driving. In addition, the region continues to face other problems related to rapid growth: Suburban sprawl, deteriorating air quality, lack of community identity, loss of open space, and high highway and transit system costs.

In response to this need, TTA has completed a Major Investment Study (MIS) for this corridor. The results of the MIS resulted in a recommended design concept and scope consisting of a dedicated track with passing sidings within the existing railroad right-of-way, sixteen stations, and expanded local and feeder bus service.

III. Alternatives

The alternatives proposed for evaluation include: (1) No-build, which involves no change to transportation service or facilities in the corridor beyond already committed projects; (2) a Transportation System Management alternative, which consists of low-to-medium cost improvements to the operations of TTA and local bus operators in addition to the currently planned transit improvements in the corridor; and (3) regional rail transit located within the North Carolina Railroad and CSX railroad rights-of-way with sixteen stations.

IV. Probable Effects

FTA and TTA will evaluate all significant environmental, social, and economic impacts of the alternatives analyzed in the EIS. Primary issues include: the projected increase in transit ridership, the locations of the sixteen proposed stations, the support of regional land use goals and plans, secondary impacts in station areas, and capital and operating and maintenance costs. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, safety and visual impacts, impacts on cultural resources, and noise and vibration impacts. Impacts on natural areas, rare and endangered species, air and water quality, wetlands and parklands, groundwater and potentially contaminated sites will also be covered. The impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate any significant adverse impacts will be developed.

Issued on: April 9, 1998.

Susan E. Schruth,

Regional Administrator.

[FR Doc. 98–9827 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3710]

Notice of Receipt of Petition for Decision That Nonconforming 1993 Jeep Cherokee Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993 Jeep Cherokee multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1993 Jeep Cherokee manufactured for the Middle Eastern and other foreign markets that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 14, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc., of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1993 Jeep Cherokee MPVs manufactured for the Middle Eastern and other foreign markets are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1993 Jeep Cherokee that was manufactured for sale in the United States and certified by its manufacturer, Chrysler Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1993 Jeep Cherokee to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1993 Jeep Cherokee, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1993 Jeep Cherokee is identical to its U.S. certified counterpart with respect to compliance

with Standard Nos. 102 *Transmission Shift Lever Sequence. . . .*, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 119 *New Pneumatic Tires,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity, and* 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* inscription of the word ''Brake'' on the brake failure warning light.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) replacement of the taillight assemblies with U.S.-model components that incorporate rear sidemarkers; (b) installation of a high mounted stop lamp.

Standard No. 111 *Rearview Mirrors:* inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning device that activates whenever the key is left in the ignition and the driver's door is opened.

Standard No. 120 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning system with a flashing light that displays the appropriate symbol.

Additionally, the petitioner states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 8, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–9723 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3709]

Notice of Receipt of Petition for Decision that Nonconforming 1995 Jeep Wrangler Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Jeep Wrangler multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1995 Jeep Wrangler manufactured for the Middle Eastern and other foreign markets that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 14, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc., of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1995 Jeep Wrangler MPVs manufactured for the Middle Eastern and other foreign markets are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1995 Jeep Wrangler that was manufactured for sale in the United States and certified by its manufacturer, Chrysler Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1995 Jeep Wrangler to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1995 Jeep Wrangler, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1995 Jeep Wrangler is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . . . .,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 119 *New Pneumatic Tires,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* inscription of the word ''Brake'' on the brake failure warning light.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) replacement of the taillight assemblies with U.S.-model components that incorporate rear sidemarkers; (b) installation of a high mounted stop lamp.

Standard No. 111 *Rearview Mirrors:* inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning device that activates whenever the key is left in the ignition and the driver's door is opened.

Standard No. 120 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning system with a flashing light that displays the appropriate symbol.

Additionally, the petitioner states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 8, 1998.

Marilynne Jacobs,

Director,

Office of Vehicle Safety Compliance.

[FR Doc. 98–9724 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3708]

Notice of Receipt of Petition for Decision that Nonconforming 1998 Harley Davidson FX, FL, and XL Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1998 Harley Davidson FX, FL, and XL motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1998 Harley Davidson FX, FL, and XL motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 14, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1998 Harley Davidson FX, FL, and XL motorcycles are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1998 Harley Davidson FX, FL, and XL motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1998 Harley Davidson FX, FL, and XL motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1998 Harley Davidson FX, FL, and XL motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the

same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1998 Harley Davidson FX, FL, and XL motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 111 *Rearview Mirrors,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* and 122 *Motorcycle Brake Systems.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of U.S.-model headlamp assemblies.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 123 *Motorcycle Controls and Displays:* installation of a U.S. model speedometer calibrated in miles per hour.

The petitioner also states that vehicle identification number plates meeting the requirements of 49 CFR Part 565 will be affixed to non-U.S. certified 1998 Harley Davidson FX, FL, and XL motorcycles.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 8, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–9725 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–3722]

Renewal of Information Collection and Request for Public Comment

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Program Administration's (RSPA) intention to renew for three years its information collection in support of the Office of Pipeline Safety (OPS) for Reporting of Safety-Related Conditions on Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities.

DATES: Comments on this notice must be received by June 15, 1998.

ADDRESSES: Copies of this information can be reviewed at the Dockets Unit, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C., 10:00 A.M. to 4:00 P.M. Monday through Friday excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 366–6205, or by Fax (202) 366–4566, or via electronic mail to ''marvin.fell@rspa.dot.gov''.

SUPPLEMENTARY INFORMATION:

Title: Reporting of Safety-Related Conditions on Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities.

OMB Number: 2137–0578.

Type of Request: Renewal of existing information collection.

Abstract: 49 U.S.C. 60102 requires each operator of a pipeline facility (except master meter) to submit to the Department of Transportation a written report on any safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility or a condition that is a hazard to life, property, or the environment.

Estimate of Burden: The average burden hour per response is 6 hours.

Respondents: Pipeline and Liquefied Natural Gas facility operators.

Estimated responses per year: 47.

Estimated Total Annual Burden on Respondents: 282 hours.

Frequency: On occasion.

Use: To alert RSPA of hazardous conditions that might continue uncorrected.

Comments are invited on (a) the need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond including the use of the appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to Dockets Unit, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001 or by electronic mail to ''OPS.comments@RSPA.dot.gov''.

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

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, 60124, and 49 CFR 1.53.

Issued in Washington, DC, on April 8, 1998.

Richard D. Huriaux,

Director for Technology and Standards, Office of Pipeline Safety.

[FR Doc. 98–9837 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–3722]

Renewal of Information Collection and request for Public comment

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to renew for three years its information collection in support of the Office of Pipeline Safety (OPS) for Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

DATES: Comments on this notice must be received by June 15, 1998.

ADDRESSES: Copies of this information collection can be reviewed at the Dockets Unit, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C., Monday through Friday 10:00 A.M. to 4:00 P.M. except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590, (202) 366–6205, or fax (202) 36604566 or by electronic mail to ''marvin.fell@rspa.dot.gov'.

SUPPLEMENTARY INFORMATION:

Title: Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

OMB Number: 2137–0047.

Type of Request: Renewal of existing information collection.

Abstract: Federal statue requires that hazardous liquid pipeline operators prepare and maintain written records and reports and to make them available to the Department of Transportation on request. Additionally, 49 CFR 195 requires hazardous liquid operators report accidents to the Department of Transportation.

Estimate of Burden: Approximately 234 hours per operator per year.

Respondents: Hazardous Liquid Pipeline Operators.

Estimated Total Annual Burden on Respondents: 49,219 hours.

Frequency of Reporting: On occasion.

Use: To ensure compliance with regulations and provide information on liquid pipeline incidents.

Comments are invited on (a) the need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond including the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to Dockets Unit, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001 or by electronic mail to ''OPS.comments@RSPA.dot.gov'. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118, and 49 CFR 1.53.

Issued in Washington, D.C. on April 8, 1998.

Richard D. Huriaux,

Director for Technology and Standards, Office of Pipeline Safety.

[FR Doc. 98–9838 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–3722]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to request renewal of an information collection in support of the Office of Pipeline Safety (OPS) for Incident and Annual Reports for Gas Pipeline Operators.

DATES: Comments on this notice must be received by June 15, 1998.

ADDRESSES: Copies of this information collection can be reviewed at the Dockets Unit, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C., 10:00 A.M. to 4:00 P.M. Monday through Friday excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20950, (202) 366–6205 or by electronic mail to 'marvin.fell@rspa.dot.gov'.

SUPPLEMENTARY INFORMATION:

Title: Incident and Annual Reports for Gas Pipeline Operators.

OMB Number: 2137–0522.

Type of Request: Renewal of existing information collection.

Abstract: 49 CFR part 191 requires that gas pipeline operators report certain pipeline incidents that involve injuries, fatalities, fires, property damage or environmental damage. Additionally, gas pipeline operators must submit annual reports on their operations to the Department of Transportation.

Estimate of Burden: Approximately 2.5 hours per operator.

Respondents: Gas pipeline operators.

Estimated responses per year: 4,469.

Estimated Total Annual Burden on Respondents: 6,717.

Frequency: Yearly and on occasion.

Use: To identify and evaluate existing and potential pipeline safety problems.

Comments are invited on (a) the need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond including the use of the appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to Dockets Unit, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001, or by electronic mail to 'ops.comments@rspa.dot gov'.

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

Authority: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, 60124, and 49 CFR 1.53.

Issued in Washington, DC on April 8, 1998.

Richard D. Huriaux,

Director for Technology and Regulations, Office of Pipeline Safety.

[FR Doc. 98–9840 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 3, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 14, 1998 to be assured of consideration.

Special Request

In order to conduct the survey described below beginning in mid-April 1998, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by April 14, 1998. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.
Project Number: M:SP:V 98–005–G.
Type of Review: Revision.
Title: 1998 Telephone Routing Interactive System (TRIS) Voice Balance Due, Payoff, Transcript, and Voice Processing Personal Identification Number (VPPIN) Automated Telephone Application Customer Survey.
Description: This survey will be administered to assess customer satisfaction of the Telephone Routing Interactive System (TRIS) application, the Voice Balance Due (VBD) application, the Payoff application, and the Voice Processing Personal Identification Number (VPPIN) Telephone application.
Respondents: Individuals or households, businesses or other for-profit.
Estimated Number of Respondents: 132,840.
Estimated Burden Hours Per Response: 1 minute.
Frequency of Response: Other (April–September 1998).
Estimated Total Reporting Burden: 2,214 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–9785 Filed 4–13–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

April 3, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 14, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1296.
Regulation Project Number: PS–27–91 (TD 8442) Final.
Type of Review: Extension.
Title: Procedural Rules for Excise Taxes Currently Reportable on Form 720.
Description: Section 6302(c) authorizes the use of Government depositaries. These regulations provide reporting and recordkeeping rules relating to the use of Government depositaries for taxes imposed by chapter 33 of the Code.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 9,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping: 60 hours.
Reporting: 30 minutes.
Frequency of Response: On occasion, quarterly.
Estimated Total Reporting/Recordkeeping Burden: 241,850 hours.

OMB Number: 1545–1580.
Notice Number: Notice 98–8.
Type of Review: Extension.
Title: Eligible Deferred Compensation Plans under Section 457.
Description: Notice 98–8 provides guidance regarding the trust requirements for certain eligible deferred compensation plans enacted in the Small Business Job Protection Act of 1996.
Respondents: State, Local or Tribal Government.
Estimated Number of Respondents/Recordkeepers: 10,260.
Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 2 minutes.
Frequency of Response: Other (one-time).
Estimated Total Reporting/Recordkeeping Burden: 10,600 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–9786 Filed 4–13–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 6, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 14, 1998 to be assured of consideration.

Bureau of the Public Debt (PD)

OMB Number: New.
Form Number: PD F 5391.
Type of Review: New collection.
Title: U.S. Savings Bonds Easy Saver Plan Enrollment Application Series EE.
Description: The form is used to request purchase of Series EE savings bonds through debit of the purchaser's account at a financial institution.
Respondents: Individuals or households.
Estimated Number of Respondents: 100,000.
Estimated Burden Hours per Respondent: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden Hours: 17,000 hours.

OMB Number: 1535–0095.
Form Number: None.
Type of Review: Extension.
Title: Regulations Governing United States Savings Bonds Series E/EE and H/HH.
Description: The regulations mandate the payment of H/HH interest by Direct Deposit (ACH method).
Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.
Estimated Number of Respondents: 1.
Estimated Burden Hours per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 1 hour.

OMB Number: 1535–0121.

Form Number: PD F 5376 and PD F 5377

Type of Review: Extension.

Title: Transaction Request for U.S. Treasury Securities State and Local Government Series (PD F 5376); and Early Redemption Request for U.S. Treasury Securities State and Local Government Series (PD F 5377).

Description: These forms will provide a vehicle for State and Local Government entities to use for conducting accounts maintenance changes and early redemption of their State and Local Government Series (SLGS) Securities.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents: 3,350.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden Hours: 1,675 hours.

Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–9787 Filed 4–13–98; 8:45 am]

BILLING CODE 4810–40–D

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 8, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 14, 1998 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0033.

Form Number: ATF F 1534–A (5000.19).

Type of Review: Extension.

Title: Tax Administration Information.

Description: Information disclosure, proprietary data, tax information confidentiality, ATF F 1534–A (5000.19) is required by ATF to be filed when a respondent's representative, not having a power of attorney, wishes to obtain confidential information regarding the respondent. After proper completion of the form, information can be released to the representative.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Burden Hours per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50 hours.

OMB Number: 1512–0182.

Form Number: ATF F 5400.13/5400.16.

Type of Review: Revision.

Title: Application for License or Permit Under 18 U.S.C., Chapter 40, Explosives.

Description: Emphasis is placed on qualifying applicants and identifying proper storage facilities. This form allows application for an explosives license or permit, which, if approved, permits the holder to engage in manufacturing, importing, dealing, or using explosive materials under the Organized Crime Control Act of 1970.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 1,100.

Estimated Burden Hours per Respondent: 1 hour, 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 812 hours.

OMB Number: 1512–0371.

Recordkeeping Requirement ID Number: ATF REC 5400/1.

Type of Review: Extension.

Title: Inventories, Licenses Explosives Importers, Manufacturers, Dealers, and Permittees.

Description: These records show the explosive material inventories of these persons engaged in various activities within the explosives industry and are used by the government as initial figures from which an audit trail can be developed during the course of a compliance inspection or criminal investigation.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 13,106.

Estimated Burden Hours per Recordkeeper: 2 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 26,212 hours.

OMB Number: 1512–0509.

Form Number: ATF F 5300.27.

Type of Review: Extension.

Title: Federal Firearms and Ammunition Excise Tax Deposit.

Description: Businesses and individuals who manufacture or import firearms, shells and cartridges may be required to deposit Federal excise tax. ATF uses this information to identify the taxpayer and the deposit.

Respondents: Business or other for-profit, individuals or households.

Estimated Number of Respondents: 283.

Estimated Burden Hours per Respondent: 2 hours.

Frequency of Response: On occasion, Monthly, Other.

Estimated Total Reporting Burden: 770 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–9788 Filed 4–13–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: American Alternative Insurance Corporation

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 15 to the Treasury Department Circular 570; 1997 Revision, published July 1, 1997, at 62 FR 35548.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable

surety on Federal Bonds is hereby issued to the following company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, on page 35550 to reflect this addition:

American Alternative Insurance Corporation. BUSINESS ADDRESS: 555 College Road East, P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $10,127,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (http://www.fms.treas.gov/c570/index.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00509–8.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A11, Hyattsville, MD 20782.

Dated: April 3, 1998.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 98–9727 Filed 4–13–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Capital City Insurance Company, Inc.

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 16 to the Treasury Department Circular 570; 1997 Revision, published July 1, 1997, at 62 FR 35548.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6905.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, on page 35554 to reflect this addition:

Capital City Insurance Company, Inc. BUSINESS ADDRESS: P.O. Box 212157, Columbia, South Carolina 29221. PHONE: (803) 781–7118. UNDERWRITING LIMITATION b/: $1,634,000. SURETY LICENSES c/: AL, KY, OK, SC. INCORPORATED IN: South Carolina.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://fms.treas.gov/c570/index.html or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00509–8.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A11, Hyattsville, MD 20782.

Dated: April 3, 1998.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 98–9728 Filed 4–13–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Risk Capital Reinsurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 14 to the Treasury Department Circular 570; 1997 Revision, published July 1, 1997, at 62 FR 35548.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6507.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable reinsurer on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, on page 35581 to reflect this addition:

Risk Capital Reinsurance Company. BUSINESS ADDRESS: 20 Horseneck Lane, Greenwich, CT, 06830. PHONE: (203) 862–4300. UNDERWRITING LIMITATION *b/*: $*28,484,000.* INCORPORATED IN: Nebraska.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://fms.treas.gov/c570/index.htm1 or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00509–8.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management

Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A11, Hyattsville, MD 20782.

Dated: April 3, 1998.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 98–9726 Filed 4–13–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Regulation Section 601.601]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, regulation section 601.601, Rules and Regulations.

DATES: Written comments should be received on or before June 15, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation section should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Rules and Regulations.

OMB Number: 1545–0800.

Regulation Project Number: Regulation section 601.601.

Abstract: Persons wishing to speak at a public hearing on a proposed rule must submit written comments and an outline within prescribed time limits, for use in preparing agendas and allocating time. Persons interested in the issuance, amendment, or repeal of a rule may submit a petition for this. IRS considers the petitions in its deliberations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 600.

Estimated Time Per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 7, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–9706 Filed 4–13–98; 8:45 am]

BILLING CODE 4910–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Forms 211 and 211(SP)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 211, Application for Reward for Original Information, and Form 211(SP) Solicitud de Recompensa por Informacion Original.

DATES: Written comments should be received on or before June 15, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 211, Application for Reward for Original Information, and Form 211(SP) Solicitud de Recompensa por Informacion Original.

OMB Number: 1545–0409.

Form Number: Forms 211 and 211(SP).

Abstract: Forms 211 and 211(SP) are the official application forms used by persons requesting rewards for submitting information concerning alleged violations of the tax laws by other persons. Such rewards are authorized by Internal Revenue Code section 7623. The data is used to determine and pay rewards to those persons who voluntarily submit information.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 11,200.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 7, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–9707 Filed 4–13–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409 that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held at the Westin City Hotel, 1400 ''M'' Street, NW, Washington, DC, on July 21 through July 23, 1998.

The session on July 21, 1998, is scheduled to begin at 6:30 p.m. and end at 9:30 p.m. The sessions on July 22 and 23, 1998, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public for the July 21 session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On July 22 and 23, 1998, the meeting is closed during which the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Section 10(d) of Public Law 92–463, as amended by Section 5(c) of Public Law 94–409.

Those who plan to attend the open session should write to Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service (122P), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (phone) 202–275–0023 at least five days before the meeting.

Dated: April 7, 1998.

By Direction of the Acting Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–9768 Filed 4–13–98; 8:45 am]

BILLING CODE 8320–01–M

federal register

Tuesday
April 14, 1998

Part II

Department of Commerce

National Institute of Standards and Technology

15 CFR Part 280

Procedures for Implementation of the Fastener Quality Act; Final Rule

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 280

[Docket Number: 970724177–8057–02]

RIN 0693–AB43

Procedures for Implementation of the Fastener Quality Act

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

ACTION: Final rule and extension of implementation date.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), United States Department of Commerce, and the Under Secretary of the Bureau of Export Administration (BXA), United States Department of Commerce (collectively referred to as the Department), are today issuing a final rule based on comments received in response to the notice of proposed rulemaking published in the **Federal Register** on September 8, 1997 (62 FR 47240–47260) (1997)) amending regulations found at 15 CFR part 280 implementing the Fastener Quality Act (the Act). This final rule establishes the procedures for registration of in-process inspection activities of qualifying manufacturing facilities that use Quality Assurance Systems (QAS), revises definitions and related sections for clarity, and corrects editorial errors. These changes will facilitate the implementation of the Act and will better accommodate modern industry practices by incorporating these practices into the certification process of fasteners covered by the Act. This rule also extends the implementation date of the Fastener Quality Act by sixty days to July 26, 1998.

DATES: This rule is effective May 14, 1998. The date of implementation of the Act is July 26, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Subhas G. Malghan, FQA Program Manager, Technology Services, National Institute of Standards and Technology, Building 820, Room 306, Gaithersburg, MD 20899, telephone number (301) 975–5120.

SUPPLEMENTARY INFORMATION:

Extension of Implementation Date

The final rule implementing the Fastener Quality Act became effective on November 25, 1996, and was to apply to fasteners manufactured on or after May 27, 1997, the ''implementation date''. On April 18, 1997, as permitted by section 15 of the Act, NIST announced a one year delay of the implementation date of the regulations because there were an insufficient number of accredited laboratories to conduct the volume of inspection and testing required by the Act and regulations (62 FR 19041 (1997)). Currently, NVLAP and the NIST-recognized private accreditation bodies have received applications from approximately 430 testing laboratories, a sufficient number for implementation of the Act. Of these, approximately 130 testing laboratories have been accredited and are listed on the NIST Accredited Laboratory List. Although NVLAP and the private accreditation bodies have been working diligently to complete accreditation of these laboratories, it seems unlikely that the necessary 425 laboratories will be accredited by May 26, 1998. Therefore, to ensure that there are a sufficient number of accredited laboratories to conduct the inspection and testing required by the Act, pursuant to section 15 of the Act, NIST is extending the implementation date of the Act by sixty days to July 26, 1998.

Background—Final Rule

The Fastener Quality Act (the Act) protects the public safety by: (1) Requiring that certain fasteners which are sold in commerce conform to the specifications to which they are represented to be manufactured; (2) providing for accreditation of laboratories and registration of manufacturing facilities engaged in fastener testing; and (3) requiring inspection, testing and certification, in accordance with standardized methods, of fasteners covered by the Act.

The Secretary of Commerce, acting through the Director of NIST, published final regulations implementing the Act on September 26, 1996. Those regulations established procedures under which: (1) Laboratories in compliance with the Act may be listed; (20 laboratories may apply to NIST for accreditation; (3) private laboratory accreditation entities (bodies) may apply to NIST for approval to accredit laboratories; and (4) foreign laboratories accredited by their governments or by organizations recognized by the NIST Director under section 6(a)(1)(C) of the Act can be deemed to satisfy the laboratory accreditation requirements of the Act. The regulation also established, within the Patent and Trademark Office (PTO), a recordation system to identify the manufacturers or distributors of covered fasteners to ensure that the fasteners may be traced to their manufacturers or private label distributors. In addition, the regulations contained provisions on testing and certification of fasteners, sale of fasteners subsequent to manufacture, recordkeeping, applicability of the Act, enforcement, civil penalties, and hearing and appeal procedures.

Those regulations became effective on November 25, 1996, and were to apply to fasteners manufactured on or after May 27, 1997, the ''implementation date''. On April 18, 1997, as permitted by section 15 of the Act, NIST announced a one year delay of the implementation date of the regulations because there were an insufficient number of accredited laboratories to conduct the volume of inspection and testing required by the Act and regulations (62 FR 19041 (1997)).

Following issuance of the final regulations on September 26, 1996, the automobile industry approached the Department and expressed its concern that the Act and the implementing regulations did not recognize the use of modern manufacturing methods using prevention-based quality assurance systems employing statistical process controls (SPC). On February 4, 1997, a Public Workshop was held at NIST to solicit information from all interested parties, including the automobile, aerospace, construction, and fastener industries on the use of prevention-based quality assurance systems employing SPC in the manufacture of fasteners. The Department published a notice of proposed rule making in the **Federal Register** on September 8, 1997, seeking public comments on proposed amendments to the regulations that recognize the use of prevention-based quality assurance systems under the Act.

To incorporate Quality Assurance Systems/Statistical Process Control (QAS/SPC) into the regulations, the Department proposed adding § 280.104, Accreditation of Certain Manufacturing Facilities as Laboratories; subpart I, Special Rule for the Accreditation of Certain Fastener Manufacturing Facilities, Whose Implemented Fastener Quality Assurance Systems Meet Defined Requirements, as Laboratories; subpart J, Recognition of Foreign Registrar Accreditation Bodies; subpart K, Requirements for Registrar Accreditation Bodies (Accreditors); and subpart L, Requirements for Registrars. In addition, the Department proposed adding a definition of Fastener Quality Assurance System (FQAS) and defining the terms Accreditor, Registrar, and Facility. The Department also proposed amendments to section 280.6, Laboratory Test Reports and § 280.10, Sampling, to specify requirements for facilities.

Summary of Public Comments Received by the Department in Response to the September 8, 1997 Request for Public Comments, and the Department's Response to the Comments

As noted above, on September 8, 1997, the Department published in the **Federal Register** (62 FR 47240–47260) (1997) (Sept. 8, 1997) a proposed rule to amend 15 CFR part 280. The Department received 125 responses to the request for comments. Twenty-five comments were received from fastener manufacturers, twenty domestic and five foreign; twenty-five were from associations, twenty domestic and five foreign; thirteen were from consultants; ten were from fastener distributors; eight were from entities involved in laboratory accreditation/facility registration, three laboratory assessors, two fastener testing laboratories, one laboratory accreditor, one foreign QAS registrar, and one foreign registration accreditation body; eight were manufacturers of products that incorporate fasteners, five from the aerospace industry, two from the automobile industry (one domestic and one foreign), and one foreign equipment manufacturer; eight were from government agencies; six were from importers of fasteners; one was from a foreign exporter of fasteners; one was from a raw material manufacturer; and twenty were from other interested parties, fifteen domestic and five foreign. Of the some 125 commenters, 69 commented on the issue of incorporating SPC/QAS into the FQA regulations. A detailed analysis of the comments follow.

As explained in detail below, based on the comments received, the Department has included all the proposed changes, with some editorial corrections and clarifications, in the final rule. For further clarification, the Department also has included definitions for recognized accreditor, accredited registrar, registered facility, and authorized representative, and has amended the definition of consensus standards organization to clarify that it is NIST that will identify such organizations.

Comments on the Overall Effectiveness of the Proposed QAS Regulation

Of the 125 commenters, 69 commented on the issue of incorporating SPC/QAS into the FQA regulations; 44 favored the incorporation of SPC/QAS into the FQA regulations, and 25 were opposed.

Of the 44 commenters who favored the incorporation of SPC/QAS into the FQA regulations, thirteen were fastener manufacturers, ten domestic and three foreign; thirteen were trade associations, ten domestic and three foreign; six were manufacturers of products that incorporate fasteners, three aerospace manufacturers, two automobile manufacturers (one domestic and one foreign), and one foreign equipment manufacturer; three were fastener distributors; three were consultants; one was a government agency; one was a foreign QAS registrar; and four were other interested parties, two domestic and two foreign.

Of the 25 commenters opposed to the incorporation of SPC/QAS into the FQA regulations, four were consultants; four were laboratory accreditors/accessors; three were domestic fastener manufacturers; two were fastener distributors; three were government agencies; one was a raw material manufacturer; and seven were other interested parties.

Comment: Support for the proposed incorporation of QAS/SPC into the regulation was widespread, although many raised questions on details of the regulation, as is explained more fully elsewhere in this document. However, a substantial minority of the commenters, twenty-five, expressed the concern that without final testing, the QAS/SPC scheme proposed by NIST would not ensure the quality of fasteners covered by the regulations, and would fail to protect the public safety.

Response: The decision by the Department to include QAS/SPC into the regulations as an alternative to end-of-line sampling and testing is based upon strong evidence that QAS/SPC reduces the defect rate in the fastener manufacturing process. A lower defect rate means that fewer fasteners are manufactured that fail to comply with relevant standards and specifications, and thus that fewer defective fasteners will enter into commerce. Public safety is preserved and enhanced. Furthermore, the Department has structured the regulation to provide checks and balances to ensure that this is the case.

The administrative record for this rule-making contains strong evidence that QAS/SPC systems utilizing continuous monitoring and control in the manufacturing process yields a substantially lower defect rate than do traditional manufacturing techniques that rely solely upon end-of-line sampling and testing. Testimony at the Public Workshop of February 7, 1997 indicates that the use of QAS/SPC may reduce the defect rate from the range of thousands or tens of thousands parts-per-million experienced by traditional manufacturing techniques to approximately 100 parts-per-million. The improved manufacturing techniques embedded in QAS/SPC thus improve the quality of fasteners by reducing the portion of each lot that fails to meet standards and specifications. The regulations being issued today offer the benefits of QAS/SPC manufacturing to consumers in this country. But consistent with the FQA, these regulations also mandate in-process inspection and testing of fasteners manufactured under QAS/SPC systems, to verify that the promise of QAS/SPC is the reality.

As a means of providing checks and balances to the process controls that underlie the QAS/SPC methodology, the regulations mandate in-process inspection and testing of fasteners to assure the quality of fasteners, and thus the protection of public safety. Process controls in QAS/SPC facilities are required by the regulation to be augmented by all testing required by the standards and specifications that the manufacturer holds out that a given lot meets. The general rule is set out in § 280.104(a), which states that registration of a fastener manufacturing facility employing a fastener quality assurance system (FQAS) shall be deemed to meet the requirements of accreditation of a laboratory under the FQA. This general rule is amplified in § 280.2, which defines the term FQAS, and § 280.10, which sets out requirements for sampling methods to be followed by QAS/SPC facilities.

These sections of the regulation address three issues in the regime required of QAS/SPC facilities:

- What is the sampling methodology required of QAS/SPC facilities as part of their responsibility to conduct in-process testing and inspection?
- What specific tests and testing techniques must QAS/SPC facilities apply to the samples that are to be tested?
- Where must these tests be performed?

Sampling is a concept that will not always be relevant in the QAS/SPC environment. The definition of FQAS speaks about ''process inspection embodied in a comprehensive and written control plan for product/process characteristics, process controls (including statistical process control), tests, and measurement systems that will occur during mass production.'' The Department recognizes that under QAS/SPC, some tests and inspections will be conducted on every fastener in the lot. That is, the test sample will be one hundred percent of the fastener lot. Section 280.10(c), as it has been revised as a result of the public comment

process, makes this point clear by stating, as one alternative, that ''a manufacturer operating a Registered Facility may elect to conduct inspections and tests upon all of the fasteners within a specified lot, provided that this election is documented in the control plan of its Fastener Quality Assurance System.'' Otherwise, the sample size is governed by the general rule in § 280.10(a), which states that ''[f]or tests conducted either in a laboratory on the Accredited Laboratory List or in a Registered Facility, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or specification which provides for the size, selection or integrity of the sample to be inspected and tested, the sample shall be determined in accordance with that standard or specification''; or the first alternative in § 280.10(c) ''For tests conducted in a Registered Facility, and not in a laboratory on the Accredited Laboratory List, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or specification which does not provide for the size, selection or integrity of the sample to be inspected and tested, the sample for inspections and tests by the Facility shall be determined by the sampling plan provided by its Fastener Quality Assurance System or by standards and specifications intended for use with a Fastener Quality Assurance System, as appropriate.''

Tests are as required in the relevant standards and guidelines.

Where testing occurs in the QAS/SPC regime is governed by § 280.104(b) of the regulations, which requires that all in-process laboratory inspection and testing must be performed in laboratories accredited under the FQA; and § 280.104(d), which requires that the chemical composition of all fastener lots manufactured under QAS/SPC must be conducted in laboratories accredited under the FQA. In-process testing and inspection may occur within Registered Facilities.

In the view of the Department, these requirements meet the statutory mandates of the FQA, and protect the public safety.

280.2 Definitions

Comment: Eight commenters addressed the issue of whether subcontracted processes required final testing by an accredited laboratory or whether they could be performed by another Facility.

Response: In § 280.2, the definition of Facility has been expanded to include a facility performing subcontracted processes such as electroplating and heat treating, provided that they too are listed on NIST's Facilities list. In addition, § 280.807 allows subcontracting to other Facilities listed on the Facilities list.

Comment: Eight commenters suggested that Quality Assurance Systems are not equivalent, and that they do not define which characteristics to measure and how to measure them.

Response: No changes have been made to the regulations based on these comments because the QAS facilities must meet equally rigorous standards to maintain their registration by an accredited Registrar.

Comment: Two commenters requested that the regulations be amended to allow QAS in lieu of metal testing by a metal manufacturer.

Response: No changes were made to the regulations because to the Department's knowledge, chemistry of metal is obtained by testing it in a laboratory. Therefore, chemical analysis by QAS is not an acceptable testing method.

Comment: Ten commenters suggested deleting references to ISO–9000 in the definition of Fastener Quality Assurance System because it lacks quality details and does not contain the details of ISO–25. In addition, three of these commenters stated that the proposed rule does not satisfy the intent of the Congress and will have a serious effect on the laboratory accreditation, and that a final inspection should be still required.

Response: No changes were made to the regulations based on these comments. The regulations are clear on laboratory accreditation and registration of fastener manufacturing facilities. The laboratory accreditation is performed in accordance with ISO Guides 58 and 25, and specific requirements of the Act and the regulations. Registration of fastener manufacturing facilities is carried out in accordance with the ISO Guides 61, 62 and the specific requirements of the Act and the regulations. The revised rule accommodating QAS facilities is fully within the intent of the Act because under QAS, fasteners are produced to stringent standards that yield fasteners of at least as good quality as end-of-line laboratory testing can assure. Since the two programs, accreditation and registration, are treated separately, the Department does not believe that laboratory accreditation will be seriously affected.

Comment: Two commenters suggested that the Department specify a level of revision of ISO Guides referred to in the QAS regulations that will assure the Department that the QAS approved today will remain compliant in the future.

Response: No changes were made to the regulations based on these comments. As they currently exist, the ISO Guides referenced in the QAS regulations fulfill the needs of the Act and the regulations. The regulations are sufficiently flexible to accommodate moderate change in these standards.

Comment: One commenter remarked that the parameters of a control plan are not discussed in the proposed rule.

Response: No changes were made to the regulations based on this comment because the Department has decided that the broad parameters described in § 280.2 are sufficient.

Comment: One commenter suggested clarifying the meaning of ''documented criteria of a QAS.''

Response: No changes were made to the regulations based on this comment because the definition of QAS describes specific criteria to be met by the QAS facility.

Comment: One commenter suggested adding a requirement that personnel who collect data pursuant to the operation of a QAS be held to the same standards of training, experience and competency as laboratory personnel.

Response: No changes were made to the regulations based on this comment. The processes involved in laboratory testing differ from those in a QAS facility. Requirements for personnel performing tasks involved in these processes differ. The requirements for laboratory personnel are described in ISO Guide 25. The requirements for QAS facility personnel are described, in general, in the fastener QAS followed by that QAS facility.

Comment: One commenter remarked that QAS plans should be required to measure all characteristics called for in the standard and specification, rather than just those that the manufacturer finds appropriate for product functionality.

Response: The Department agrees. Changes were made to the regulations in § 280.2 under the definition of Fastener Quality Assurance System in (2)(v). To improve clarity, this section is amended to read as follows: ''a requirement that the in-process control plan include those characteristics specified by the QAS standard, characteristics specifically indicated by the applicable fastener standards and specifications, and those characteristics as designated by the end user for evaluating product functionality.''

Comment: One commenter asked if a fastener standard does not accept SPC as an alternative to the final testing, then can the SPC be used.

Response: No changes were made to the regulations based on this comment. If a fastener standard does not accept SPC, SPC may not be used to meet the requirements of that standard.

Comment: One commenter requested amending § 280.5 to confer upon the major end user the responsibility of specifying how a lot of fasteners is to be tested, including in accordance with major end users in-house publication or in accordance with QAS, rather than in accordance with the embedded standards and specifications.

Response: No changes were made to the rule based on this comment because section 5(b)(1) of the Act requires that a manufacturer have lot samples tested to determine whether the lot conforms to the standards and specifications to which the manufacturer represents it has been manufactured. The Act does not offer the flexibility of delegating this responsibility to the end user.

Comment: One commenter suggested adding a definition of major end user to the rule.

Response: The Department has not made any changes to the regulations based on this comment. A definition of major end user is not necessary because the term major end user does not appear in the regulations.

Comment: One commenter remarked that NIST overlooked the basis of its Malcolm Baldrige award, and NIST should practice its quality outreach program by reissuing regulations to encompass ISO–9002 and QS–9000 and state of the art quality programs.

Response: No changes were made to the regulations based on this comment. ISO–9002 and QS–9000 are used worldwide while the Malcolm Baldrige criteria are familiar only to United States firms. Since fasteners to which the Act and the regulations apply are produced worldwide, international standards are more appropriate.

280.5 Certification of Fasteners

Comment: One commenter proposed an amendment to § 280.5 of the rule to clarify that a manufacturer that follows QAS is in compliance with the Act.

Response: No changes were made based on this comment because § 280.5(a) states the rule for inspecting, testing, and certification of covered fasteners, and § 280.104(a) brings registered QAS facilities under this general rule, and therefore, in compliance with the Act.

280.6 Laboratory Test Reports

Comment: Nine commenters stated that manufacturers registered to QAS should not have to prepare test reports as proposed in § 280.6 (b) and that requirement would make the QAS program unworkable. These commenters stated that amendments to proposed § 280.6(b) would be necessary. In addition, two additional commenters requested that the Department reduce the contents of the test reports for QAS facilities since it is unnecessary and burdensome, limit requirements to those of the Act and require just a statement that fasteners conform to the QAS plan on the report.

Response: The requirement for a test report is mandated by sections 5 and 7 of the Act. However, based on these comments, amendments have been made to § 280.6(b) of the regulations by deleting certain reporting requirements. Also, similar amendments were made in § 280.6(a) to simplify laboratory test report requirements for both laboratories and Facilities. Further, § 280.7 was amended to accommodate amendments made to § 280.6.

Comment: Two commenters asked whether imported fasteners produced under QAS must be accompanied by a certificate and laboratory testing report.

Response: No changes were made to the regulations because there is no exception that states that imported fasteners produced under QAS need not be accompanied by a certificate and laboratory test report. Section 280.13 describes the requirements for imported fasteners, which include a manufacturer's certificate of conformance and an original laboratory test report.

Comment: One commenter suggested that a ''synopsis'' of the test report would not provide assurances for end user.

Response: In response to this comment, the word, ''synopsis'' has been deleted from § 280.6(b) to clarify that registered facilities must include test results in their reports rather than a synopsis of their test results. The reporting of actual test results will provide assurances for the end user.

Comment: Two commenters asked that QAS reports include basic and unique identification information to tie a particular fastener lot with the report and control plan.

Response: In response to this comment, the Department has amended § 280.6(b)(2) to require that test reports include: ''Unique identification of the test report, including date of issue and serial number, or other appropriate means, including reference to the control plan identification.''

Comment: Three commenters suggested allowing facilities to make a certified statement that fasteners with a specific lot number are fulfilling the requirements of stated standards and specifications, in place of a detailed test report as required by § 280.6(b).

Response: No changes were made to the regulations based on this comment because a certified statement will not satisfy the requirements of sections 5 and 7 of the Act. An original laboratory testing report and a manufacturer's conformance certificate are required.

Comment: One commenter asked how he should report QAS test results in accordance with the regulations.

Response: No changes were made to the regulations based on this comment because § 280.6 describes procedures for reporting QAS test results.

280.10 Sampling

Comment: Two commenters addressed a conflict between § 280.10, which pertains to sampling, and one of the goals of QAS. According to these commenters, § 280.10 appears to permit a plan provided by a Fastener QAS only when the standards and specifications do not provide for size, selection and integrity of the sample. However, one of the goals of QAS is to have a control plan which describes a sampling plan. Therefore, these commenters requested guidance on which sampling plan should they follow. Another commenter requested allowing sampling plans specified by the customer in a QAS control plan.

Response: Section 280.10 has been rewritten in response to these concerns to clarify sampling requirements under the FQA and these regulations. Section 5(b)(2) of the Act restricts the authority of the Department to prescribe sampling procedures for fastener testing to those instances where the standards and specifications relevant to a fastener lot are silent on sampling. This is why revised § 280.10(a) states ''For tests conducted either in a laboratory on the Accredited Laboratory List or in a Registered Facility, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or specification which provides for the size, selection or integrity of the sample to be inspected and tested, the sample shall be determined in accordance with that standard or specification''.

However, in response to these comments, the Department has included § 280.10(c) to clarify sampling procedures in the QAS/SPC setting. Section 280.10(c) sets out procedures to be followed when § 280.10(a) does not apply: ''For tests conducted in a Registered Facility, and not in a laboratory on the Accredited Laboratory List, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or

specification which does not provide for the size, selection or integrity of the sample to be inspected and tested, the sample for inspections and tests by the Facility shall be determined by the sampling plan provided by its Fastener Quality Assurance System or by standards and specifications intended for use with a Fastener Quality Assurance system, as appropriate. Or, a manufacturer operating a Registered Facility may elect to conduct inspections and tests upon all of the fasteners within a specified lot, provided that this election is documented in the control plan of its Fastener Quality Assurance System.''

The last sentence in § 280.10(c) has been added because sampling is a concept that will not always be relevant in the QAS/SPC environment. The definition of FQAS speaks about ''process inspection embodied in a comprehensive and written control plan for product/process characteristics, process controls (including statistical process control), tests, and measurement systems that will occur during mass production.'' The Department recognizes that under QAS/SPC, some tests and inspections will be conducted upon every fastener in the lot. That is, the test sample will be one hundred percent of the fastener lot. The last sentence in § 280.10(c), as it has been revised as a result of the public comment process, makes this point clear by stating that ''[A] manufacturer operating a Registered Facility may elect to conduct inspections and tests upon all of the fasteners within a specified lot, provided that this election is documented in the control plan of its Fastener Quality Assurance System''.

Comment: Three commenters remarked that the default sampling plans prescribed in the regulations are overly restrictive. One commenter cited the example of sampling plans restricting lot size to 250,000 pieces while manufacturing lots may be larger.

Response: No changes were made to the regulations based on this comment. Section 5(b)(2)(B) of the Act provides that default sampling plans prescribed by the Secretary must, to the extent practicable, use consensus testing standards and related materials. Sampling plans are prescribed by these standards and specifications. NIST does not have the authority to change those standards.

280.12 Applicability

Comment: Eighteen commenters stated that the planned implementation date of May 26, 1998 will not allow enough time for NIST to approve Accreditors, for Accreditors to accredit Registrars, and for the Registrars to register fastener manufacturing facilities. Suggested approaches were: (1) To delay implementation date of the Act until a sufficient number of facilities are registered, (2) to grant provisional approval of current QAS-registered facilities and begin audit in six months, (3) to convene a meeting of all interested parties to establish a reasonable time line for industry compliance.

Response: The Department has studied these comments and assessed the registration requirements of the fastener industry. To accommodate the industry needs, the Department has developed the following plan, codified in § 280.810(c)(3), to provisionally approve current QAS-registered facilities so that commerce in fasteners is unaffected as a result of the July 26, 1998 implementation date.

If a Facility intends to be listed in accordance with § 280.810(c)(1) but the registration process will not be completed by July 26, 1998, the Facility may be provisionally listed on the Facilities List by providing the following to NIST on or before September 30, 1998:

1. Certification that: (a) The Facility is registered to QS–9000 or an equivalent by a quality systems registrar; (b) the Facility conforms to all other requirements of the Act and the regulations at the time of certification; (c) if the Facility ceases to be registered to QS–9000 or an equivalent by an accredited Registrar and/or ceases to conform to any other requirement of the Act and the regulations at any time during the provisional listing period, it will notify NIST of that fact within three working days; and (d) if the Facility fails to apply to an accredited Registrar for registration under the FQA within 30 days of the time the Registrar is accredited by a NIST-approved Accreditor, an authorized representative of the Facility will immediately notify NIST. (If the Facility's current Registrar decides not to seek accreditation under the FQA, it is the Facility's responsibility to apply to another Registrar that has been approved by NIST–ABEP.);

2. A list of fasteners produced or processed by the Facility, identified by either a part number or a specification number;

3. A list of standards included in the Facility's registration;

4. A copy of the Facility's registration certificate; and

5. The listing fee established by NIST.

The Facility must meet all the requirements of the Act and the regulations by May 25, 1999. If the Facility fails to receive FQA registration by May 25, 1999, it will be removed from the Facilities List.

Comment: Six commenters requested delaying the implementation date (for example, one more year) so that outstanding questions can be interpreted and lead time provided to get ready for implementation of the Act.

Response: Changes were made to the regulations based on these comments. As described earlier, the Department has developed a procedure, based on industry input, by which manufacturing Facilities in the QS–9000 system may ''self-certify'' for one year. The Department is also delaying the implementation date from May 26, 1998 to July 26, 1998, following the Department's determination that there will be an insufficient number of accredited laboratories to perform the volume of inspections and testing required on May 26, 1998.

Comment: Three commenters, including a U.S. government agency, requested delaying the implementation date until a detailed regulatory flexibility analysis is conducted and published for public comment. They claim the proposed regulations will have a significant negative impact on fastener distributors and manufacturers because of the cost of inventory scrapped, the cost of accrediting laboratories, the loss of potential market share because of exemption of fasteners in free trade zones, the disruption in supply and resulting loss of business to OEM customers, the disproportionate cost of laboratory accreditation on QAS registered facilities, and the disproportionate cost to certify raw materials.

Response: A detailed regulatory flexibility analysis was conducted and published as part of the final regulations on September 26, 1996, which considered almost all issues raised by these commenters. The remaining issues related to QAS regulations were addressed as part of the proposed rule on September 8, 1997. As noted above, the Department has delayed the implementation date until July 26, 1998.

Comment: An agency of the U.S. Government commented that the proposed rule does not provide a meaningful regulatory alternative to small businesses because of the short deadline of May 26, 1998, and does not address economic impact on affected sectors.

Response: The Department has addressed the issue of the short deadline for registering a sufficient number of facilities before the July 26, 1998 implementation date by adding § 280.810(c)(3), which allows

provisional approval of current QAS-registered facilities if they meet certain requirements.

The Department certified, under 5 U.S.C. 605(b), that the proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule. The Department does not agree with the commenter's conclusion that the proposed rule does not afford a meaningful alternative to small businesses as no preference is given to large manufacturers and registrars over small industry participants. This methodology would be available to any business, large or small, that employs QAS of manufacturing. Moreover, whether small or large, businesses are not forced to adopt QAS. The amended rule would establish a second option for those manufacturers interested and qualified to use the QAS of manufacturing.

On the issue of cost of inventory produced before the implementation date, the industry has long recognized this problem and has had adequate time to react appropriately. This issue has been discussed several times since the 1992 comment process. In its January 10, 1995, report and recommendations for amending the Act, the Public Law Task Force, the fastener industry coalition, recommended that fasteners manufactured before the implementation date not be allowed to be certified as conforming fasteners under the Act. This recommendation was endorsed by the Fastener Advisory Committee in letters to Congress dated February 9, 1995. Other cost elements were addressed in the September 26, 1996 notice of final rulemaking.

280.104 Accreditation of Certain Manufacturing Facilities as Laboratories

Comment: Four commenters stated that the requirement that in-process testing be done by a laboratory on the Accredited Laboratory List would require a costly additional evaluation of the laboratory by an accreditation body. In addition, one suggested that the QS–9000 registration process should include accreditation of the Facility's laboratory.

Response; No changes were made to the regulations based on this comment. The requirement that in-process testing be performed by a laboratory on the Accredited Laboratory List is included in the regulations because registration of a QAS facility under ISO Guide 9001 or 9002 or QS–9000 does not include evaluation of technical credibility and validity of test results from an accredited laboratory.

Comment: One commenter stated that having to be assessed by a body approved by NIST is just as onerous a burden as getting laboratory accreditation.

Response: No changes were made to the regulations because section 6 of the Act mandates that laboratory accreditation be performed by accreditation bodies recognized by NIST. Facilities are brought into the FQA regime under § 280.104(a) of the regulations, which deems registration of Facilities to meet the requirements of laboratory accreditation. Therefore, the Act's requirements for laboratory accreditation apply to the registration of Facilities, as well.

Comment: One commenter suggested clarifying the phrase ''any in-process inspection and testing,'' because it does not include all in-process testing at a QAS facility.

Response: Based on this comment, the Department revised § 280.104(d) of the regulations to clarify which tests must be performed by a laboratory on the Accredited Laboratory List.

Comment: Three commenters suggested making laboratories used by QAS registered facilities meet ISO Guide 25 and proficiency testing requirements so that QAS registered facilities provide consistency in accreditation of laboratories.

Response: Since these requirements are already present in the revised regulations, no changes were made.

Comment: One commenter suggested that since laboratories must comply with stricter standards (ISO–25, EN–45001, etc) than manufacturers, the Department should allow laboratories owned by distributors to use the same standards as manufacturers.

Response: No changes have been made to the regulations because manufacturers follow QAS standards defined under § 280.2 of the regulations to qualify as a QAS facility. Distributors are not manufacturers manufacturing, hence they cannot follow the same standards as the manufacturers. However, irrespective of the ownership of the laboratory, the laboratory has to meet the same requirements.

Comment: One commenter stated that recognizing SPC as an alternative to final testing inspection is unlikely to benefit the aerospace industry because aerospace industry specifications specifically do not allow SPC.

Response: No changes were made to the regulations based on this comment because the incorporation of fastener specific QAS standards is an essential element of the QAS requirements. If the aerospace industry requires final testing and inspection, it will not be affected by the addition of the QAS option.

Comment: One commenter suggested that if a chemical laboratory is included in the registration of a QAS registered facility, there is no need to go to an accredited laboratory for testing.

Response: No changes were made based on this comment. Section 280.104(d) requires that chemical testing be performed by a laboratory on the Accredited Laboratory List. Section 280.104(b) allows that such a laboratory may be located on the same premises as a fastener manufacturing facility if the laboratory is separately accredited pursuant to a provision of the regulations other than § 280.104(a). Therefore, a chemical laboratory cannot be accredited through registration process.

Comment: One commenter requested providing clarification as to when a QAS Facility does testing and when an accredited laboratory does testing.

Response: In response to this comment, § 280.104(d) has been amended to clarify the requirements for laboratory tests.

Subparts I–L: Accreditation of Manufacturing Facilities; Foreign Accreditors; Accreditors; Registrars

Comment: Two commenters requested amending § 280.800 to allow the use of QAS facilities registration by another agency, in addition to NIST.

Response: No changes were made to the regulations based on this comment. NIST is the only government agency allowed to carry out laboratory accreditation under section 6 of the Act.

Comment: Three commenters suggested recognizing accreditation bodies that have been recognized by organizations other than NIST. Two commenters mentioned recognizing accreditation bodies accessed under the International Accreditation Forum. One commenter suggested that if one accreditation body is recognized in Europe under the Act and the regulations, NIST should recognize all other bodies that are part of multilateral agreements to which the recognized accreditation body is a party.

Response: No changes were made to the rule based on this comment. Section 6 of the Act allows FQA accreditation only by bodies recognized by NIST. Under this regulatory program, each accreditation body must apply to NIST directly and be individually evaluated to obtain recognition. Blanket accreditation under a multilateral agreement or under an international forum would not allow NIST to ensure that each accreditation body meets all

requirements of the Act and the regulations.

Comment: One commenter asked if the Registrars will be required to evaluate the substantive content of control plan.

Response: Under the definition of a Fastener QAS in § 280.2, one of the elements of a QAS is a requirement that a fastener manufacturer fully document a detailed control plan. Therefore, it is the responsibility of the manufacturer to develop and maintain a detailed control plan. However, as part of the registration process, a Registrar is required to evaluate the contents of the control plan.

Comment: One commenter stated that in Japan, a government body approves QAS registered fastener manufacturing facilities as JIS Marking factories. In this situation, the commenter asked, how will the proposed system of registration work.

Response: No changes were made to the regulations based on this comment because the system of registration in the current regulations is based on internationally accepted procedures. The system proposed by the commenter is different from the internationally accepted standards procedures. The commenter has two options to comply with the regulations: 1. Separation of registration and accreditation activities; or 2. Use of a private registrar to register facilities.

Comment: One commenter asked if the United Kingdom Accreditation Service (UKAS) can accredit Registrars for QAS assessments.

Response: No changes were made to the regulations based on this comment because the procedures for seeking recognition by NIST–ABEP are described in the ABEP handbook. If interested in engaging in the acceditation of Registrars, UKAS must apply to NIST–ABEP for recognition.

Comment: One commenter inquired whether approving Registrars will require additional resources for NIST. According to the commenter, if NIST approves registrars, it will be perceived as expansion of government into a role previously performed by the private sector. If that is the case, the commenter asked, why not rely on the private sector.

Response: No changes were made to the regulations based on this comment because the revised regulations clarify that NIST will not directly accredit Registrars. NIST will rely on NIST-approved private sector Registrar Accreditation Bodies to perform Registrar accreditation. There will be no additional resources required for NIST because section 6(d)(2) of the Act specifies that accreditation activities performed by NIST will be on a reimbursable basis.

Comment: One commenter asked how NIST–ABEP will assure that a manufacturer is competent to conduct fastener testing if the criteria is based on ISO–9000 series.

Response: No changes were made to the regulations based on this comment. Registering a fastener manufacturing facility to ISO–9000 does not indicate that the facility is competent to perform laboratory tests. Any laboratory tests performed during in-process inspection and testing must be performed by a laboratory on the Accredited Laboratory List.

Comment: One commenter commented that elements (ii), (iv), and (v) in proposed § 280.1010(d)(5) are not related to quality elements.

Response: No changes have been made to the regulations as a result of this comment. Section 280.1010(d)(5) details the requirements for a quality manual, which necessarily must contain administrative information as well as quality elements. The same information is required by ISO Guide 61, so these requirements are familiar to the industry.

Comment: One commenter asked for clarification of terms used in §§ 280.1010 and 280.1011: ''appropriate international documentation'' in § 280.1010(d)(5)(xiv); ''informed'', ''corrective action'', and ''timely and appropriate'' in § 280.1010(f); ''appropriate international documentation'', ''technical experts'', ''assessment of familiarity'' and others in § 280.1011. Similarly, this commenter suggested that subparts K and L need to be reworked to eliminate vague terms.

Response: No change was made to the regulations. The ABEP handbook will provide guidance for interpreting these terms.

Comment: One commenter mentioned that § 280.1010(i)(2), the prohibition on disclosure of information about an accreditation body without its written consent, could interfere with the responsibilities of end-users to control the quality of their suppliers in quality management.

Response: No changes were made to the regulations based on this comment. Section 280.1010(i)(2) refers to confidentiality of information obtained by the Accreditor concerning the applicant Registrars. The Department feels that this provision is required to safeguard confidentiality of the information provided by the Registrar to its Accreditor. The regulations do not prevent the end user from getting the quality management-related information of its Registrar from the Registrar itself or from the Accreditor with the Registrar's written permission.

Comment: One commenter stated that there is a high probability of inconsistent requirements under various registration systems. This commenter specifically asked how NIST will assure that NIST and Registrar Accreditation Body recognition requirements are equivalent.

Response: No changes have been made to the regulations in response to this comment. Subparts I through L describe the criteria by which Registrar Accreditation Bodies will be approved and by which Registrars will be accredited by the approved bodies. NIST plans to closely adhere to these requirements to maintain uniformity among the Registrars accredited by various bodies.

Comment: One commenter asked if auditors will be approved for appropriate standard industrial codes. The commenter also asked if auditors will be required to be experts in both QAS and fastener technology.

Response: No changes were made to the regulations based on this comment. Approval of auditors will be the responsibility of accredited Registrars under subpart L, which is based on ISO Guide 62. Auditors will be required to be competent in both QAS and fastener technology. Additional requirements specific to the fastener technology will be described in the ABEP Handbook.

Comment: One commenter requested that NIST function as a Registrar Accreditation Body if no accreditation body seeks NIST's approval.

Response: No changes were made to regulations based on this comment because NIST does not foresee such a problem. The industry has indicated that accreditation bodies are ready to apply once the regulations take effect.

Comment: One commenter suggested that all Registrars currently approved by Registrar Accreditation Bodies should be automatically approved by NIST and all companies with QAS systems accredited by those Registrars should be deemed to have approved QAS.

Response: No changes were made to the regulations based on this comment. Recognition of Accreditation Bodies, accreditation of Registrars, and registration of Facilities under the Act and the regulations include meeting requirements specific to the Act and regulations. Therefore, prior recognition, accreditation, or registration, based on different requirements, are insufficient to meet the requirements of the Act and the regulations.

Comment: One commenter suggested appointing the major users of QS–9000 as registrars.

Response: The requirements for an organization to qualify as a registrar are outlined in subpart L. If a major user wants to become a registrar, it must meet those requirements and must apply to a recognized registrar accreditation body to become an accredited registrar.

Comment: One commenter requested that the Act should merely require that certification (recognition of accreditation bodies and accreditation of registrars) be made in accordance with applicable standards because existing certification practices are sufficient to meet the purposes of the Act.

Response: No changes were made to the regulations based on this comment because existing practices do not require that accreditation bodies and registrars meet the specific requirements of the Act and its implementing regulations and, therefore, are insufficient for these purposes.

Comment: One commenter suggested modifying § 280.1010(e)(1) by replacing ''partially or in total, for all or part of the accreditation body's scope of accreditation'' with ''for FQA.''

Response: No changes were made to the regulations based on this comment. The regulations apply only to FQA accreditations, not all accreditations. Therefore, the current language of § 280.1010(e) refers only to partial or total suspension or withdrawal of accreditation under the FQA.

Comment: One commenter suggested modifying § 280.1012(c)(2)(iii) by replacing ''product categories'' with ''Fasteners.''

Response: The Department has accepted the suggestion and modified § 280.1012(c)(2)(iii) by replacing ''product categories'' with ''fasteners covered by the Act.''

Comment: One commenter requested deleting the requirement for accreditors in § 280.1010(b)(17) that they must have a structure where members are chosen to provide a balance of interest, where no single interest predominates.

Response: The Department has not made any changes to § 280.1010(b)(17) based on this comment because a balance of interest is required to maintain objectivity in making decisions related to accreditation.

Comment: One commenter requested deleting § 280.1010(b)(18), which is a requirement for accreditors that offer other products, processes or services not to compromise confidentiality or the objectivity or impartiality of its accreditation process and decisions.

Response: No changes were made to the regulations based on this comment because, according to ISO Guide 61, this is a necessary condition that assures a fair decision making process in granting accreditations.

Comment: One commenter suggested the following changes to the proposed regulations: replace ''international documentation'' in § 280.1010(d)(5)(xiv), § 280.1010(b)(2), and § 280.1010(b)(3) with ''ISO Guide 10011–1.''

Response: No changes were made to the proposed regulations based on this comment. The Department deliberately used the term ''international documentation'' rather than referring to an existing document so as not to restrict the interpretation of that term. The Department notes that §§ 280.1010(b)(2), and 280.1010(b)(3) do not include the words ''international documentation.''

Comment: Two commenters requested changing the reassessment period for accreditors, registrars, and QAS manufacturing facilities from two years to three years to be consistent with the policies of the International Accreditation Forum.

Response: No changes were made to the regulations based on this comment. The Department has decided to retain the two year reassessment period in order to be consistent with the laboratory accreditation reassessment period under the Act and the regulations.

Comment: Three commenters requested that NIST should have an oversight role on the Registrar activities to assure uniformity.

Response: No changes were made to the regulations based on this comment. Detailed descriptions of oversight roles will appear in the ABEP Handbook.

Part 2: Summary of Comments Received on Six Proposed Amendments

Six issues were addressed in the proposed amendments with a request for public comment. A discussion of the comments received, and the actions taken by the Department as a result of these comments follows:

1. Significant Alterations of Fasteners

Of the 125 commenters, 15 commented on the issue of significant alteration of fasteners; eight favored the proposed changes to the FQA regulations, and seven others offered different issues in the area of significant alteration. Of the eight commenters who favored the proposed changes regarding the significant alteration of fasteners, four were trade associations, three domestic and one foreign; two were fastener manufacturers, one domestic and one foreign; one was a fastener distributor; and one was an other interested party. Of the seven commenters who proposed changes regarding the significant alteration of fasteners, three were government agencies; two were aerospace manufacturers; and two were consultants.

In the notice of proposed rulemaking, the Department proposed changes to the definition of ''significantly alter'' in § 280.2 and to § 280.11(b) to correct editorial errors in the reference to Rockwell C hardness in these sections. These changes have been adopted into the final rule.

Comment: One aerospace manufacturer, one professional organization and one consulting organization commented that other alterations such as application of adhesives, locking elements and cutting off of finished fasteners should be considered significant alterations.

Response: Based upon advice from the Fastener Advisory Committee, the Department has determined that application of adhesives, locking elements, and cutting off of finished fasteners are not significant alterations because they do not weaken or otherwise materially affect the performance or capabilities of fasteners as they were originally manufactured, grade or property class marked, tested, or represented. This language appears in the current definition of ''significantly alter.'' Therefore, no changes were made based on these comments.

Comment: One distributor commented that clarification is needed as to whether ''coating'' a fastener with a Rockwell hardness of C32 or above is a significant alteration.

Response: The definition of ''alter'' as contained in the Act lists only through-hardening, electroplating, and machining as forms of alteration. The regulations do not expand upon this definition. Therefore, ''coating'' other than electroplating is not a significant alteration under the Act and the regulations.

Comment: The Department received three comments, two from distributors and one from an equipment manufacturer, requesting that the regulations be revised to allow alterers who electroplate the option of either testing or warning rather than requiring them to test to the plating specifications.

Response: Based upon advice from the Fastener Advisory Committee, which deliberated this issue at great length during the initial review of the regulations implementing the Act and recommended the requested option not

be offered for electroplating due to concerns about hydrogen embrittlement as a result of electroplating, the Department has made no changes to the rule.

Comment: One distributor suggested deleting all references to adhesives and sealants from the regulations and workshop materials and requested that the Department issue a clarifying statement that these issues are not covered by the Act.

Response: No changes have been made to the rule based on this comment. The definition of ''significantly alter'', as it appears in the regulations, specifically states that ''[t]he term does not include the application of adhesives or sealants * * *.'' The Department feels that retaining this definition clarifies what processes are not considered significant alterations for purposes of the Act and the regulations.

2. Removal of Head Markings

Of the 125 commenters, 18 commented on the proposed amendment to allow the removal of head markings for decorative purposes and to meet customer needs; eight favored the proposed changes, and 10 were opposed. Of the eight commenters who favored the proposed changes regarding the removal of head markings, five were trade associations; three domestic and two foreign; one was a foreign equipment manufacturer; one was a foreign fastener manufacturer; and one was a foreign other interested party. Of the 10 commenters who opposed the proposed changes regarding the removal of head markings, four were government agencies; two were fastener distributors; two were fastener manufacturers, one domestic and one foreign; one was a trade association; and one was an aerospace manufacturer. In all of these comments, it was noted that the proposed amendments did not contain the statement, ''fasteners are to be manufactured according to the OEM or major end user standard which does not require head marking'' though the same was found in the preamble. This statement was included in the preamble in error. Some of these commenters noted that removal of head markings would not have adverse implications.

The proposed rule included a proposed new § 280.11(c) to allow a fastener user or purchaser to special order fasteners covered under the Act and regulations without the required manufacturer or grade identification markings under certain conditions. Based on comments received, the Department has excluded this section from the final rule.

Comment: Two commenters suggested that the head marking exclusion be moved to § 280.700(b).

Response: No changes have been made based on this proposal. Since the Department has decided not to adopt the proposed change, it will not appear in either section.

Comment: Several commenters stated that the proposal to remove head markings is contrary to the intent of the Act, and that markings are vital for informing the user of strength levels and traceability. These commenters emphasized that the removal of head markings does not conform with the purpose of the Act that fasteners conform with standards to which they were represented to have been manufactured. One commenter from a trade association stated that removal of markings promotes unsafe alteration of fasteners. Three commenters (a manufacturer and two trade associations) noted that allowing the removal of markings could lead to misapplication, misrepresented fasteners, entry of substandard fasteners into commerce, and significant equipment failures. These commenters stated that if the end users want fasteners without markings, they can contract to have them made that way. One manufacturer stated that no sales should be allowed without the markings. Two commenters from U.S. Government agencies stated that the removal of head markings would hinder investigations and reduce accountability; therefore, it should not be allowed.

Response: Based on comments, the Department has decided not to adopt the proposed change but to retain the existing rule.

3. Supplying Originals vs Copies of Test Reports

Of the 125 commenters, 18 commented on the issue of originals vs. copies of test reports; 13 favored the proposed changes, and five were opposed. Of the 13 commenters who favored the proposed changes regarding originals vs. copies of test reports, five were trade associations, two domestic and three foreign; four were fastener manufacturers, three domestic and one foreign; three were consultants; and one was a government agency. Of the five commenters opposed to the proposed changes, two were government agencies; two were fastener manufacturers, one domestic and one foreign; and one was a raw material manufacturer.

The proposed rule included a proposed amendment to the definition of ''original laboratory testing report'' in § 280.2 to allow metal manufacturers, as well as laboratories, to certify copies of laboratory testing reports of chemical characteristics. Based on comments received, the new definition has been included in the final rule. In addition, the Department has added a definition of ''certified copy'' to further clarify the issue.

Comment: Two foreign equipment manufacturers commented that the proposed rule does not allow a fastener manufacturer to test his own fasteners rather than rely on the metal manufacturer's chemical analysis of the metal.

Response: The Department has determined that the proposed rule does not prevent fastener manufacturers who choose to adopt QAS from obtaining chemical analysis, provided that the fastener manufacturers obtain such analysis from an accredited laboratory.

Comment: A manufacturer proposed an approach in which the fastener manufacturer keeps the actual test report of material chemistry and transfers only the data from the raw material test report.

Response: The Department has determined that this approach is not consistent with section 5 of the Act, according to which the entire chemical test report is necessary for traceability purposes.

Comment: One commenter recommended that the term ''certified copy of test report'' be explained or defined.

Response: The Department concludes that it would be useful to provide guidance as to what constitutes a certified copy. Therefore, this final rule amends § 280.2 to add a definition to read as follows: ''Certified Copy (of a laboratory testing report) means a complete and accurate copy of the original laboratory testing report, which contains a statement describing it as an accurate and complete copy of the original and which is signed by an authorized representative of the accredited laboratory issuing the report or, in the case of metal chemistry testing reports, an authorized representative of the metal manufacturer.''

Comment: One consulting firm recommended that the Department repeal § 280.15(d) of the regulations because it allows the fastener manufacturer to use tests performed on the raw materials by the metal manufacturer; however, the fastener manufacturer cannot prove that fasteners came from the same coil or heat as required by § 280.15(d).

Response: The Department has determined that repeal of this section is not appropriate at this time. Allowing chemical testing of raw material by the

metal manufacturer to be sufficient for meeting the requirements of chemical certification of fasteners was one of several options recommended by a large segment to the industry as part of the 1996 amendments to the Act. The Fastener Advisory Committee supported this amendment.

4. Laboratory Test Reports

Of the 125 commenters, seven commented on the issue of laboratory test reports; all favored the proposed changes. Of the seven commenters, three were trade associations, two domestic and one foreign; two were foreign fastener manufacturers; and one was a consultant.

Based on these comments, the Department has adopted the proposed amendments dealing with a discrepancy in the language used in reporting of alternative chemical characteristics. Following the amendments, § 280.6(b)(5)(ii), which is redesignated as § 280.6(c)(5)(ii), reads as follows:

Test results for such coil or heat number chemical characteristics.

5. New Definition of Lot Number

Of the 125 commenters, 18 commented on the new definition of lot number; four were in favor of the proposed changes, and 14 were opposed. Of the four commenters who favored the proposed changes, two were trade associations, one domestic and one foreign; one was a fastener distributor; and one was a consultant. Of the 14 commenters who opposed the proposed changes, five were fastener manufacturers, four domestic and one foreign; three were domestic trade associations; three were government agencies; one was a fastener distributor; one was a fastener testing laboratory; and one was an other interested party.

The proposed rule included a proposed amendment to the definition of ''lot number'' in § 280.2 to include a number assigned by a manufacturer, importer, distributor, or significant alterer to the lot. Based on comments received, the Department has excluded the proposed definition of lot number and retained the original definition of lot number in the final rule. Based on the comments, for purposes of the Act and the regulations, there is only one lot number that is assigned by the manufacturer of fasteners or significant alterers, i.e., the lot number is unique to the manufacturer or significant alterer. Distributors and importers may use ''tracking numbers''; however, if the tracking number is used for lot identification, both lot number and tracking number must be used. Therefore, the Department has decided not to adopt the proposed change but to retain the existing rule, under which the ''Lot number means a number assigned by a manufacturer to the lot.''

The following issues were highlighted by those that opposed the adoption of the new definition of lot number:

—Allowing distributors and importers to designate lot numbers will make it impossible for users to verify that the test report relates to the fasteners they receive, possibly requiring them to engage in costly retesting,
—The proposed rule would thwart enforcement efforts by creating gaps in the paper trail,
—The proposed rule would conflict with published consensus standards,
—The proposed rule would conflict with numerous Federal and State codes,
—The proposed rule would prevent product recalls,
—The proposed rule would make counterfeiting easier.

These commenters suggested that the original manufacturer's lot number and any number assigned by an importer or distributor should be sent to the end user. Otherwise, merely requiring that a subsequent lot number be traceable to a manufacturer's lot number creates too great a possibility that traceability will be lost. These comments suggested that the lot number should be reserved for the number assigned to a lot by the manufacturer; distributors and importers may assign their own inventory number or tracking number or traceability number.

Comment: One commenter suggested allowing alterers to deliver only the new lot number assigned by the alterer so long as it is traceable to the manufacturer's lot number.

Response: The Department does not consider this to be an appropriate change because traceability would be questionable.

Comment: A common theme among those who supported this proposed change in the definition of lot number is that distributors and importers that use their own lot numbers should be able to prove that those lot numbers link to manufacturer's lot numbers all the way back to ladle analysis, and there should be no provision allowing the fasteners to be sold without the manufacturer's original lot number.

Response: No changes were made to the regulations based on these comments because importers and distributors can use a trace number to avoid confusion with the lot number that is assigned by manufacturers.

Comment: One commenter asked how the two numbers should be identified.

Response: The Department recommends that both numbers, the lot number assigned by the manufacturer and the trace number assigned by the distributor or importer, appear on the package and wherever the trace number appears.

6. Grandfathered Fasteners Issue

In response to the notice of proposed rulemaking, NIST received 28 comments on the issue of grandfathering, i.e., representing that fasteners produced prior to the implementation date of May 26, 1998 are in compliance with the Act and the regulations. Of the seven commenters that opposed any form of grandfathering, three were agencies of the U.S. Government, two were domestic fastener manufacturers, and one was a domestic trade association. Of the 21 commenters who suggested that grandfathering of different degrees should be allowed, 10 were fastener manufacturers, nine domestic and one foreign; five were domestic trade associations; three were fastener distributors; one was a foreign automobile manufacturer; and one was an other interested party.

In the notice of proposed rulemaking, the Department proposed amending section 280.12(c) of the regulations by moving the last sentence of that section, which states that fasteners manufactured prior to the implementation date of the Act may not be represented as being in conformance with the Act or the regulations, to § 280.602, Violations. Based on the comments and because as a prohibition on certain specific conduct, the language more appropriately belongs in the Violations section, the Department has included this change in the final rule, with appropriate modification to reflect the changes made to § 280.12 that are described below.

Although the commenters supported the proposed change, the comments NIST received offered a wide variety of alternative grandfathering solutions. The Department considered each of these, as well as other regulatory alternatives.

The first and most crucial ''regulatory'' alternative for the disposition of pre-existing inventory is found in section 15 of the Act itself, which provides that the requirements of the Act apply only to fasteners manufactured after the implementation date of the regulation, now set at July 26, 1998. Thus, the sale of pre-existing inventory after the regulation becomes effective is legal, and the fasteners may properly be held out as complying with relevant standards and specifications.

Five other regulatory alternatives have been considered by the Department during the current rulemaking. The genesis of the Department's consideration of the pre-existing inventory or ''grandfathering'' issue, however, predates the promulgation of the final rule implementing the FQA on September 26, 1996. (See 61 FR 50538.) During that rulemaking, NIST sought the advice of the Fastener Advisory Committee on the grandfathering issue, noting that the Act prohibited all parties from holding out fasteners in the pre-existing inventory as being compliant without the various lots of fasteners being retested. The Fastener Advisory Committee responded that fasteners in the pre-existing inventory, if not held out as FQA compliant, could still be sold after the implementation of the Act, meaning that the companies would suffer no economic loss on these fasteners. The Committee, also, however, recommended to NIST that finished fasteners manufactured prior to the implementation date be permitted to be retested to be in compliance with the FQA provided that all the associated requirements of law could be met for the lot of fasteners in question, such as the presence of the original set of certifications. The Committee also recommended a one year moratorium on the retesting of these fasteners to avoid shortages in the pipeline that could occur if pre-implementation material was put up for retesting at the same time as new complying material was put up for initial testing. There also was discussion of placing a time limit, i.e., three years or five years, on retesting of pre-implementation fasteners, but no conclusion was reached on this issue. The Fastener Advisory Committee reemphasized that if the holders of pre-existing inventory did not wish to incur the cost of the retesting after the proposed moratorium, the product would still be saleable in commerce under section 15 of the Act.

Due to concerns about lot integrity and falsification of certification documents for pre-implementation fasteners, and the ''bottle-necking'' concerns raised by the Fastener Advisory Committee, in the final regulations of September 26, 1996, NIST made no provision for the retesting of the pre-existing inventory. This effectively meant that the fasteners in the pre-existing inventory, when sold after the effective date of the regulations, could not be held out as FQA compliant.

Following the September 8, 1997 notice of proposed rulemaking, the Department has considered the following alternative solutions to the grandfathering issue, each of which was supported by one or more comments:

(1) Seven of the comments opposed any regulatory change that would permit fasteners manufactured before the effective date of the regulation to be held out as complying with the FQA. The Department views this as essentially a reaffirmation of the proposed change. Among the reasons stated for this position were: The inability of a procurer of fasteners to determine whether the fasteners were manufactured pre- or post-FQA; possible hindrance of the Government's ability to prosecute defective or counterfeit fastener cases currently being investigated; enforcement problems; the additional cost and demand on laboratories that retesting would cause; and the inability to ''upgrade'' lots of fasteners produced to previous revisions of consensus standards to certify that they conform to the requirements of the current revisions.

(2) One comment suggested that NIST permit new fasteners tested in a duly accredited FQA laboratory prior to the effective date of the regulation be permitted to be held out as FQA compliant. NIST deemed this alternative to be permissible under the FQA since the requirement of testing in a FQA accredited laboratory has been met.

(3) Two comments suggested that the regulation be amended to permit fasteners to be held out as FQA compliant if they are included in lots of fasteners manufactured before the effective date of the regulation but subsequently tested or retested after the effective date of the regulation in FQA accredited laboratories. NIST deemed this alternative to be permissible under the FQA since the FQA requirement of testing in an FQA accredited laboratory has been met.

(4) Eight comments suggested that since fasteners are manufactured to high standards, NIST should permit all fasteners manufactured prior to the effective date of the regulation to be held out as FQA compliant, regardless of whether the fasteners were ever tested in a laboratory, accredited or otherwise. NIST has rejected this alternative because the FQA requires that fasteners must be tested by an accredited laboratory to be deemed FQA compliant. Hence, this alternative is not permissible by law, since it does not require testing.

(5) Six comments suggested that fasteners manufactured prior to the effective date be deemed to be FQA compliant after a ''paperwork'' review of laboratory records. NIST has rejected this alternative because the FQA requires that fasteners must be tested by an FQA accredited laboratory to be deemed FQA compliant. Hence, this alternative is not permissible by law, since the tests being reviewed were not conducted by FQA accredited laboratories.

(6) The recommendation of the Fastener Advisory Committee received no comment, but is the sixth alternative considered by NIST.

Thus, NIST was left with four lawful alternatives, options (1), (2), (3), and (6) above. Based upon the public comments, NIST believes that the weight of the evidence supports the view that some form of grandfathering beyond option (1) is appropriate. Accordingly, NIST has decided to proceed immediately with option (2) and has included this option in the final rule in §§ 280.12 (d) and (e). Section 280.12(d) allows that ''fasteners manufactured on or after May 14, 1998 may be represented, sold, or offered for sale as complying with the Act and these regulations if they are tested and certified by a laboratory appearing on the Accredited Laboratory List * * * and meet all other requirements of the Act and this part.'' Section 280.12(e) allows that ''fasteners manufactured on or after May 14, 1998 by a Facility listed on the Facilities List may be represented, sold, or offered for sale as complying with the Act and regulations'' if the Facility meets the requirements of § 280.810(c)(3).

NIST does not believe that the existing record permits it to endorse either option (3) or (6).

7. Paperwork Reduction Act and Regulatory Flexibility Act

Various commenters questioned the statements made in the preamble to the proposed rule regarding the Paperwork Reduction Act or the Regulatory Flexibility Act or both. In general, these commenters stated that the Department understated the cost to industry to comply with the Act and regulations and the impact that those costs would have on small businesses. The costs cited in these comments included the costs of scrapping inventories and disruptions to supply because customers would not accept preimplementation fasteners on or after the implementation date, the costs of obtaining laboratory accreditation or using an accredited laboratory, the costs of testing small lots, the costs of added paperwork and storage of records. Two specific proposals were made in regard to this issue. One proposal was to form a joint government-industry task force to measure the costs of compliance. The other proposal was to conduct an in-

depth analysis of the negative impact on distributors and manufacturers under the Regulatory Flexibility Act and publish it for public comment. Several commenters recommended delaying implementation of regulations because of the costs to industry. The Department notes that all of the concerns cited above relate to the cost of complying with the existing rule. The final rule creates an option for fastener manufacturers to use, in certain instances, instead of the existing rule. Any costs associated with developing a registered fastener QAS would not be affected by the costs of complying with the existing rule. Therefore, the Department is not delaying the implementation of the regulations due to this issue.

Comment: Two trade organizations commented that the cost of raw material analysis obtained by coil analysis is disproportionately high for small producers.

Response: No change is made based on this comment. The requirements for raw material analysis and reports under the Act are the same for large producers and small producers. Under the revised regulations, small firms may obtain raw material analysis reports from either the laboratory that conducted the tests or from the metal manufacturer.

Part 3: Comments Received Regarding Issues Not Presented for Public Comment in the Notice of Proposed Rulemaking

The Department received many comments on issues that were not presented for public comment in the notice of proposed rulemaking. These issues included: Repeal the Fastener Quality Act, amend the Fastener Quality Act, deem compliance with other regulations to be compliance with the Fastener Quality Act, create exemptions to the coverage of the Act and regulations, and define more terms. The Department will not respond to these comments at this time because they were not presented for public comment in the notice of proposed rulemaking but will retain these comments for possible action at a later date.

Additional Information

Executive Order 12866

This rule has been determined not to be significant under section 3(f) of Executive Order 12866.

Executive Order 12612

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. NIST received one comment, addressed above, regarding this certification. This comment did not cause a change in the determination regarding the certification. As a result, no final regulatory flexibility analysis was prepared.

Paperwork Reduction Act

Notwithstanding any other provision of the Act, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This rule contains collections of information subject to the requirements of the Paperwork Reduction Act that have been cleared under OMB Control Nos. 0693–0015 and 0693–0026. The public reporting burden for the self-certification of QAS fastener manufacturing facilities is approximately four hours: The provisional registration is estimated at three hours, and one hour for the associated recordkeeping requirements. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20230 (Attention: NIST Desk Officer) and to NIST (Attention: FQA Program Manager, NIST, Building 820, Room 306, National Institute of Standards and Technology, Gaithersburg, MD 20899).

National Environmental Policy Act

This rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

List of Subjects in 15 CFR Part 280

Business and industry, Fastener industry, Imports.

Dated: April 3, 1998.

Robert E. Hebner,

Acting Deputy Director, National Institute of Standards and Technology.

Dated: April 3, 1998.

William A. Reinsch,

Under Secretary for Export Administration.

For reasons set forth in the preamble, Title 15 of the Code of Federal Regulations part 280 is amended as follows:

PART 280—FASTENER QUALITY

1. The authority for part 280 continues to read as follows:

Authority: Sec. 13 of the Fastener Quality Act (Pub. L. 101–592, as amended by Pub. L. 104–113).

2. Section 280.1 is amended by adding paragraph (d) to read as follows:

§ 280.1 Purpose/description of rule.

* * * * *

(d) *Delegations of authority.* The Secretary of Commerce has delegated authority to the Director, National Institute of Standards and Technology to promulgate regulations in this part under sections 5 through 8 of the Fastener Quality Act (15 U.S.C. 5404–5407). In addition, the Secretary of Commerce has delegated concurrent authority to the Under Secretary for Export Administration to amend the regulations issued under sections 5 through 7 of the Act, regarding enforcement. The Secretary of Commerce has also delegated concurrent authority to amend the regulations issued under section 8 of the Act, regarding recordal of insignias, to the Assistant Secretary and Commissioner of Patents and Trademarks.

3. Section 280.2 is amended by revising the definitions for *accreditation, consensus standards organization*, and *original laboratory testing report*, and adding the remaining definitions as set forth below:

§ 280.2 Definitions.

* * * * *

Accreditation for purposes of the Act and this part means accreditation of a testing laboratory or the registration of a fastener manufacturing facility employing a quality assurance system (a Facility).

* * * * *

Accredited registrar means a registrar, as defined in this part, that is accredited by a recognized accreditor and appears on the Registrars List described in section 280.810(b).

* * * * *

Accreditor means a Registrar accreditation body that meets the requirements of subpart K of this part.

* * * * *

Authorized representative means an employee of an organization who is authorized by that organization to speak on its behalf for purposes of the Act and this part.

* * * * *

Certified Copy (of a laboratory testing report) means a complete and accurate copy of the original laboratory testing report, which contains a statement describing it as an accurate and complete copy of the original and which is signed by an authorized representative of the accredited laboratory issuing the report or, in the case of metal chemistry testing reports, an authorized representative of the metal manufacturer.

* * * * *

Consensus standards organization means the American Society for Testing and Materials (ASTM), American National Standards Institute (ANSI), American Society of Mechanical Engineers (ASME), Society of Automotive Engineers (SAE), or any other consensus standards setting organization (domestic or foreign) publicly identified by NIST as having comparable knowledge, expertise, and concern for the health and safety in the field for which such organization purports to set standards.

* * * * *

Facility means a fastener manufacturing facility, or a facility performing subcontracted processes for a fastener manufacturing facility, implementing a fastener quality assurance system as defined in this part.

* * * * *

Fastener Quality Assurance System (QAS). (1) *Fastener Quality Assurance System (QAS)* means a fastener manufacturing system that has as a stated goal the prevention of defects through continuous improvement, and which seeks to attain that goal by incorporating:

(i) Advanced quality planning;

(ii) Monitoring and control of the manufacturing process;

(iii) Process inspection embodied in a comprehensive and written control plan for product/process characteristics, process controls (including statistical process control), tests, and measurement systems that will occur during mass production; and

(iv) The creation, maintenance, and retention of electronic, photographic, or paper records, available for inspection during the periods required by section 10 of the Act and § 280.7 of this part, regarding the inspections, tests, and measurements required by or performed pursuant to the control plan.

(2) A Fastener Quality Assurance System contains the following elements at a minimum:

(i) A documented quality management system that satisfies the requirements of ISO–9001 ''Quality Systems—Model for quality assurance in design, development, production, installation and servicing,'' ISO–9002 ''Quality Systems—Model for quality assurance in production, installation and servicing,'' or other quality system standards that incorporate ISO–9001 or ISO–9002 (e.g. QS–9000, AS–9000, etc.);

(ii) A requirement that raw material certification supplied to the fastener manufacturer shall be traceable to that of a mill heat of material that has been tested by a laboratory on the Accredited Laboratory List;

(iii) A requirement that subcontracted processes, including plating and heat treating, are controlled by the manufacturer, to avoid product lot contamination, and that finished lots of fasteners shall be traceable to subcontracted processes performed by a registered Facility on the Facilities List described in § 280.810 of tested by a Laboratory on the Laboratories List described in § 280.101;

(iv) A requirement that the fastener manufacturer fully document fastener sampling and inspection points and an in-process control plan that emphasizes defect prevention, relates frequency of inspection, corrective action for nonconforming characteristics, and sampling frequency and sample size; a requirement that the control plan be made available to the customer upon request and shall identify those standards and specifications upon which the plan is based; and

(v) A requirement that the in-process control plan include those characteristics specified by the QAS standard, characteristics specifically indicated by applicable fastener standards and specifications, and those characteristics as designated by the end user for evaluating product functionality.

* * * * *

Original laboratory testing report means: (1) In general, a laboratory testing report which is originally signed by an approved signatory or is a copy thereof, certified by the laboratory that conducted the test; or

(2) For purposes of the alternative procedures for chemical characteristics described in section 5(d) of the Act and § 280.15 of this part only, a laboratory testing report which is originally signed by an approved signatory or is a copy thereof, certified by the laboratory that conducted the test or by the metal manufacturer.

* * * * *

Recognized accreditor means an accreditor, as defined in this part, that is recognized by NIST and appears on the Accreditors List described in § 280.810(a).

* * * * *

Registered facility means a facility, as defined in this part, that is registered by an accredited registrar and appears on the Facilities List described in § 280.810(c).

* * * * *

Registrar means a quality systems Registrar that meets the requirements of subpart L of this part.

* * * * *

Registration means evaluation and certification of a manufacturing facility as competent to carry out and conforming to the applicable requirements of a Fastener Quality Assurance System when such evaluation and certification is performed by a Registrar as defined in this part.

* * * * *

Significantly alter means to alter or take any other action which could weaken or otherwise materially affect the performance or capabilities of the fastener as it was originally manufactured, grade or property class marked, tested, or represented. The term does not include the application of adhesives or sealants, locking elements, provisions for lock wires, coatings and platings of parts having a minimum specified Rockwell C hardness of less than 32, or cutting off of fasteners. The cutting of finished threaded rods, bars or studs to produce individual smaller length threaded studs for resale is not a significant alteration. However, cut threaded studs, rods, and bars offered for sale shall be individually marked with the grade or property class identification marking appearing on or accompanying the original threaded studs, rods, and bars from which the fasteners were cut.

* * * * *

4. Section 280.6 is revised to read as follows:

§ 280.6 Laboratory test reports.

(a) When performing tests for which they are accredited under this part, each laboratory accredited under subparts C, D, or E of this part and currently listed in the Accredited Laboratory List shall issue test reports of its work which accurately, clearly, and unambiguously present the test conditions, test set-up,

test results, and all information required by this section. All reports must be in English or be translated into English, must be signed by an approved signatory, must be protected by a tamper resistant system, and contain the following information:

(1) Name and address of the laboratory;

(2) Unique identification of the test report including date of issue and serial number, or other appropriate means;

(3) Name and address of client;

(4) Fastener Description, including:

(i) Manufacturer (name and address);

(ii) Product family (screw, nut, bolt, washer, or stud), drive and/or head configurations as applicable;

(iii) Date of manufacture;

(iv) Head markings (describe or draw manufacturer's recorded insignia and grade identification or property class symbols);

(v) Nominal dimensions (diameter; length of bolt, screw or stud; thickness of load indicating washer); thread form and class of fit;

(vi) Product standards and specifications related to the laboratory in writing by the manufacturer, importer or distributor;

(vii) Lot number;

(viii) Specification and grade of material;

(ix) Coating material and standard and specification as applicable;

(5) Sampling information:

(i) Standards and specifications or reference for sampling scheme;

(ii) Final manufacturing lot size;

(6) Test Results:

(i) Test results for each sample;

(ii) All deviations from the test method;

(iii) All other items required on test reports according to the test method;

(iv) Where the report contains results of tests performed by sub-contractors, these results shall be clearly identified along with the name of the laboratory and accreditation information listed in paragraph (a)(10) of this section.

(v) A statement that the samples tested either *conform* or *do not conform* to the fastener standards and specifications and identification of any nonconformance, except as provided for in §§ 280.13 and 280.14;

(7) A statement that the report must not be reproduced except in full;

(8) A statement to the effect that the test report relates only to the item(s) tested;

(9) Name, title and signature of approved signatory accepting technical responsibility for the tests and test report;

(10) The name of the body which accredited the laboratory for the specific tests performed which are the subject of the report, and code number assigned to the laboratory by the accreditation body, and the expiration of accreditation.

(b) When performing tests for which they are registered under this part, each facility registered under subpart I or J of this part and currently listed in the Facilities List shall issue test reports of its work which accurately, clearly, and unambiguously present test results, and all information required by this section. In addition, the facilities shall attach reports of chemical characteristics and any report of the tests conducted in a laboratory under the accredited laboratories list. All reports must be in English or be translated into English, must be signed by an approved signatory, must be protected by a temper resistant system, and contain the following information:

(1) Name and address of the facility;

(2) Unique identification of the test report, including date of issue and serial number, or other appropriate means including references to control plan identification;

(3) Name and address of client, if applicable;

(4) Fastener Description, including:

(i) Manufacturer (name and address);

(ii) Product family (screw, nut, bolt, washer, or stud), drive and/or head configurations as applicable;

(iii) Date of manufacture;

(iv) Head markings (describe or draw manufacturer's recorded insignia and grade identification or property class symbols);

(v) Nominal dimensions (diameter; length of bolt, screw or stud; thickness of load bearing washer); thread form and class of fit;

(vi) Product standards and specifications related to the facility in writing by the manufacturer, importer or distributor;

(vii) Lot number;

(viii) Specification and grade of material;

(ix) Coating material and standard and specification as applicable;

(5) Sampling information:

(i) Standards and specifications or reference for sampling scheme;

(ii) Final manufacturing lot size;

(iii) Identification of control plan governing production of the lot to which the test report is applicable;

(6) Test Results:

(i) Test results of actual tests required by applicable fastener standards and specifications, and characteristics designated by the end user;

(ii) All deviations from the test method;

(iii) All other items required on test reports according to the applicable fastener standards and specifications, and characteristics designated by the end user;

(iv) Where the report contains results of tests performed by sub-contractors, these results shall be clearly identified along with the name of the laboratory/facility and accreditation/registration information listed in paragraph (b)(9) of this section.

(v) Where all processes under the applicable QAS were found to be in accordance with the inspections, tests and measurements required by the standards and specifications and the QAS and characteristics designated by the end user, a statement that the samples tested conform to the applicable fastener standards and specifications;

(vi) Where any process under the applicable QAS was found not to be in accordance with the inspections, tests, or measurements required by such QAS, a statement that the samples tested do not conform to the applicable fastener standards and specifications and identification of any nonconformance;

(7) A statement that the report must not be reproduced except in full;

(8) Name, title and signature of approved signatory accepting technical responsibility for the tests and test report;

(9) The name of the registrar which registered the facility, and code number assigned to the facility by the registrar, and the expiration of registration.

(c) For alternative chemical tests carried out under § 280.15 of this part, each laboratory accredited under subparts C, D, or E of this part and currently listed in the Accredited Laboratory List shall provide to the fastener manufacturer, either directly or through the metal manufacturer, a written inspection and testing report containing all required information. All reports must be in English or be translated into English, must be signed by an approved signatory, must be protected by a tamper resistant system, and contain the following information:

(1) Name and address of the laboratory;

(2) Unique identification of the test report including date of issue and serial number or other appropriate means;

(3) Name and address of client;

(4) Coil or heat number of metal being tested;

(5) Test Results:

(i) Actual tests required by the standards and specifications;

(ii) Test results for such coil or heat number chemical characteristics;

(iii) All deviations from the test method;

(iv) All other items required on test reports according to the test method;

(v) Where the report contains results of tests performed by sub-contractors, these results shall be clearly identified along with the name of the laboratory and accreditation information listed in paragraph (c)(9) of this section.

(vi) A statement that the samples tested either conform or do not conform to the metal standards and specifications and identification of any nonconformance;

(6) A statement that the report must not be reproduced except in full;

(7) A statement to the effect that the test report relates only to the item(s) tested;

(8) Name, title and signature of approved signatory accepting technical responsibility for the tests and test report;

(9) The name of the body which accredited the laboratory for the specific tests performed which are the subject of the report, and code number assigned to the laboratory by the accreditation body, and the expiration of accreditation.

(d) The laboratory shall issue corrections or additions to a test report only by a further document suitably marked, e.g., ''Supplement to test report serial number * * *.'' This document must specify which test result is in question, the content of the result, the explanation of the result, and the reason for acceptance of the result.

(e) For tests carried out by a Facility registered pursuant to subpart I or J of this part, the Facility shall maintain laboratory test reports in the forms of electronic, photographic, or paper records, available for inspection during the periods required by section 10 of the Act and § 280.7 of this part, regarding the inspections, tests, and measurements required or performed pursuant to the QAS control plan.

5. Section 280.7 is amended by revising paragraph (a) to read as follows:

§ 280.7 Recordkeeping requirements.

(a) Each laboratory accredited under subparts C, D, or E or § 280.104 of this part shall retain for 5 years after the performance of a test all records pertaining to that test concerning the inspection and testing, and certification, of fasteners under the Act and this part. The final test report or the test records maintained by the laboratory shall contain sufficient information to permit the test to be repeated at a later time if a retest is necessary. The laboratory shall maintain the test report and a record of all original observations, calculations, and derived data. The records shall include the identity of personnel performing the testing. Procedures for storage and retrieval of records must be documented and maintained in the laboratory's quality manual.

* * * * *

6. Section 280.10 is revised to read as follows:

§ 280.10 Sampling.

(a) For tests conducted either in a laboratory on the Accredited Laboratory List or in a Registered Facility, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or specification which provides for the size, selection or integrity of the sample to be inspected and tested, the sample shall be determined in accordance with that standard or specification.

(b) For tests conducted in a laboratory on the Accredited Laboratory List, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or specification which does not provide for the size, selection or integrity of the sample to be inspected and tested, the sample shall be determined in accordance with the sampling plan provided by ASME/ANSI B18.18.2M, Inspection and Quality Assurance For High-Volume Machine Assembly Fasteners; ASME/ANSI B18.18.3M, Inspection and Quality Assurance for Special Purpose Fasteners; or ASME/ANSI B18.18.4M, Inspection and Quality Assurance for Highly Specialized Engineering Applications—Fasteners.

(c) For tests conducted in a Registered Facility, and not in a laboratory on the Accredited Laboratory List, if a manufacturer represents that the fasteners in a particular sample have been manufactured to a standard or specification which does not provide for the size, selection or integrity of the sample to be inspected and tested, the sample for inspections and tests by the Facility shall be determined by the sampling plan provided by its Fastener Quality Assurance System or by standards and specifications intended for use with a Fastener Quality Assurance System, as appropriate. Or, a manufacturer operating a Registered Facility may elect to conduct inspections and tests upon all of the fasteners within a specified lot, provided that this election is documented in the control plan of its Fastener Quality Assurance System.

7. Section 280.11 is amended by revising paragraph (b) to read as follows:

§ 280.11 Significant alterations of fasteners.

* * * * *

(b) If the significant alteration is only electroplating of fasteners having a minimum specified Rockwell C hardness of 32 or above, the requirements set forth in paragraphs (a)(2) and (a)(3) of this section shall not apply, but the alterer shall assign a new lot number as set forth in paragraph (a)(1) of this section and shall test the electroplated fasteners as required by the plating standards and specifications.

* * * * *

8. Section 280.12 is revised to read as follows:

§ 280.12 Applicability.

(a) The requirements of the Fastener Quality Act and this part shall be applicable only to fasteners manufactured on or after July 26, 1998.

(b) Metal manufactured prior to July 26, 1998 may not be used to manufacture fasteners subject to the Act and this part unless the metal has been tested for chemistry pursuant to § 280.15 of this part by a laboratory accredited under the Act and this part and the chemical characteristics of the metal conform to those required by the standards and specifications.

(c) Nothing in the Act and this part prohibits selling finished fasteners manufactured prior to July 26, 1998 or representing that such fasteners meet standards and specifications of a consensus standards organization or a government agency.

(d) Fasteners manufactured on or after May 14, 1998, may be represented, sold, or offered for sale as complying with the Act and these regulations if they are tested and certified by a laboratory appearing on the Accredited Laboratory List described in § 280.101, and meet all other requirements of the Act and this part.

(e) Fasteners manufactured on or after May 14, 1998, by a Facility listed on the Facilities List may be represented, sold, or offered for sale as complying with the Act and these regulations upon NIST's acknowledgment of receipt of the items required in § 280.810(c)(3).

9. Section 280.104 is added to subpart B to read as follows:

§ 280.104 Accreditation of certain manufacturing facilities as laboratories.

(a) Subject to the limitations contained in paragraphs (b), (c), and (d) of this section, registration of a fastener manufacturing facility employing a fastener quality assurance system shall be deemed to meet the requirements of accreditation of a laboratory for purposes of the Act and this part. The independent third-party Registrar registering such facility under this section shall comply with all procedures set forth in subparts I through L of this part. Records

documenting the inspection and testing of a lot of fasteners performed by such an accredited laboratory shall be maintained by the facility in accordance with the requirements of §§ 280.6, 280.808, and 280.809 of this part.

(b) In any instance where a Facility accomplishes any in-process inspection and testing by performing laboratory tests on a sample of fasteners at any stage in the manufacturing process, those tests must be conducted by a laboratory on the Accredited Laboratory List. Such a laboratory may be located on the same premises as a fastener manufacturing facility if the laboratory is separately accredited pursuant to a provision of this part other than § 280.104(a).

(c) Any laboratory tests performed outside the Facility's in-process inspection and testing must be conducted by a laboratory on the Accredited Laboratory List.

(d) Chemical and raw material testing must be performed by a laboratory on the Accredited Laboratory List.

10. Section 280.602 is amended by revising paragraphs (e)(2), (h), and (j) and adding paragraphs (k), (l), (m), (n), and (o) to read as follows:

§ 280.602 Violations.

* * * * *

(e) *Misrepresentation and concealment of facts.* * * *

(2) In connection with the preparation, submission, use, or maintenance of a laboratory test report, certificate of conformance as described in §§ 280.5 and 280.6 of this part, or any quality assurance system document required by this part or;

* * * * *

(h) *Falsification of documents relating to accreditation of laboratories or registrars or approval or recognition of accreditors or accreditation bodies.* No person shall falsify or make any false or misleading statement on or in connection with any document relating to laboratory accreditation or approval or recognition of accreditation bodies, Accreditors or Registrars as required by section 6(a) or 6(b) of the Act or this part.

* * * * *

(j) *Falsification of laboratory accreditation, accreditation body or accreditor.* No person shall falsely claim to be an accredited laboratory or approved or recognized accreditation body or Accreditor as described in section 6 of the Act or subparts B, C, D, E, I and J of this part.

(k) *Sale of fasteners manufactured prior to the implementation date as compliant with the Act.* No person shall represent, sell, or offer for sale fasteners manufactured prior to July 26, 1998 as being in conformance with the Act or this part except as provided for in § 280.12(d) or (e) of this part.

(l) *Failure to assign lot number traceable to manufacturer's single, unique lot number.* No importer, distributor, or significant alterer shall assign a lot number unless the assigned lot number is traceable to a manufacturer's single, unique lot number.

(m) *Falsification of documents relating to the registration of fastener manufacturing facilities as accredited laboratories, accreditation of registrars or recognition of accreditors.* No person shall falsify or make any false or misleading statement on or in connection with any document relating to the registration of Fastener Manufacturing Facilities as accredited laboratories, accreditation of Registrars or recognition of Accreditors as required by subparts I, J, K, and L of this part.

(n) *False claim of registration of fastener manufacturing facilities as accredited laboratories, accreditation of registrars, and recognition of accreditors.* No person shall falsely claim to be a registered Fastener Manufacturing Facility, an accredited Registrar, or a recognized Accreditor as described by subparts I, J, K, and L of this part.

(o) *Falsification of documents relating to the certification of FOA compliance required for provisional listing on the Facilities List.* No person shall falsify or make any false or misleading statement on or in connection with any document relating to the certification of FQA compliance required for provisional listing on the Facilities List pursuant to § 280.810(c)(3).

11. Subparts I through L are added to read as follows:

Subpart I—Special Rule for the Accreditation of Certain Fastener Manufacturing Facilities, Whose Implemented Fastener Quality Assurance Systems Meet Defined Requirements, as Laboratories

Sec.

280.800 Introduction.
280.801 Application.
280.802 Review and decision process.
280.803 Criteria for recognition.
280.804 Maintaining recognized status.
280.805 Voluntary termination of recognition.
280.806 Involuntary termination of recognition by NIST.
280.807 Subcontracting.
280.808 Reports.
280.809 Record keeping.
280.810 Listing of recognized accreditors, accredited Registrars, and registered facilities.
280.811 Removal from a list.
280.812 Appeal.

Subpart I—Special Rule for the Accreditation of Certain Fastener Manufacturing Facilities, Whose Implemented Fastener Quality Assurance Systems Meet Defined Requirements, as Laboratories

§ 280.800 Introduction.

(a) This special rule applies to those fastener manufacturers, employing a fastener quality assurance system (QAS) as defined in this part, who wish to seek accreditation of the particular manufacturing facility employing the QAS as a laboratory within the meaning of the Act. This rule consists of this subpart, and subparts J, K and L of this part. The rule adopts the view that a fastener manufacturing facility is deemed to be an accredited laboratory for purposes of the Act and this part if such facility employs a fastener quality assurance system (QAS) that has been formally registered by a NIST-recognized quality systems Registrar. The rule applies only to facilities manufacturing fasteners; raw materials for fastener manufacture must be tested and certified by a laboratory listed on the Accredited Laboratory List. This Subpart sets out the full process that NIST requires for the accreditation of a fastener manufacturing facility employing a QAS in the United States: A fastener manufacturing facility employing a QAS (a ''Facility'') will be deemed to be an accredited laboratory if it is registered by a Quality Systems Registrar (a ''Registrar'') that in turn has been accredited by a Registrar Accreditation Body (an ''Accreditor'') that has been recognized by NIST. Subpart J provides for foreign Accreditors to be recognized and to recognize Registrars under the same procedures.

(b) A chain is thus established to assure the proper regulation of Facilities: NIST recognizes Accreditors that meet the requirements of subpart K of this part, which is based upon ISO Guide 61; the NIST-recognized Accreditors may in turn accredit Registrars that meet the requirements of subpart L of this part, which is based upon ISO Guide 62. The Registrars, in turn, may register Facilities that satisfy the elements of a fastener quality assurance system (QAS), as defined in this part.

(c) Within this subpart, §§ 280.801 through 280.809 contain the procedures that NIST uses to process requests from Accreditors for recognition by NIST.

Section 280.810 establishes three lists that NIST will maintain: Section 280.810(a) provides for a list of Accreditors that have been recognized by NIST; § 280.810(b) provides for a list of Registrars that have been accredited by Accreditors listed according to § 280.810(a); and § 280.810(c) provides for a list of Facilities that have been registered by Registrars listed according to § 280.810(b). The remainder of this subpart, §§ 280.811 and 280.812, contain procedural provisions related to the lists established by § 280.810.

§ 280.801 Application.

(a) Application must be made by Accreditors to NIST for recognition to accredit Registrars under the Act. Upon request, NIST will provide application forms and instructions. The applicant shall complete the application in English and may provide whatever additional enclosures, attachments or exhibits the applicant deems appropriate.

(b) Application packages may be obtained from: Manager, FQA Accreditation Body Evaluation Program, NIST, Bldg. 820, Room 282, Gaithersburg, Maryland 20899. Requests may be made by mail or by FAX to: (301) 963–2871.

(c) The applicant shall reimburse NIST for all costs incurred in the evaluation of its accreditation program and subsequent costs incurred in ensuring the continued compliance of its program. Reimbursement shall be in accordance with the fee schedule established by NIST for this purpose.

(d) An application may be revised by an applicant at any time prior to the final decision by NIST. An application may be withdrawn by an applicant, without prejudice, at any time prior to the final decision by NIST.

§ 280.802 Review and decision process.

(a) Applications submitted by Accreditors will be accepted by NIST and their receipt acknowledged in writing. The applications will be reviewed by NIST against the criteria specified in this subpart and in subpart K of this part. NIST may request additional information as needed from the applicant.

(b) NIST shall conduct on-site assessments of the facilities of the applicant including all of the applicant's organizational units and locations covered by the application.

(c) If the applicant's program is deemed by NIST to have met the requirements for recognition, the applicant shall be notified by NIST in writing. The recognition notice shall include the date when the recognition begins and the scope of the recognition. The recognition period shall be for as long as the Accreditor continues to satisfy the requirements of § 280.803. As part of maintaining its approved status, each Accreditor shall agree to be reassessed by NIST every two years following its initial notice of recognition. NIST will maintain and make available to the public a list of recognized Accreditors.

(d) If the applicant does not meet the requirements for recognition, the applicant shall be notified in writing, listing the specific requirements from this subpart and subpart K of this part which the applicant's program has not met. After receipt of such a notification, and within the response period provided by NIST, the applicant may:

(1) Submit additional information for further review. Reviewing the new submission may involve additional on-site visits by NIST personnel. Additional fees may be required. Or,

(2) Submit a request that the original application be reconsidered, including a statement of reasons why the applicant should have been recognized.

§ 280.803 Criteria for recognition.

An applicant for NIST recognition must demonstrate the ability to operate a registrar accreditation program consistent with the requirements of this subpart and subparts A and K of this part, and accredit registrars of Facilities to requirements set out in subpart L of this part.

§ 280.804 Maintaining recognized status.

(a) Accreditors shall continue to satisfy all the requirements of recognition during the recognition period.

(b) Upon request, recognized Accreditors shall make available to NIST and/or BXA all records and materials pertaining to the program.

(c) NIST has the right to participate as an observer during any on-site visit to a Registrar being audited by a NIST-recognized Accreditor, or a Facility being audited by an accredited Registrar, or it may perform its own surveillance visit of such bodies at its discretion.

(d) Neither the Accreditor, nor any Registrar it accredits, nor any Facility registered under the Act and this part shall take any action which states or implies the approval, or endorsement by NIST or any other agency of the U.S. Federal Government of any product or report pertaining to a product associated with any activities carried out under the recognition. None of these entities may take any action which states or implies that they are recognized or authorized by NIST to act or perform in any area(s) beyond that which was specified in their recognition under this part.

§ 280.805 Voluntary termination of recognition.

An Accreditor may voluntarily terminate its recognition by giving written notice to NIST and to all Registrars accredited by that body under its accreditation program. The written notice shall state the date on which the termination will take effect.

§ 280.806 Involuntary termination of recognition by NIST.

(a) NIST may terminate or suspend its recognition of an Accreditor if such an action is deemed to be in the public interest.

(b) Before terminating the recognition of an Accreditor, NIST will notify the Accreditor in writing, giving it the opportunity to rebut or correct the stated reasons for the proposed termination. If the problems are not corrected or reconciled within 30 days, or such longer time as NIST in its sole discretion may grant, the termination shall become effective.

(c) An Accreditor may appeal a termination to the Director by submitting a statement of reasons why the recognition should not be terminated. NIST may, at its discretion, hold in abeyance the termination action pending a final decision by the Director. Within 60 days following receipt of the appeal, the Director shall inform the Accreditor in writing of his or her decision.

(d) Registrars and registered organizations which have been listed by NIST in accordance with this Subpart, based on their accreditation by an Accreditor whose recognition has been terminated, shall be removed from the list, unless an exception is granted by NIST.

§ 280.807 Subcontracting.

If a recognized Accreditor, an accredited Registrar, or a registered Facility subcontracts any of its functions to another entity it must place the work with another recognized Accreditor, accredited Registrar, or registered Facility; inform the client, before the fact, that subcontracting will be necessary, and clearly indicate in all appropriate records, and reports to the client, specifically what functions were subcontracted.

280.808 Reports.

Reports and records shall be maintained in such a manner to preserve original data, and be collected as required into a final form, sufficient to satisfy customer and legal

requirements. Such reports shall be provided upon request to the Bureau of Export Administration, to the National Institute of Standards and Technology, or to any other agency of the federal government authorized to obtain such records under this part.

§ 280.809 Recordkeeping.

Each recognized Accreditor, accredited Registrar, or fastener manufacturer whose Facility has been registered shall retain all applicable records required under the Act and this part for 5 years. All records are subject to the requirements in § 280.7 of this part.

§ 280.810 Listing of recognized accreditors, accredited registrars, and registered facilities.

(a) *List of Accreditors.* NIST shall prepare and maintain a list of Accreditors recognized under this subpart and subpart J of this part.

(b) *List of Registrars.* NIST shall prepare and maintain a list of Registrars accredited by Accreditors listed in accordance with § 280.810(a).

(1) Names and information regarding accredited Registrars may only be included on the list from information submitted to NIST by an Accreditor listed in accordance with § 280.810(a) that submits the listing fee established by NIST and the following information, in English:

(i) The name of the Accreditor which granted the accreditation;

(ii) The name and address of the Registrar affected by the accreditation action;

(iii) The nature of the accreditation action (e.g., initial accreditation, renewal of accreditation, etc.);

(iv) A copy of the Registrar's accreditation certificate and a scope of accreditation which states the quality system standard(s) for which the Registrar has been accredited for purposes of assessing and registering a fastener manufacturer's Facility; and

(v) The name and telephone number of the accredited Registrar's authorized representative(s), and information concerning the physical locations of all organizational units involved in the accreditation activities.

(2) All Accreditors listed by NIST in accordance with § 280.810(a) shall promptly notify NIST of each accreditation action taken. Accreditation actions include initial accreditations, denials of accreditation, renewals, suspensions, terminations, and changes in scope. Notifications shall be filed with: Fastener Quality Act Program Manager, Office of Standards Services, National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

(c) *List of Facilities.* NIST shall prepare and maintain a list of Facilities registered by Registrars listed in accordance with § 280.810(b).

(1) Names and information regarding registered Facilities may only be included on the list from information submitted to NIST by accredited Registrars listed in accordance with § 280.810(b) that submit the listing fee established by NIST, through their Accreditors, and the following information:

(i) The name of the fastener manufacturer and the address of the registered Facility;

(ii) The name of the authorized representative of the fastener manufacturer whose Facility is registered;

(iii) The scope of the registration, stating the quality system standard(s) to which the Facility has been registered; and

(iv) The effective dates of the registration.

(2) All Registrars listed by NIST in accordance with § 280.810(b) shall promptly notify NIST of each registration action. Registration actions include initial registrations, denials of registration, renewals, suspensions, terminations, and changes in scope. Notifications shall be filed with: Fastener Quality Act Program Manager, Office of Standards Services, National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

(3)(i) If a Facility intends to be listed in accordance with § 280.810(c)(1) but the registration process will not be completed by July 26, 1998, the Facility may be provisionally listed on the Facilities List by providing the following to NIST on or before September 30, 1998:

(A) Certification that:

(*1*) The Facility is registered to QS–9000 or an equivalent by a quality systems registrar;

(*2*) The Facility conforms to all other requirements of the Act and these regulations at the time of certification;

(*3*) If the Facility ceases to be registered to QS–9000 or an equivalent by an accredited Registrar and/or ceases to conform to any other requirement of the Act and these regulations at any time during the provisional listing period, it will notify NIST of that fact within three working days; and

(*4*) If the Facility fails to apply to an accredited Registrar for registration under the FQA within 30 days of the time the Registrar is accredited by a NIST-approved Accreditor, an authorized representative of the Facility will immediately notify NIST. (If the Facility's current Registrar decides not to seek accreditation under the FQA, it is the Facility's responsibility to apply to another Registrar that has been approved by NIST-ABEP.);

(B) A list of fasteners produced or processed by the Facility, identified by either a part number or a specification number;

(C) A list of standards included in the Facility's registration;

(D) A copy of the Facility's registration certificate; and

(E) The listing fee established by NIST.

(ii) The Facility must meet all the requirements of the Act and these regulations by May 25, 1999. If the Facility fails to receive FQA registration by May 25, 1999, it will be removed from the Facilities List.

(d) These lists will be readily accessible to the public. Only entities listed by NIST are authorized to offer services which comply with the Act and this part. NIST shall revise as appropriate all listings when notified of applicable actions and shall take appropriate steps to make changes promptly available to the public.

§ 280.811 Removal from a list.

NIST may remove from a list any listed entity if NIST deems such action to be in the public interest. An entity may appeal the removal or proposed removal from a list to the Director by submitting a statement of reasons why it should remain on the list. NIST may, at its discretion, hold in abeyance a removal action pending a final decision by the Director. The Director shall inform the entity in writing of the decision within sixty days following receipt of the appeal.

§ 280.812 Appeal.

An applicant Accreditor, Registrar, or fastener manufacturer whose Facility has been registered may appeal the removal or proposed removal from the Accreditors list, the Registrars list, or the Facilities list, to the Director.

Subpart J—Recognition of Foreign Registrar Accreditation Bodies

Sec.
280.900 Introduction.
280.901 Recognition of foreign entities.

Subpart J—Recognition of Foreign Registrar Accreditation Bodies

§ 280.900 Introduction.

In accordance with section 6(a)(1)(C) of the Act, this subpart sets forth the conditions under which the recognition of foreign entities by their governments,

by organizations acting on behalf of their governments, or by organizations recognized by the Director shall be deemed to meet the requirements of the Act.

§ 280.901 Recognition of foreign entities.

Foreign Accreditors wishing to be recognized to accredit Registrars must submit an application for evaluation to NIST according to subpart I of this part. NIST recognition is limited to bodies that accredit Registrars which register Facilities producing fasteners covered by the Act. To be recognized by NIST, Accreditors must meet conditions set out in subparts I and K of this part and accredit Registrars of Facilities to conditions set out in subpart L of this part.

Subpart K—Requirements for Registrar Accreditation Bodies (Accreditors)

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Subpart K—Requirements for Registrar Accreditation Bodies (Accreditors)

General

§ 280.1000 Introduction.

This subpart sets out organizational, operational and other requirements that must be met by all Accreditors recognized by NIST under subpart I or J of this part. This subpart also sets out the requirements against which an Accreditor assesses the competence of an applicant Registrar.

§ 280.1001 Scope.

These are general requirements for an Accreditor to follow if it is to be recognized as competent and reliable in assessing and subsequently accrediting Registrars.

Requirements for Accreditors

§ 280.1010 Accreditors.

(a) *General provisions.* (1) The policies and procedures under which the Accreditor operates shall be non-discriminatory, and they shall be administered in a non-discriminatory manner. Procedures shall not be used to impede or inhibit access by applicant bodies other than as specified in this part.

(2) The Accreditor shall make its services accessible to all applicants whose activities fall within its declared field of operation. There shall not be undue financial or other conditions. Access shall not be conditional upon the size of the applicant body or membership of any association or group, nor shall accreditation be conditional upon the number of bodies already accredited.

(3) The accreditation criteria against which the competence of a Registrar is assessed shall be those outlined in subpart L of this part. If an explanation is required as to the application of these documents to a specific accreditation program, it shall be formulated by relevant and impartial committees or persons possessing the necessary technical competence, and published by the Accreditor.

(4) The Accreditor shall confine its requirements, assessment and decisions on accreditation to those matters specifically related to the scope of the accreditation being considered.

(b) *Organization of a recognized Accreditor.* The structure of the Accreditor shall be such as to give confidence in its accreditations. In particular, the Accreditor shall:

(1) Be impartial;

(2) Be responsible for its decisions relating to the granting, maintaining; extending, reducing, suspending and withdrawing of accreditation;

(3) Identify the management (committee, group or person) which will have overall responsibility for all of the following:

(i) Performance of assessment and accreditation as defined in this part;

(ii) Formulation of policy matters relating to the operation of the Accreditor;

(iii) Decisions on accreditation;

(iv) Supervision of the implementation of its policies;

(v) Supervision of the finance of the Accreditor; and

(vi) Delegation of authority of committees or individuals, as required, to undertake defined activities on its behalf;

(4) Have documents which demonstrate that it is a legal entity;

(5) Have a documented structure which safeguards impartiality, including provisions to assure the impartiality of the operations of the Accreditor; this structure shall enable the participation of all parties significantly concerned in the development of policies and principles regarding the content and functioning of the accreditation system;

(6) Ensure that each decision on accreditation is taken by a person or persons different from those who carried out the assessment;

(7) Have rights and responsibilities relevant to its accreditation activities;

(8) Have adequate arrangements to cover liabilities arising from its operations and/or activities;

(9) Have financial stability and resources required for the operation of an accreditation system;

(10) Employ a sufficient number of personnel having the necessary education, training, technical knowledge and experience for performing accreditation functions relating to the type, range and volume of work performed, under a responsible senior executive;

(11) Have a quality system, as outlined in paragraph (d) of this section, giving confidence in its ability to operate an accreditation system for registration bodies;

(12) Have policies and procedures that distinguish between accreditation and any other activities in which the Accreditor is engaged;

(13) Together with its senior executive and staff, be free from any commercial, financial and other pressures which might influence the results of the accreditation process;

(14) Have formal rules and structure for the appointment and operation of any committees which are involved in the accreditation process; such committees shall be free from any commercial, financial and other pressures that might influence decisions;

(15) Ensure that activities of related bodies do not affect the confidentiality, objectivity or impartiality of its accreditations and shall not offer or provide, directly or indirectly, those services that accredit others to perform, consulting services to obtain or maintain accreditation, or services to design, implement or maintain a certification scheme;

(16) Have policies and procedures for the resolution of complaints, appeals and disputes received from bodies or other parties about the handling of accreditation of any related matters;

(17) Have a structure where members are chosen to provide a balance of

interest, where no single interest predominates; and

(18) Assure that other products, processes or services that may be offered, directly or indirectly, do not compromise confidentiality or the objectivity or impartiality of its accreditation process and decisions.

(c) *Subcontracting.* (1) When an Accreditor decides to subcontract work related to accreditation (e.g. audits) to an external body or person, a properly documented agreement covering the arrangements, including confidentiality and conflict of interest, shall be drawn up. The Accreditor shall:

(i) Take full responsibility for such subcontracted work and maintain its responsibility for granting, maintaining, extending, reducing, suspending or withdrawing accreditation;

(ii) Ensure that the subcontracted body or person is competent and complies with the applicable provisions of this part, including section 280.807, and is not involved, either directly or through its employer, with the design, implementation or maintenance of a registration scheme in such a way that impartiality could be compromised; and

(iii) obtain the consent of the applicant or accredited body.

(2) Requirements in paragraphs (c)(1)(i) and (ii) of this section are also relevant, by extension, when an Accreditor uses, for granting its own accreditation, work provided by another Accreditor with which it has signed an agreement.

(d) *Quality system.* (1) The management of the Accreditor with executive responsibility for quality shall define and document its policy for quality, including objectives for quality and its commitment to quality. The management shall ensure that this policy is understood, implemented and maintained at all levels of the organization.

(2) The Accreditor shall operate a quality system in accordance with the relevant elements of this part and appropriate to the type, range and volume of work performed. This quality system shall be documented, and the documentation shall be available for use by the staff of the Accreditor.

(3) The Accreditor shall ensure effective implementation of the documented quality system procedures and instructions.

(4) The Accreditor shall designate a person with direct access to its highest executive level who, irrespective of other responsibilities, shall have defined authority to ensure that a quality system is established, implemented and maintained in accordance with this part, and report on the performance of the quality system to the management of the Accreditor for review and as a basis for improvement of the quality system.

(5) The quality system shall be documented in a quality manual and associated quality procedures, and the quality manual shall contain or refer to at least the following:

(i) A quality policy statement;

(ii) A brief description of the legal status of the Accreditor, including the names of its owners, if applicable, and, if different, the names of the persons who control it;

(iii) The names, qualifications, experience and terms of reference of the senior executive and other accreditation personnel influencing the quality of the accreditation functions;

(iv) An organization chart showing lines of authority, responsibility and allocation of functions stemming from the senior executive and, in particular, the relationship between those responsible for the assessment and those making decisions regarding accreditation;

(v) A description of the organization of the Accreditor, including details of the management (committee, group or person), its constitution, terms of reference and rules of procedure;

(vi) The policy and procedures for conducting management reviews;

(vii) Administrative procedures including document control;

(viii) The operational and functional duties and service pertaining to quality, so that the extent and limits of each person's responsibility are known to all concerned;

(ix) The policy and procedures for the recruitment and training of Accreditor personnel (including auditors) and monitoring their performance;

(x) A list of its subcontractors and details of the procedures for assessing, recording and monitoring their competence;

(xi) Its procedures for handling nonconformities and for assuring the effectiveness of any corrective actions taken;

(xii) The policy and procedures for implementing the accreditation process, including:

(A) The conditions for issue, retention and withdrawal of accreditation documents;

(B) Checks of the use and application of documents used in the accreditation;

(C) The procedures for assessing and accrediting applicants; and

(D) The procedures for surveillance and reassessment of accredited bodies.

(xiii) The policy and procedures for dealing with appeals, complaints and disputes; and

(xiv) The procedures for conducting internal audits based on appropriate international documentation.

(e) *Conditions for granting, maintaining, extending, reducing, suspending and withdrawing accreditation.* (1) The Accreditor shall specify the conditions for granting, maintaining, extending and reducing accreditation, and the conditions under which accreditation may be suspended or withdrawn, partially or in total, for all or part of the accredited body's scope of accreditation. In particular, the Accreditor shall require the accredited body to notify it promptly of any intended changes to the quality system or other changes which may affect conformity.

(2) The Accreditor shall have procedures to grant, maintain, withdraw and suspend accreditation; to extend or reduce the scope of accreditation; and to conduct reassessment in the event of changes significantly affecting the activity and operation of the accredited body (such as change of ownership, changes in personnel or equipment), or if analysis of a complaint or any other information indicates that the accredited body no longer complies with the requirements of the Accreditor.

(f) *Internal audits and management reviews.* (1) The Accreditor shall conduct periodic internal audits covering all procedures in a planned and systematic manner, to verify that the quality system is being implemented and is effective. The Accreditor shall ensure that personnel responsible for the area audited are informed of the outcome of the audit; corrective action is taken in a timely and appropriate manner; and the results of the audit are documented.

(2) The top management of the Accreditor shall review its quality system at defined intervals sufficient to ensure its continuing suitability and effectiveness in satisfying the requirements of this part and the stated quality policy and objectives. Records of such reviews shall be maintained.

(g) *Documentation.* (1) The Accreditor shall document, update at regular intervals, and make available (through publications, electronic media or other means), on request:

(i) Information about the authority under which the Accreditor operates;

(ii) A documented statement of its accreditation system, including its rules and procedures for granting, maintaining, extending, reducing, suspending and withdrawing accreditation;

(iii) Information about the assessment and accreditation process;

(iv) A description of the means by which the Accreditor obtains financial support, and general information on the fees charged to applicants and accredited bodies;

(v) A description of the rights and duties of applicants and accredited bodies, as specified, including requirements, restrictions or limitations on the use of the Accreditor's logo and on the ways of referring to the accreditation granted, in conformance with § 280.804(d); and

(vi) Information on procedures for handling complaints, describing the scope of accreditation granted to each.

(2) The Accreditor shall establish and maintain procedures to control all documents and data that relate to its accreditation functions. These documents shall be reviewed and approved for adequacy by appropriately authorized and competent personnel prior to issuing any documents following initial development or any subsequent amendment or change being made. A listing of all appropriate documents with the respective issue and/or amendment status identified shall be maintained. The distribution of all such documents shall be controlled to ensure that the appropriate documentation is made available to personnel of the Accreditor, or applicants and accredited bodies, when required to perform any function relating to the activities of applicants and accredited bodies.

(h) *Records.* (1) The Accreditor shall maintain a record system to suit its particular circumstances and to comply with this part. The records shall demonstrate that accreditation procedures have been effectively fulfilled, particularly with respect to application forms, assessment reports, and other documents relating to granting, maintaining, extending, reducing, suspending or withdrawing accreditation. The records shall be identified, managed and disposed of in such a way as to ensure the integrity of the process and confidentiality of the information. The records shall be kept for a period of five years.

(2) The Accreditor shall have a policy and procedures for retaining records for a period of five years. The Accreditor shall have a policy and procedures concerning access to these records consistent with paragraph (h)(1) of this section.

(i) *Confidentiality.* (1) The Accreditor shall have adequate arrangements, consistent with applicable laws, to safeguard confidentiality of the information obtained in the course of its accreditation activities at all levels of its organization, including committees and external bodies or individuals acting on its behalf.

(2) Except as required in this part, information about a particular body shall not be disclosed to a third party without the written consent of the body.

§ 280.1011 Accreditor personnel.

(a) *General provisions.* (1) The personnel of the Accreditor involved in accreditation shall be competent for the functions they perform.

(2) Information on the relevant qualifications, training and experience of each member of the personnel involved in the accreditation process shall be maintained by the Accreditor. Records of training and experience shall be kept up to date.

(3) Clearly documented instructions shall be available to the personnel describing their duties and responsibilities. These instructions shall be maintained up to date.

(b) *Qualification criteria for auditors and technical experts.* (1) In order to ensure that assessments are carried out effectively and uniformly, the minimum relevant criteria for competence shall be defined by the Accreditor.

(2) Auditors shall meet the requirements of the appropriate international documentation.

(3) Technical experts are not required to comply with the requirements for auditors, and guidance on their personal attributes may be obtained from appropriate international documentation.

(c) *Selection procedure.* (1) The Accreditor shall have a procedure for selecting auditors and, if applicable, technical experts on the basis of their competence, training, qualifications and experience, and for initially assessing the conduct of auditors and technical experts during assessments, and subsequently monitoring the performance of auditors and technical experts.

(2) When selecting the audit team to be appointed for a specific assessment, the Accreditor shall ensure that the skills brought to each assignment are appropriate. The team shall:

(i) Be familiar with the Act and this part, accreditation procedures and accreditation requirements;

(ii) Have a thorough knowledge of the relevant assessment method and assessment documents;

(iii) Have appropriate technical knowledge of the fastener technology for which accreditation is sought and, where relevant with associated procedures and their potential for failure (technical experts who are not auditors may fulfill this function);

(iv) Have a degree of understanding sufficient to make a reliable assessment of the competence of the accredited body to operate within its scope;

(vi) Be free from any interest that might cause team members to act in other than an impartial or non-discriminatory manner, for example,

(A) Audit team members or their organization shall not have provided consulting services to the applicant or accredited body which compromise the accreditation process and decision; and

(B) In accordance with the directives of the Accreditor, the audit team members shall inform the Accreditor, prior to the assessment, about any existing, former or envisaged link between themselves or their organization and the body to be assessed.

(d) *Contracting of assessment personnel.* The Accreditor shall require the personnel involved in the assessment to sign a contract or other document by which they commit themselves to comply with the rules defined by the Accreditor, including those relating to confidentiality and those relating to independence from commercial and other interest, and any prior and/or present link with the bodies to be assessed. The Accreditor shall ensure that, and document how, any subcontracted assessment personnel satisfy all the requirements for personnel outlined in this subpart.

(e) *Assessment personnel records.* (1) The Accreditor shall possess and maintain up-to-date records on personnel conducting assessments, consisting of:

(i) Name and address;

(ii) Affiliation and position held in the organization;

(iii) Educational qualifications and professional status;

(iv) Experience and training in each field of competence of the Accreditor;

(v) Date of most recent updating of record; and

(vi) Performance appraisal.

(2) The Accreditor shall ensure, and verify, that any subcontracted body maintains records, which satisfy the requirements of this part, of assessment personnel who are subcontracted to the Accreditor.

(f) *Procedures for assessment teams.* Assessment teams shall be provided with up-to-date assessment instructions and all relevant information on accreditation arrangements and procedures.

§ 280.1012 Decision on accreditation.

(a) The decision whether or not to accredit a body shall be made on the basis of the information gathered during the accreditation process and any other relevant information. Those who make

the accreditation decision shall not have participated in the audit.

(b) The Accreditor shall not delegate authority for granting, maintaining, extending, reducing, suspending or withdrawing accreditation to an outside person or body.

(c) The Accreditor shall provide to each of its accredited bodies accreditation documents such as a letter outlining the scope of accreditation and a certificate signed by an officer who has been assigned such responsibility. These accreditation documents shall identify, for the body and each of its sites covered by the accreditation:

(1) The name and address;

(2) The scope of the accreditation granted, including as appropriate:

(i) The type of registration scheme;

(ii) The standards and/or other normative documents and regulatory requirements against which products, services or systems are registered; and

(iii) Fasteners covered by the Act.

(3) The effective date of accreditation and, as applicable, the term for which the accreditation is valid.

(d) In response to an application for an amendment to the scope of an accreditation already granted, the Accreditor shall decide what, if any, assessment procedure is appropriate to determine whether or not the amendment should be granted and shall act accordingly.

§ 280.1013 References to accredited status.

(a) An Accreditor which is proprietor or licensee of a symbol or logo, intended for use under its accreditation program, shall have a policy governing its use. It shall normally allow an accredited body to refer to its accreditation in certificates, reports, and stationery and publicity material relating to accredited activities.

(b) The Accreditor shall not allow use of its mark or logo in any way which implies that the Accreditor itself approved a product, service or system registered by an accredited body. Where a Facility is registered only with respect to its quality assurance system, the symbol or logo shall not be used on a product or in any other way that may be interpreted as denoting product conformance, as required by § 280.804(d).

(c) The Accreditor shall take suitable action to deal with incorrect reference to the accreditation system, or misleading use of accreditation logos found in advertisements, catalogues, etc. Such action could include corrective action, withdrawal of certificate, publication of the transgression and, if necessary, other legal action.

§ 280.1014 Change in the accreditation.

The Accreditor shall give due notice of any changes it intends to make in its requirements for accreditation. It shall take account of views expressed by interested parties before deciding on the precise form and effective date of the changes. Following a decision on, and publication of, the changed requirements, it shall verify that each accredited Registrar carries out any necessary adjustments to its procedures within such time as, in the opinion of the Accreditor, is reasonable.

§ 280.1015 Appeals, complaints and disputes.

The Accreditor shall keep a record of all appeals, complaints and disputes, and remedial actions relative to accreditation; take appropriate corrective and preventive action; and document the actions taken and assess their effectiveness.

§ 280.1016 Access to records of appeals, complaints and disputes.

The Accreditor shall require each applicant and accredited Registrar to make available to it, when requested, the records of all complaints, appeals and disputes, and subsequent actions.

Requirements for Assessment

§ 280.1020 Application for accreditation.

(a)(1) As specified in § 280.1010(g)(1) of this part, the Accreditor shall maintain up-to-date detailed descriptions of the assessment and accreditation procedure, the documents containing the requirements for accreditation, and documents describing the rights and duties of accredited Registrars, and shall provide them to applicants and accredited Registrars. The Accreditor shall require that an accredited Registrar.

(i) Always complies with the relevant provisions of this part;

(ii) Makes all necessary arrangements for the conduct of the assessment, including provision for examining documentation and the access to all areas, records (including internal audit reports) and personnel for the purposes of assessment, surveillance, reassessment and resolution of complaints;

(iii) Only claims that it is accredited with respect to those activities for which it has been granted accreditation;

(iv) Does not use its accreditation in such a manner as to bring the Accreditor into disrepute, and does not make any statement regarding its accreditation which the Accreditor may consider misleading or unauthorized;

(v) Upon suspension or withdrawal of its accreditation, discontinues use of all advertising matter that contains any reference thereto and returns any accreditation documents as required by the Accreditor;

(vi) Does not allow the fact of its accreditation to be used to imply that a product, process, system, or person is approved by the Accreditor, as required by § 280.804(d);

(vii) Ensures that no accreditation document, mark or report, or any part thereof, is used in a misleading manner; and

(viii) In making reference to its accreditation status in communication media such as documents, brochures or advertising, complies with the requirements of the Accreditor.

(2) When the desired scope of accreditation is related to a specific program any necessary explanation shall be provided to the applicant. If requested, additional application information shall be provided to the body.

(b) The Accreditor shall require an official application form, duly completed and signed by a duly authorized representative of the applicant, in which or attached to which:

(1) The scope of the desired accreditation is defined; and

(2) The applicant agrees to comply with the requirements for accreditation and to supply any information needed for its evaluation.

(c) At least the following shall be provided by the applicant prior to the on-site assessment:

(1) The general features of the applicant body, such as corporate entity, name, address, legal status and, where relevant, human and technical resources;

(2) General information concerning the body covered by the application, such as its functions, and its relationship in a larger corporate entity, and its physical locations;

(3) A description of the systems or products it registers and the standards or other normative documents applicable to each; and

(4) A copy of its quality manual and, where required, the associated documentation.

§ 280.1021 Preparation for assessment.

(a) Before proceeding with the assessment, the Accreditor shall conduct, and maintain records of, a review of the request for accreditation to ensure that:

(1) The requirements for accreditation are clearly defined and documented;

(2) Any difference in understanding between the Accreditor and the applicant is resolved; and

(3) The Accreditor has the capability to perform the accreditation service with respect to the scope of the accreditation sought, the location of the applicant's operations, and any special requirements such as the language used by the applicant.

(b) The Accreditor shall prepare a plan for its assessment activities to allow for the necessary arrangements to be made.

(c) The Accreditor shall nominate a qualified audit team to evaluate all material collected from the applicant and to conduct the audit on its behalf. Experts in the areas to be assessed may be attached to the Accreditor's team as advisers.

(d) The applicant shall be informed of the names of the members of the audit team who will carry out the assessment, with sufficient notice to appeal against the appointment of any particular auditors or experts.

(e) The audit team shall be formally appointed and provided with the appropriate working documents. The plan for and the date of the audit shall be agreed upon with the applicant. The mandate given to the audit team shall be clearly defined and made known to the applicant, and shall require the audit team to examine the structure, policies and procedures of the applicant, and confirm that these meet all the requirements relevant to the scope of accreditation, and that the procedures are implemented and are such as to give confidence in the registrations of the applicant.

§ 280.1022 Assessment.

(a) The audit team shall assess all services of the applicant covered by the defined scope against all applicable accreditation requirements.

(b) The Accreditor shall witness fully the on-site activities of one or more assessments or audits conducted by an applicant before an initial accreditation is granted for any function requiring on-site activity by the applicant.

§ 280.1023 Assessment report.

(a) The Accreditor may adopt reporting procedures that suit its needs but, as a minimum, these procedures shall ensure that:

(1) A meeting takes place between the audit team and the applicant's management prior to leaving the premises, at which the audit team provides a written or oral indication on the conformity of the applicant with the particular accreditation requirements and provides an opportunity for the applicant to ask questions about the findings and their basis;

(2) The audit team provides the Accreditor with a report of its findings as to the applicant's conformity to all of the accreditation requirements;

(3) A report on the outcome of the assessment is promptly brought to the applicant's attention by the Accreditor, identifying any nonconformity to be discharged in order to comply with all of the accreditation requirements;

(4) The Accreditor shall invite the applicant to comment on the report and to describe the specific actions taken, or planned to be taken within a defined time, to remedy any nonconformity with the accreditation requirements identified during the assessment, and shall inform the applicant of the need for full or partial reassessment or whether a written declaration to be confirmed during surveillance will be considered adequate;

(5) The report shall contain as a minimum:

(i) The date(s) of the audit(s);

(ii) The name(s) of the person(s) responsible for the report;

(iii) The names and addresses of all sites audited;

(iv) The assessed scope of accreditation or reference thereto;

(v) Comments on the conformity of the applicant with the accreditation requirements and, where applicable, any useful comparisons with the results of previous assessment of the applicant; and

(vi) An explanation of any differences from the information presented to the applicant at the closing meeting.

(b) If the final report authorized by the Accreditor differs from the report referred to in paragraphs (b) (3) and (5) of this section, it shall be submitted to the applicant with an explanation of any differences from the previous report. The report shall take into consideration:

(1) The qualification, experience and authority of the staff encountered;

(2) The adequacy of the internal organization and procedures adopted by the applicant to give confidence in the quality of its services; and

(3) The actions taken to correct identified nonconformities including, where applicable, those identified at previous assessments.

§ 280.1024 Surveillance and reassessment procedures.

(a) The Accreditor shall have an established documented program, consistent with the accreditation granted for carrying out periodic surveillance and reassessment at sufficiently close intervals to verify that its accredited Registrar continues to comply with the accreditation requirements.

(b) Surveillance and reassessment procedures shall be consistent with those concerning the assessment of the applicant as described in this part.

(c)(1) The Accreditor shall have arrangements to ensure that an accredited Registrar informs it without delay of changes in any aspects of its status or operation that affect its:

(i) Legal, commercial or organizational status;

(ii) Organization and management, for example key managerial staff;

(iii) Policies or procedures, where appropriate;

(iv) Premises; and

(v) Personnel, equipment, facilities, working environment or other resources, where significant.

(2) The accredited Registrar shall also inform the Accreditor of other such matters that may affect activities, or conformance with the requirements, or any other relevant criteria of competence specified by the Accreditor.

Subpart L—Requirement for Registrars

General

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Requirements For Registrars

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Subpart L—Requirements for Registrars

General

§ 280.1100 Introduction.

This subpart sets out organizational, operational and other requirements that must be met by all Registrars accredited under subparts I or J of this part.

§ 280.1101 Scope.

These are general requirements that must be met by a third-party body registering Facilities.

Note: In some countries, the bodies which verify conformity of quality systems to specified standards are called ''certification bodies,'' in others ''registration bodies,'' in others ''assessment and registration bodies''

or ''certification/registration bodies,'' and in still others ''registrars.'' Reference to such bodies as ''Registrars'' should not be understood to be limiting.

Requirements for Registrars

§ 280.1110 Registrars.

(a) *General provisions.* (1) The policies and procedures under which the Registrar operates shall be non-discriminatory, and they shall be administered in a non-discriminatory manner. Procedures shall not be used to impede or inhibit access by applicants other than as specified in this part.

(2) The Registrar shall make its services accessible to all applicants. There shall not be undue financial or other conditions. Access shall not be conditional upon the size of the applicant body or membership of any association or group, nor shall registration be conditional upon the number of Facilities already registered.

(3) The criteria against which the quality assurance system of an applicant is assessed shall be those outlined in the quality system standards or other normative documents relevant to the function performed. If an explanation is required as to the application of these documents to a specific registration program, it shall be formulated by relevant and impartial committees or persons possessing the necessary technical competence, and published by the Registrar.

(4) The Registrar shall confine its requirements, assessment, and decision on registration to those matters specifically related to the scope of the registration being considered.

(b) *Organization of a registrar.* The structure of the Registrar shall be such as to give confidence in its registrations. In particular, the Registrar shall:

(1) Be impartial;

(2) Be responsible for its decisions relating to the granting, maintaining, extending, reducing, suspending and withdrawing of registration;

(3) Identify the management (committee, group, or person) which will have overall responsibility for each of the following:

(i) Performance of assessment and registration as defined in this part;

(ii) Formulation of policy matters relating to the operation of the Registrar,

(iii) Decisions on registration;

(iv) Supervision of the implementation of its policies;

(v) Supervision of the finances of the Registrar; and

(vi) Delegation of authority to committees or individuals, as required, to undertake defined activities on its behalf.

(4) Have documents which demonstrate that it is a legal entity;

(5) Have a documented structure which safeguards impartiality, including provisions to assure the impartiality of the operations of the Registrar, this structure shall enable the participation of all parties significantly concerned in the development of policies and principles regarding the content and functioning of the registration system;

(6) Ensure that each decision on registration is taken by a person or persons different from those who carried out the assessment;

(7) Have rights and responsibilities relevant to its registration activities;

(8) Have adequate arrangements to cover liabilities arising from its operations and/or activities;

(9) Have the financial stability and resources required for the operation of a registration system;

(10) Employ a sufficient number of personnel having the necessary education, training, technical knowledge, and experience for performing registration functions relating to the type, range, and volume of work performed, under a responsible senior executive;

(11) Have a quality system, as outlined in paragraph (d) of this section, giving confidence in its ability to operate a registration system for Facilities;

(12) Have policies and procedures that distinguish between registration and any other activities in which the Registrar is engaged;

(13) Together with its senior executive and staff, be free from any commercial, financial, and other pressures which might influence the results of the registration process;

(14) Have formal rules and structures for the appointment and operation of any committees which are involved in the registration process; such committees shall be free from any commercial, financial, and other pressure that might influence decisions;

(15) Ensure that activities of related bodies do not affect the confidentiality, objectivity, or impartiality of its registrations and shall not offer or provide, directly or indirectly, those services that it registers others to perform, consulting services to obtain or maintain registration, or services to design, implement, or maintain quality systems;

(16) Have policies and procedures for the resolution of complaints, appeals, and disputes received from fastener manufacturers or other parties about the handling of registration or any other related matters;

(17) Have a structure where members are chosen to provide a balance of interests, where no single interest predominates; and

(18) Assure that the other products, processes, or services that may be offered, directly or indirectly, do not compromise confidentiality or the objectivity or impartiality of its registration process and decisions.

(c) *Subcontracting.* (1) When a Registrar decides to subcontract work related to registration (e.g. audits) to an external body or person, a properly documented agreement covering the arrangements, including confidentiality and conflicts of interest, shall be drawn up. The Registrar shall:

(i) Take full responsibility for such subcontracted work and maintain its responsibility for granting, maintaining, extending, reducing, suspending, or withdrawing registration;

(ii) Ensure that the subcontracted body or person is competent and complies with the applicable provisions of this part, including § 280.7, and is not involved, either directly or through its employer, with the design, implementation, or maintenance of a quality system in such a way that impartiality could be compromised; and

(iii) Obtain the consent of the applicant or fastener manufacturer whose Facility is registered.

(2) Requirements in paragraphs (c) (1) and (2) of this section are also relevant, by extension, when a Registrar uses, for granting its own registration, work provided by another Registrar with which it has signed an agreement.

(d) *Quality system.* (1) The management of the Registrar with executive responsibility for quality shall define and document its policy for quality, including objectives for quality and its commitment to quality. The management shall ensure that this policy is understood, implemented, and maintained at all levels of the organization.

(2) The Registrar shall operate a quality system in accordance with the relevant elements of this part and appropriate to the type, range, and volume of work performed. This quality system shall be documented and the documentation shall be available for use by the staff of the Registrar.

(3) The Registrar shall ensure effective implementation of the documented quality system procedures and instructions.

(4) The Registrar shall designate a person with direct access to its highest executive level who, irrespective of other responsibilities, shall have defined authority to ensure that a quality system is established, implemented, and maintained in accordance with this part, and report on

the performance of the quality system to the management of the Registrar for review and as a basis for improvement of the quality system.

(5) The quality system shall be documented in a quality manual and associated quality procedures and the quality manual shall contain or refer to at least the following:

(i) A quality policy statement;

(ii) A brief description of the legal status of the Registrar, including the names of its owners, if applicable, and, if different, the names of the persons who control it;

(iii) The names and qualifications, experience, and terms of reference of the senior executive and other certification/registration personnel, affecting the quality of the certification/registration function;

(iv) An organization chart showing lines of authority, responsibility, and allocation of functions stemming from the senior executive and, in particular, the relationship between those responsible for the assessment and those taking decisions regarding registration;

(v) A description of the organization of the registration body, including details of the management (committee, group, or person), its constitution, terms of reference and rules of procedure;

(vi) The policy and procedures for conducting management reviews;

(vii) Administrative procedures including document control;

(viii) The operational and functional duties and services pertaining to quality, so that the extent and limits of each person's responsibility are known to all concerned;

(ix) The policy and procedures for the recruitment and training of registration body personnel (including auditors) and monitoring their performance;

(x) A list of its subcontractors and details of the procedure for assessing, recording, and monitoring their competence;

(xi) Its procedures for handling nonconformities and for assuring the effectiveness of any corrective actions taken;

(xii) The policy and procedures for implementing the registration process, including:

(A) The conditions for issue, retention, and withdrawal of registration documents;

(B) Checks of the use and application of documents used in the registration of quality systems;

(C) The procedures for assessing and registering fastener manufacturers' quality systems as employed in particular Facilities; and

(D) The procedures for surveillance and reassessment of registered Facilities.

(xiii) The policy and procedures for dealing with appeals, complaints, and disputes; and

(xiv) The procedures for conducting internal audits based on the provisions described in appropriate international documentation.

(e) *Conditions for granting, maintaining, extending, reducing, suspending, and withdrawing registration.* (1) The Registrar shall specify the conditions for granting, maintaining, reducing, and extending registration and the conditions under which registration may be suspended or withdrawn, partially or in total, for all or part of the Facility's scope of registration. In particular, the Registrar shall require the fastener manufacturer to notify it promptly of any intended changes to the quality assurance system or other changes which may affect conformity.

(2) The Registrar shall require the fastener manufacturer to have a documented quality system which conforms to applicable quality system standards or other normative documents.

(3) The Registrar shall have procedures to grant, maintain, withdraw and, if applicable, suspend registration; to extend or reduce the scope of registration; and to conduct reassessment in the event of changes significantly affecting the activity and operation of the Facility (such as change of ownership, changes in personnel or equipment), or if analysis of a complaint or any other information indicates that the registered fastener Facility no longer complies with the requirements of the Registrar.

(4) The Registrar shall have documented procedures which shall be made available on request for:

(i) Initial assessment and for the surveillance and reassessment of a fastener manufacturer's quality assurance system as employed in a particular Facility;

(ii) Continuing conformity with relevant requirements; and for verifying and recording that a fastener manufacturer takes corrective action on a timely basis to correct all nonconformities; and

(iii) Identifying and recording nonconformities and the need for corrective action by fastener manufacturers on a timely basis for such items as incorrect references to the registration or misleading use of registration information.

(f) *Internal audits and management reviews.* (1) The Registrar shall conduct periodic internal audits covering all procedures in a planned and systematic manner, to verify that the quality assurance system is implemented and is effective. The Registrar shall ensure that personnel responsible for the area audited are informed of the outcome of the audit; corrective action is taken in a timely and appropriate manner; and the results of the audit are recorded.

(2) The top management of the Registrar shall review its quality system at defined intervals sufficient to ensure its continuing suitability and effectiveness in satisfying the requirements of this part and the stated quality policy and objectives. Records of such reviews shall be maintained.

(g) *Documentation.* (1) The Registrar shall document, update at regular intervals, and make available through publications, electronic media, or other means), on request;

(i) Information about the authority under which the Registrar operates;

(ii) A documented statement of its registration system including its rules and procedures for granting, maintaining, extending, reducing, suspending, and withdrawing registration;

(iii) Information about the assessment and registration process;

(iv) A description of the means by which the Registrar obtains financial support, and general information on the fees charged to applicants and fastener manufacturers whose Facilities have been registered;

(v) A description of the rights and duties of applicants and fastener manufacturers whose Facilities have been registered, including requirements, restrictions, or limitations on the use of the Registrar's logo and on the ways of referring to the registration granted;

(vi) Information on procedures for handling complaints, appeals and disputes; and

(vii) A directory of registered Facilities, including their locations, describing the scope of registration granted to each.

(2) The Registrar shall establish and maintain procedures to control all documents and data that relate to its registration functions. These documents shall be reviewed and approved for adequacy by appropriately authorized and competent personnel prior to issuing any documents following initial development or any subsequent amendment or change being made. A listing of all appropriate documents with the respective issue and/or amendment status identified shall be maintained. The distribution of all such documents shall be controlled to ensure that the appropriate documentation is made available to personnel of the Registrar or of the fastener manufacturer whose Facility is registered, when

required to perform any function relating to the activities of an applicant or registered Facility.

(h) *Records.* (1) The Registrar shall maintain a record system to suit its particular circumstances and to comply with this part. The records shall demonstrate that the registration procedures have been effectively fulfilled, particularly with respect to application forms, assessment reports, and other documents relating to granting, maintaining, extending, reducing, suspending, or withdrawing registration. The records shall be identified, managed and disposed of in such a way as to ensure the integrity of the process and confidentiality of the information. The records shall be kept for a period of five years.

(2) The Registrar shall have a policy and procedures for retaining records for a period of five years. The Registrar shall have a policy and procedures concerning access to these records consistent with paragraph (h)(1) of this section.

(i) *Confidentiality.* (1) The Registrar shall have adequate arrangements, consistent with applicable laws to safeguard confidentiality of the information obtained in the course of its registration activities at all levels of its organization, including committees and external bodies or individuals, acting on its behalf.

(2) Except as required in this part, information about a particular product, quality assurance system, Facility, or fastener manufacturer shall not be disclosed to a third party without the written consent of the fastener manufacturer.

§ 280.1111 Registrar personnel.

(a) *General provisions.* (1) The personnel of the Registrar involved in registration shall be competent for the functions they perform.

(2) Information on the relevant qualifications, training and experience of each member of the personnel involved in the registration process shall be maintained by the Registrar. Records of training and experience shall be kept up to date.

(3) Clearly documented instructions shall be available to the personnel describing their duties and responsibilities. These instructions shall be maintained up to date.

(b) *Qualification criteria for auditors and technical experts.* (1) In order to ensure that assessments are carried out effectively and uniformly, the minimum relevant criteria for competence shall be defined by the Registrar.

(2) Auditors shall meet the requirements of the appropriate international documentation. For the assessment of a quality system, the relevant guidelines for auditing and the criteria for auditors are those defined in the appropriate international documentation.

(3) Technical experts are not required to comply with the requirements for auditors, and guidance on their personal attributes may be obtained by the appropriate international documentation.

(c) *Selection procedure.* (1) The Registrar shall have a procedure for selecting auditors and, if applicable, technical experts on the basis of their competence, training, qualifications, and experience, and for initially assessing the conduct of auditors and technical experts during assessment and subsequently monitoring the performance of auditors and technical experts.

(2) When selecting the audit team to be appointed for a specific assessment, the Registrar shall ensure that the skills brought to each assignment are appropriate. The team shall:

(i) Be familiar with the Act and this part, registration procedures and registration requirements;

(ii) Have a thorough knowledge of the relevant assessment method and assessment documents;

(iii) Have appropriate technical knowledge of the fastener technology for which registration is sought and where relevant with associated procedures and their potential for failure (technical experts who are not auditors may fulfill this function);

(iv) Have a degree of understanding sufficient to make a reliable assessment of the competence of the Facility to provide products, processes or services in its registered scope;

(v) Be able to communicate effectively, both in writing and orally, in the required languages;

(vi) Be free from any interest that might cause team members to act in other than an impartial or non-discriminatory manner, for example:

(A) Audit team members or their organization shall not have provided consulting services to the applicant or fastener manufacturer whose Facility is registered which compromise the registration process and decision; and

(B) In accordance with the directives of the Registrar, the audit team members shall inform the Registrar, prior to the assessment, about any existing, former or envisaged link between themselves or their organization and the fastener manufacturer whose Facility is to be assessed.

(d) *Contracting of assessment personnel.* The Registrar shall require the personnel involved in the assessment to sign a contract or other document by which they commit themselves to comply with the rules defined by the Registrar, including those relating to confidentiality and those relating to independence from commercial and other interests, and any prior and/or present link with the fastener manufacturers whose Facilities are to be assessed. The Registrar shall ensure that, and document how, any subcontracted assessment personnel satisfy all the requirements for assessment personnel outlined in this Subpart.

(e) *Assessment personnel records.* (1) The Registrar shall possess and maintain up-to-date records on assessment personnel, consisting of:

(i) Name and address;

(ii) Affiliation and position held in the organization;

(iii) Educational qualifications and professional status;

(iv) Experience and training in each field of competence of the Registrar;

(v) Date of most recent updating of records; and

(vi) Performance appraisal.

(2) The Registrar shall ensure and verify that any subcontracted body maintains records which satisfy the requirements of this part, of assessment personnel who are subcontracted to the Registrar.

(f) *Procedures for audit teams.* Audit teams shall be provided with up-to-date assessment instructions and all relevant information on registration arrangements and procedures.

§ 280.1112 Changes in the registration requirements.

The Registrar shall give due notice of any changes it intends to make in its requirements for registration. It shall take account of views expressed by the interested parties before deciding on the precise form and effective date of the changes. Following a decision on, and publication of, the changed requirements, it shall verify that each fastener manufacturer whose Facility is registered carries out any necessary adjustments to its procedures within such time as, in the opinion of the Registrar, is reasonable.

§ 280.1113 Appeals, complaints and disputes.

Appeals, complaints and disputes brought before the Registrar by fastener manufacturers or other parties shall be subject to the procedures of the Registrar. The Registrar shall keep a record of all appeals, complaints and disputes, and remedial actions relative to registration; take appropriate

corrective and preventive action; and document the actions taken and assess their effectiveness.

Requirements for Registration

§ 280.1120 Application for registration.

(a)(1) As specified in § 280.1110(g)(1) of this part, the Registrar shall maintain up-to-date a detailed description of the assessment and registration procedure, the documents containing the requirements for registration and documents describing the rights and duties of fastener manufacturers whose Facilities are registered, and shall provide them to applicants and those fastener manufacturers. The Registrar shall require that a fastener manufacturer whose Facility is registered:

(i) Always complies with the relevant provisions of this part;

(ii) Makes all necessary arrangements for the conduct of the assessment, including provision for examining documentation and the access to all areas, records (including internal audit reports) and personnel for the purposes of assessment, surveillance, reassessment, and resolution of complaints;

(iii) Only claims that its Facility is registered with respect to those activities for which it has been granted registration;

(iv) Does not use the registration in such a manner as to bring the Registrar into disrepute, and does not make any statement regarding its registration which the Registrar may consider misleading or unauthorized;

(v) Upon suspension or withdrawal of the registration (however determined), discontinues use of all advertising matter that contains any reference thereto and returns any registration documents as required by the Registrar;

(vi) Uses registration only to indicate that the quality assurance system as employed in its Facility is in conformity with specified standards or other normative documents, and does not use the registration to imply that a product or service is approved by the Registrar, as required by § 280.804;

(vii) Ensures that no registration document, mark or report, or any part thereof, is used in a misleading manner; and

(viii) In making reference to the registration in communication media such as documents, brochures, or advertising, complies with the requirements of the Registrar.

(2) When the desired scope of registration is related to a specific program, any necessary explanation shall be provided to the fastener manufacturer. If requested, additional application information shall be provided to the fastener manufacturer.

(b) The Registrar shall require an official application form, duly completed and signed by a duly authorized representative of the applicant fastener manufacturer in which or attached to which:

(1) The scope of the desired registration is defined; and

(2) The applicant agrees to comply with the requirements for registration and to supply any information needed for its evaluation.

(c)(1) At least the following information shall be provided by the applicant prior to the on-site assessment:

(i) The general features of the applicant, such as corporate entity, name, addresses, legal status and, where relevant, human and technical resources;

(ii) General information concerning the quality system and the activities it covers;

(iii) A description of the systems to be registered and the standards or other normative documents applicable to each; and

(iv) A copy of its quality manual and, where required, the associated documentation.

(2) The information gathered from the application documentation and the quality manual review may be used for the preparation of the on-site assessment and shall be treated with appropriate confidentiality.

§ 280.1121 Preparation for assessment.

(a) Before proceeding with the assessment the Registrar shall conduct, and maintain records of, a review of the request for registration to ensure that:

(1) The requirements for registration are clearly defined, documented, and understood;

(2) Any difference in understanding between the Registrar and the applicant is resolved; and

(3) The Registrar has the capability to perform the registration service with respect to the scope of the registration sought, the location of the applicant's operations, and any special requirements such as the language used by the applicant.

(b) The Registrar shall prepare a plan for its assessment activities to allow for the necessary arrangements to be made.

(c) The Registrar shall nominate a qualified audit team to evaluate all material collected from the applicant and to conduct the audit on its behalf. Experts in the areas to be assessed may be attached to the Registrar's team as advisers.

(d) The fastener manufacturer shall be informed of the names of the members of the audit team who will carry out the assessment, with sufficient notice to appeal against the appointment of any particular auditors or experts.

(e) The audit team shall be formally appointed and provided with the appropriate working documents. The plan for and the date of the audit shall be agreed to by the fastener manufacturer. The mandate given to the audit team shall be clearly defined and made known to the fastener manufacturer, and shall require the audit team to examine the structure, policies, and procedures of the Facility and the quality assurance system it employs, and confirm that these meet all the requirements relevant to the scope of registration, and that the procedures are implemented and are such as to give confidence in the products, processes, or services of the Facility being evaluated.

§ 280.1122 Assessment.

The audit team shall asses the quality assurance system, employed in the Facility being evaluated, covered by the defined scope against all applicable registration requirements.

§ 280.1123 Assessment report.

(a) The Registrar may adopt reporting procedures that suit its needs but, as a minimum, these procedures shall ensure that:

(1) A meeting takes place between the audit team and the fastener manufacturer's management prior to leaving the premises, at which the audit team provides a written or oral indication regarding the conformity of the quality assurance system, as employed in particular Facility, with the particular registration requirements and provides an opportunity for the fastener manufacturer to ask questions about the findings and their basis;

(2) The audit team provides the Registrar with a report of its findings as to the conformity of the quality assurance system, as employed in the particular Facility, with all of the registration requirements;

(3) A report on the outcome of the assessment is promptly brought to the fastener manufacturer's attention by the Registrar, identifying any nonconformity to be discharged in order to comply with all of the registration requirements;

(4) The Registrar shall invite the fastener manufacturer to comment on the report and to describe the specific actions taken, or planned to be taken within a defined time, to remedy any nonconformity with the registration

requirements identified during the assessment of its quality assurance system, as employed in the particular Facility, and shall inform the fastener manufacturer of the need for full or partial reassessment of its quality assurance system or whether a written declaration to be confirmed during surveillance will be considered adequate;

(5) The report shall contain as a minimum:

(i) The date(s) of the audit(s);

(ii) The name(s) of the person(s) responsible for the report;

(iii) The names and addresses of the Facility audited;

(iv) The assessed scope of registration or reference thereto, including reference to the standard(s) applied;

(v) Comments on the conformity of the quality assurance system, as employed in the particular Facility, with the registration requirements, with a clear statement of nonconformity and, where applicable, any useful comparison with the results of previous assessments of the quality assurance system, as employed in that particular Facility; and

(vi) An explanation of any differences from the information presented to the body at the closing meeting.

(b) If the final report authorized by the Registrar differs from the report referred to in paragraphs (a)(3) and (5) of this section, it shall be submitted to the fastener manufacturer with an explanation of any differences from the previous report. The report shall take into consideration:

(1) The qualification, experience, and authority of the staff encountered.

(2) The adequacy of the internal organization and procedures adopted by the applicant body to give confidence in the quality assurance system, as employed in the particular Facility; and

(3) The actions taken to correct identified nonconformities including, where applicable, those identified at previous assessments.

§ 280.1124 Decision on registration.

(a) The decision whether or not to register a fastener Facility shall be taken by the Registrar on the basis of the information gathered during the registration process and any other relevant information. Those who make the registration decision shall not have participated in the audit.

(b) The Registrar shall not delegate authority for granting, maintaining, extending, reducing, suspending, or withdrawing registration to an outside person or body.

(c) The Registrar shall provide to each fastener manufacturer whose Facility is registered, registration documents such as a letter or a certificate signed by an officer who has been assigned such responsibility. These documents shall identify, for the fastener manufacturer and the particular Facility covered by the registration:

(1) The name and addresses;

(2) The scope of registration granted, including as appropriate:

(i) The quality system standards and/or other normative documents to which quality systems are registered;

(ii) The product, process, or service categories; and, if appropriate,

(iii) Regulatory requirements, product standards, or other normative documents against which products are supplied.

(3) The effective date of registration and the term for which the registration is valid.

(d) Any application for amendment to the scope of a previously granted registration shall be processed by the Registrar. The Registrar shall decide what, if any, assessment procedure is appropriate to determine whether or not the amendment should be granted and shall act accordingly.

§ 280.1125 Surveillance and reassessment procedures.

(a) The Registrar shall carry out periodic surveillance and reassessment at sufficiently close intervals to verify that its registered Facilities continue to comply with the registration requirements. The period involved cannot be greater than one year.

(b) Surveillance and reassessment procedures shall be consistent with those concerning the assessment of the Facility as described in this part.

§ 280.1126 Use of certificates and logos.

(a) The Registrar shall exercise proper control over ownership, use and display of its quality system registration mark and logos.

(b) If the registrar confers the right to use a symbol or logo to indicate registration of a Facility, the fastener manufacturer may use the specified symbol or logo only as authorized in writing by the Registrar. This symbol or logo shall not be used on a product or in a way that may be interpreted as denoting product conformity.

(c) The Registrar shall take suitable action to deal with incorrect references to the registration system or misleading use of certificates and logos found in advertisements, catalogs, etc. Such action could include corrective action, withdrawal of certificate, publication of the transgression and, if necessary, other legal action.

§ 280.1127 Access to records of complaints to fastener manufacturers.

The Registrar shall require each fastener manufacturer whose Facility is registered to make available to the Registrar, when requested, the records of all complaints and corrective action taken in accordance with the requirements of the quality system standards or other normative documents.

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Part III

Department of Education

34 CFR Part 303

Early Intervention Program for Infants and Toddlers With Disabilities; Final Rule

Office of Special Education and Rehabilitative Services; Part C of the Individuals with Disabilities Education Act (IDEA) Amendments of 1997; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 303

RIN 1820–AA97

Early Intervention Program for Infants and Toddlers With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Early Intervention Program for Infants and Toddlers with Disabilities. These amendments are needed to conform the existing regulations to changes enacted in the Individuals with Disabilities Education Act Amendments of 1997.

DATES: These regulations take effect on July 1, 1998. However, affected parties do not have to comply with the information collection requirements in §§ 303.100, 303.145, 303.148, 303.167, 303.344, 303.361, 303.426, 303.601, 303.650, and 303.653 until the Department of Education publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers in a separate final regulation notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Thomas Irvin, U.S. Department of Education, 600 Independence Avenue, SW., Switzer Building, Room 3090, Washington, DC 20202. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5465.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mimcy, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION:

Background

These regulations conform existing regulations to the amendments to the Early Intervention Program for Infants and Toddlers with Disabilities made by the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, Public Law 105–17, enacted on June 4, 1997. The statutory amendments governing Part H take effect on July 1, 1998. One of those amendments transfers the Early Intervention Program from Part H of the IDEA to Part C. Because these regulations also take effect on July 1, 1998, we refer to the Early Intervention Program in these regulations as ''Part C'' of the IDEA.

The Secretary is publishing in this issue of the **Federal Register** a Notice of request for advice and recommendations on regulatory issues regarding Part C of IDEA.

These final regulations incorporate statutory amendments and remove obsolete regulatory provisions. However, on October 22, 1997, the Secretary published a notice of proposed rulemaking (NPRM) in the **Federal Register** (62 FR 55025) for Parts 300, 301, and 303, that contains proposed regulations of IDEA that were not affected by the IDEA Amendments of 1997. (See 62 FR 55053–55054, 55122–55123).

Significant Changes

Although many of the statutory amendments reflected in these regulations make minor changes, several will have a significant impact on States. The following is a summary of the major statutory provisions incorporated in 34 CFR Part 303, the Department's regulations for the Early Intervention Program for Infants and Toddlers with Disabilities.

1. Policies and Procedures on Natural Environments

The IDEA Amendments of 1997 added two provisions relating to the provision of early intervention services in natural environments. The first requires, as a component of each statewide system, policies and procedures to ensure that, to the maximum extent appropriate, early intervention services are provided in natural environments, and occur elsewhere only if early intervention cannot be achieved in a natural environment. This provision is reflected in § 303.167(c) of these regulations. Because the components of the statewide system must be addressed in each State's application for funds under Part C, States must develop written policies and procedures for submission to the Department as part of each State's application for funds, and must implement those policies beginning on July 1, 1998. The second provision, found in § 303.344(d)(1)(ii) of these regulations, requires that each individualized family service plan (IFSP) contain a statement of the natural environments in which services are to be provided and a justification of the extent, if any, to which the services will not be provided in a natural environment. In addition, the Secretary moves the definition of ''natural environments'' from § 303.12(b) to a new § 303.18 to make it easier to find.

2. Personnel Standards

Section 303.361 is amended to implement two new statutory provisions that mirror changes regarding personnel made to the Part B program (Assistance to States for the Education of Children with Disabilities). The first provision, in section 635(a)(9) of the IDEA and added to these regulations as § 303.361(f), allows paraprofessionals and assistants who are appropriately trained and supervised, under State law, regulations or policy, to be used to assist in the provision of early intervention services under this part. Also added, as § 303.361(g), is the new provision from section 635(b) of the IDEA that a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services, including, in a geographic area where there is a shortage of those personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meeting State standards within three years.

A State may exercise the option in § 303.361(g) even though the State has reached its established date, under § 303.361(c), for training or hiring all personnel in a specific profession or discipline to meet appropriate professional requirements in the State. As a practical matter, it is essential that a State have a mechanism for serving eligible children if service needs exceed available personnel who meet appropriate professional requirements in the State for a specific profession or discipline. A State that continues to have shortages of personnel meeting appropriate professional requirements in the State must address those shortages in its comprehensive system of personnel development under § 303.360.

If a State has established only one entry-level academic degree for employment of personnel in a specific profession, modification of that standard as necessary to ensure the provision of early intervention services to all eligible infants and toddlers in the State would not violate the provisions of § 303.361(b) and (c).

3. Mediation

Section 303.419 is added to these regulations to reflect the new statutory provisions of section 615(e) of the Act concerning mediation, made applicable

to Part C by section 639(a)(8) of the Act. These provisions include the general responsibility to establish and implement mediation procedures, specific requirements regarding the mediation process, and the statutory provision that requires parents who elect not to use mediation to meet with a disinterested party who would explain the benefits of mediation and encourage its use.

With respect to § 303.419(b)(2), regarding the list of qualified mediators, the House Committee Report on Public Law 105–17 includes the following statement:

> * * * the bill provides that the State shall maintain a list of individuals who are qualified mediators. The Committee intends that whenever such a mediator is not selected on a random basis from that list, both the parents and the agency are involved in selecting the mediator, and are in agreement with the individual who is selected * * *. Individuals who serve as mediators under part C of this bill are expected to be selected in the same manner described in this paragraph and to meet the same criteria of impartiality with respect to employment in the lead agency [which is prohibited] and not having a personal and professional conflict of interest. (H. Rep. No. 105–95, pp. 106–107 (1997)).

High standards of impartiality will encourage the use of mediation by ensuring parties to a dispute the availability of an objective third party to mediate disputes.

Section 615(e)(2)(A)(ii) of the Act provides that the mediation process shall not be used to deny or delay a parent's right to due process. In accordance with that provision, a public agency should not deny or delay a parent's right to a due process hearing based on a parent's failure to participate in the meeting described in § 303.419(c)(1) of these regulations.

With regard to the provision in § 303.419(b)(6) that mediation discussions must be confidential and may not be used in any subsequent due process hearings or civil proceedings, the House Committee Report on Public Law 105–17 notes that ''nothing in this bill shall supersede any parental access rights under the Family Educational Rights and Privacy Act of 1974 or foreclose access to information otherwise available to the parties.'' (H. Rep. No. 105–95, p. 107 (1997)). The Report also includes an example of a confidentiality pledge, which makes clear that the intent of this provision is to protect discussions that occur in the mediation process from use in subsequent due process hearings and civil proceedings under the Act, and not to exempt from discovery, because it was disclosed during mediation, information that otherwise would be subject to discovery.

4. Payor of Last Resort

Language is added to § 303.527 to reflect the amendment to section 640 of the Act regarding the prohibition against using Part C funds to pay for services that would have been paid for from another source in the absence of Part C. The amendment specifically includes the CHAMPUS program as such a source of funds. As stated by the House Report accompanying the bill, ''[t]he bill clarifies that part C is truly the payor of last resort even for military families who are eligible for medical programs administered by the Department of Defense.'' (H. Rep. No.105–95, p.116 (1997)).

5. SICCs

Section 641 of the Act made several changes regarding State Interagency Coordination Councils (SICCs). First, as reflected in § 303.600, State discretion as to the number of members on SICCs has been increased, as Congress deleted the previous membership range. Second, § 303.601 is amended to include additional required members of SICCs: At least one representative from a State Head Start agency or program, and at least one from a State agency responsible for child care. Third, two new provisions reflect statutory changes that expand the scope of SICCs' functions. New § 303.650(c) authorizes SICCs to advise agencies regarding the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for services in that State. Finally, in § 303.653, regarding the transition of toddlers with disabilities, SICCs are now required to give advice and assistance regarding transition not just of toddlers with disabilities who are eligible for Part B preschool services, but also transitions of all other toddlers, to any appropriate services.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These regulations address the National Education Goal that all children in America will start school ready to learn. The regulations further the objective of this goal by implementing a program that gives infants and toddlers with disabilities the services and support needed to prepare them to participate in school with their peers.

Waiver of Proposed Rulemaking

In accordance with section 437 of the General Education Provisions Act (20 U.S.C. 1232) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes and remove obsolete regulatory provisions. Removal of the regulations does not establish or affect substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that public comment is unnecessary and contrary to the public interest.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities.

Because these regulations would affect only States and State agencies, the regulations would not have an impact on small entities. States and State agencies are not defined as ''small entities'' in the Regulatory Flexibility Act.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Electronic Access to This Document

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previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 303

Education of individuals with disabilities, Grant programs—education, Infants and toddlers, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number: 84.181 Early Intervention Program for Infants and Toddlers with Disabilities)

Dated: April 7, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

The Secretary amends part 303 of title 34 of the Code of Federal Regulations as follows:

PART 303—EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

1. The authority citation for part 303 is revised to read as follows:

Authority: 20 U.S.C. 1431–1445, unless otherwise noted.

2. In the table below, for each section listed in the left column, remove the authority citation following the section listed in the middle column, and add the authority citation listed in the right column:

Section	Remove	Add
303.1	20 U.S.C. 1471	20 U.S.C. 1431.
303.2	20 U.S.C. 1401(a)(6), 1484	20 U.S.C. 1401(27), 1443.
303.7	20 U.S.C. 1472(1)	20 U.S.C. 1432(5).
303.8	20 U.S.C. 1472(4)	20 U.S.C. 1432(2).
303.9	20 U.S.C. 1471–1485	20 U.S.C. 1431–1445.
303.10	20 U.S.C. 1472(3)	20 U.S.C. 1432(3).
303.11	20 U.S.C. 1471–1485	20 U.S.C. 1431–1445.
303.12	20 U.S.C. 1401(a)(25) and (a)(26), 1472(2); H.R.Rep.No.198, 102d Cong., 1st Sess. 14 (1991); S.Rep. No.84, 102d Cong., 1st Sess. 21–22 (1991)..	20 U.S.C. 1401(1) and (2); 1432(4).
303.13	20 U.S.C. 1472(2)	20 U.S.C. 1432(4).
303.14	20 U.S.C. 1477	20 U.S.C. 1436.
303.15	20 U.S.C. 1471–1485	20 U.S.C. 1431–1445.
303.16	20 U.S.C. 1472(1)	20 U.S.C. 1432(5).
303.17	20 U.S.C. 1476(b)(3), 1477(a)	20 U.S.C. 1435(a)(3), 1436(a).
303.18	20 U.S.C. 1477	20 U.S.C. 1436.
303.19	20 U.S.C. 1471–1485	20 U.S.C. 1431–1445.
303.20	20 U.S.C. 1471–1485	20 U.S.C. 1431–1445.
303.21	20 U.S.C. 1472(2)	20 U.S.C. 1432(4).
303.22	20 U.S.C. 1472(2)	20 U.S.C. 1432(4).
303.23	20 U.S.C. 1401(a)(6)	20 U.S.C. 1401(27).
303.24	20 U.S.C. 1471–1485	20 U.S.C. 1431–1445.
303.101	20 U.S.C. 1478	20 U.S.C. 1437.
303.110	20 U.S.C. 1478(a)(4)	20 U.S.C. 1437(a)(3).
303.111	20 U.S.C. 1478(a)(4)(A)	20 U.S.C. 1437(a)(7).
303.112	20 U.S.C. 1478(a)(4)	20 U.S.C. 1437(a)(7).
303.120	20 U.S.C. 1478(b)	20 U.S.C. 1437(b).
303.121	20 U.S.C. 1478(b)(4)	20 U.S.C. 1437(b)(4).
303.122	20 U.S.C. 1478(b)(3)	20 U.S.C. 1437(b)(3).
303.123	20 U.S.C. 1478(b)(5)(A)	20 U.S.C. 1437(b)(5)(A).
303.124	20 U.S.C. 1478(b)(5)(B)	20 U.S.C. 1437(b)(5)(B).
303.125	20 U.S.C. 1478(b)(6)	20 U.S.C. 1437(b)(6).
303.126	20 U.S.C. 1478(b)(2)	20 U.S.C. 1437(b)(2).
303.127	20 U.S.C. 1478(b)(1)	20 U.S.C. 1437(b)(1).
303.128	20 U.S.C. 1478(b)(7)	20 U.S.C. 1437(b)(7).
303.141	20 U.S.C. 1478(a)(3)	20 U.S.C. 1437(a)(3).
303.142	20 U.S.C. 1478(a)(1)	20 U.S.C. 1437(a)(1).
303.143	20 U.S.C. 1478(a)(2)	20 U.S.C. 1437(a)(2).
303.144	20 U.S.C. 1478(a)(4)	20 U.S.C. 1437(a)(3).
303.145	20 U.S.C. 1478(a)(4) and (a)(6)	20 U.S.C. 1437(a)(3) and (a)(5).
303.146	20 U.S.C. 1478(a)(5)	20 U.S.C. 1437(a)(7).
303.148	20 U.S.C. 1478(a)(8)	20 U.S.C. 1437(a)(8).
303.160	20 U.S.C. 1476(a), 1478(a)(9)	20 U.S.C. 1435(a), 1437(a)(9).
303.161	20 U.S.C. 1476(b)(1)	20 U.S.C. 1435(a)(1).
303.162	20 U.S.C. 1476(b)(7)	20 U.S.C. 1435(a)(7).
303.164	20 U.S.C. 1476(b)(6)	20 U.S.C. 1435(a)(6).
303.165	20 U.S.C. 1476(b)(5)	20 U.S.C. 1435(a)(5).
303.166	20 U.S.C. 1476(b)(3); 1477(a)(1), (d)(2), and (d)(3)	20 U.S.C. 1435(a)(3); 1436(a)(1), (d)(2), and (d)(3).
303.167	20 U.S.C. 1476(b)(4), 1477(d)	20 U.S.C. 1435(a)(4), 1436(d).
303.168	20 U.S.C. 1476(b)(8)	20 U.S.C. 1435(a)(8).
303.169	20 U.S.C. 1476(b)(13)	20 U.S.C. 1435(a)(9).
303.170	20 U.S.C. 1476(b)(12)	20 U.S.C. 1435(a)(13).
303.171	20 U.S.C. 1476 (b)(9)(A)	20 U.S.C. 1435(a)(10)(A).
303.172	20 U.S.C. 1476(b)(9)	20 U.S.C. 1435(a)(10).
303.173	20 U.S.C. 1476(b)(9)(D) and (b)(d)(E), 1476(b)(11), 1481	20 U.S.C. 1435(a)(10)(D) and (E), 1435(a)(12), 1440.

Section	Remove	Add
303.174	20 U.S.C. 1476(b)(9)(E)	20 U.S.C. 1435(a)(10)(E) and (F).
303.175	20 U.S.C. 1476(b)(10)	20 U.S.C. 1435(a)(11).
303.176	20 U.S.C. 1476(b)(14)	20 U.S.C. 1435(a)(14).
303.180	20 U.S.C. 1484(b); H.R. Rep. No. 198, 102d Cong., 1st Sess.22 (1991)	20 U.S.C. 1443(b).
303.200	20 U.S.C. 1484(c)	20 U.S.C. 1443(c).
303.201	20 U.S.C. 1484(d)	20 U.S.C. 1443(d).
303.202	20 U.S.C. 1484(c)(1)	20 U.S.C. 1443(c)(2).
303.203	20 U.S.C. 1484(b)	20 U.S.C. 1443(b).
303.300	20 U.S.C. 1472(1), 1476(b)(1)	20 U.S.C. 1432(5), 1435(a)(1).
303.301	20 U.S.C. 1476(b)(7)	20 U.S.C. 1435(a)(7).
303.320	20 U.S.C. 1476(b)(6)	20 U.S.C. 1435(a)(6).
303.321	20 U.S.C. 1472(2)(E)(vii), 1476(b)(5)	1432(4)(E)(vii), 1435(a)(5).
303.322	20 U.S.C. 1476(b)(3); 1477(a)(1), (a)(2), (d)(1), and (d)(2)	20 U.S.C. 1435(a)(3); 1436(a)(1), (a)(2), (d)(1), and (d)(2).
303.323	20 U.S.C. 1476(b)(3); 1477(a)(1), (d)(2), and (sic)	20 U.S.C. 1435(a)(3); 1436(a)(1), (d)(2), and (d)(3).
303.340	20 U.S.C. 1477	20 U.S.C. 1436.
303.342	20 U.S.C. 1477	20 U.S.C. 1436.
303.343	20 U.S.C. 1477(b)	20 U.S.C. 1436(b).
303.344	20 U.S.C. 1477(d)	20 U.S.C. 1436(d).
303.345	20 U.S.C. 1477(c)	20 U.S.C. 1436(c).
303.346	20 U.S.C. 1477	20 U.S.C. 1436.
303.360	20 U.S.C. 1476(b)(8)	20 U.S.C. 1435(a)(8).
303.361	20 U.S.C. 1476(b)(13)	20 U.S.C. 1435(a)(9).
303.400	20 U.S.C. 1480	20 U.S.C. 1439.
303.401	20 U.S.C. 1480	20 U.S.C. 1439.
303.402	20 U.S.C. 1480(4)	20 U.S.C. 1439(a)(4).
303.404	20 U.S.C. 1480	20 U.S.C. 1439.
303.405	20 U.S.C. 1480(3)	20 U.S.C. 1439(a)(3).
303.406	20 U.S.C. 1480(5)	20 U.S.C. 1439(a)(5).
303.420	20 U.S.C. 1480(1)	20 U.S.C. 1439(a)(1).
303.421	20 U.S.C. 1480(1)	20 U.S.C. 1439(a)(1).
303.422	20 U.S.C. 1480	20 U.S.C. 1439.
303.423	20 U.S.C. 1480(1)	20 U.S.C. 1439(a)(1).
303.424	20 U.S.C. 1480(1)	20 U.S.C. 1439(a)(1).
303.425	20 U.S.C. 1480(7)	20 U.S.C. 1439(a)(7).
303.460	20 U.S.C. 1480(2), 1483	20 U.S.C. 1439(a)(2), 1442.
303.500	20 U.S.C. 1476(b)(9)	20 U.S.C. 1435(a)(10).
303.501	20 U.S.C. 1476(b)(9)(A)	20 U.S.C. 1435(a)(10)(A).
303.521	20 U.S.C. 1472(2)	20 U.S.C. 1432(4).
303.522	20 U.S.C. 1476(b)(9)(B)	20 U.S.C. 1435(a)(10)(B).
303.523	20 U.S.C. 1476(b)(9)(C) and (b)(9)(F)	20 U.S.C. 1435(a)(10)(C) and (a)(10)(F).
303.524	20 U.S.C. 1476(b)(9)(C) and (b)(9)(E)	20 U.S.C. 1435(a)(10)(C) and (a)(10)(E).
303.525	20 U.S.C. 1476(b)(9)(D)	20 U.S.C. 1435(a)(10)(D).
303.526	20 U.S.C. 1476(b)(10)	20 U.S.C. 1435(a)(11).
303.527	20 U.S.C. 1481	20 U.S.C. 1440.
303.528	20 U.S.C. 1476(b)(11)	20 U.S.C. 1435(a)(12).
303.540	20 U.S.C. 1476(b)(14)	20 U.S.C. 1435(a)(14).
303.560	20 U.S.C. 1473, 1476(b)(9)	20 U.S.C. 1433, 1435(a)(10).
303.600	20 U.S.C. 1482(a)	20 U.S.C. 1441(a).
303.601	20 U.S.C. 1482(b)	20 U.S.C. 1441(b).
303.602	20 U.S.C. 1479, 1482(c) and (d)	20 U.S.C. 1438, 1441(c) and (d).
303.603	20 U.S.C. 1482(c) and (d)	20 U.S.C. 1441(c) and (d).
303.604	20 U.S.C. 1482(f)	20 U.S.C. 1441(f).
303.650	20 U.S.C. 1482(e)(1)(A) and (e)(2)	20 U.S.C. 1441(e)(1)(A) and (e)(2).
303.651	20 U.S.C. 1482(e)(1)(A)	20 U.S.C. 1441(e)(1)(A).
303.652	20 U.S.C. 1482(e)(1)(B)	20 U.S.C. 1441(e)(1)(B).
303.653	20 U.S.C. 1482(e)(1)(C)	20 U.S.C. 1441(e)(1)(C).
303.654	20 U.S.C. 1482(e)(1)(D)	20 U.S.C. 1441(e)(1)(D).

3. In Part 303 revise all references to ''Part H'' to read ''Part C''.

§ 303.1 [Amended]

4. Section 303.1(a) is amended by removing the word ''Develop'' and adding, in its place, the word ''Maintain''.

§ 303.2 [Amended]

5. Section 303.2 is amended by adding a period after ''Mariana Islands'' and removing the remainder of the sentence.

6. Section 303.3 is amended by removing ''plan, develop,'' and adding, in its place, the word ''maintain'' in paragraph (a); and by adding a new paragraph (e) and revising the authority citation following the section to read as follows:

§ 303.3 Activities that may be supported under this part.

* * * * *

(e) To strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate

public or private community-based organizations, services, and personnel for the purpose of—

(1) Identifying and evaluating at-risk infants and toddlers;

(2) Making referrals of the infants and toddlers identified and evaluated under paragraph (e)(1) of this section; and

(3) Conducting periodic follow-up on each referral under paragraph (e)(2) of this section to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

(Authority: 20 U.S.C. 1433 and 1438)

§ 303.5 [Amended]

7. Section 303.5 is amended by removing ''; and'' at the end of paragraph (a)(1)(vii), and adding, in its place, a period; and by removing paragraph (a)(1)(viii).

§ 303.12 [Amended]

8. Section 303.12 is amended by removing paragraph (b)(2) and removing the paragraph designation ''(1)'' in paragraph (b).

§§ 303.18–303.24 [Redesignated]

9. Sections 303.18 through 303.24 are redesignated as §§ 303.19 through 303.25, respectively.

10. A new § 303.18 is added to read as follows:

§ 303.18 Natural environments.

As used in this part, *natural environments* means settings that are natural or normal for the child's age peers who have no disabilities.

(Authority: 20 U.S.C. 1435 and 1436)

§ 303.20 [Amended]

11. Redesignated § 303.20(b)(1) is amended by removing the words ''develop and implement'', and adding, in their place, the word ''maintain''; and by removing ''303.150'', and adding, in its place, ''303.140''.

§ 303.24 [Amended]

12–13. Redesignated § 303.24 is amended by adding a period after ''Mariana Islands'' and removing the remainder of the sentence.

14. Section 303.100 is revised to read as follows:

§ 303.100 Conditions of assistance.

(a) In order to receive funds under this part for any fiscal year, a State must have—

(1) An approved application that contains the information required in this part, including—

(i) The information required in §§ 303.140 through 303.148; and

(ii) The information required in §§ 303.161 through 303.176; and

(2) The statement of assurances required under §§ 303.120 through 303.128, on file with the Secretary.

(b) If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets an application requirement, including any policy or procedure filed under this part before July 1, 1998, that meets such a requirement, the Secretary considers the State to have met that requirement for purposes of receiving a grant under this part.

(c) An application that meets the requirements of this part remains in effect until the State submits to the Secretary modifications of that application.

(d) The Secretary may require a State to modify its application under this part to the extent necessary to ensure the State's compliance with this part if—

(1) An amendment is made to the Act, or to a regulation under this part;

(2) A new interpretation is made to the Act by a Federal court or the State's highest court; or

(3) An official finding of noncompliance with Federal law or regulations is made with respect to the State.

(Authority: 20 U.S.C. 1434 and 1437)

§ 303.111 [Amended]

15. Section 303.111 is amended by adding '', including individuals with disabilities and parents of infants and toddlers with disabilities,'' after the word ''public'' in paragraph (a); and by removing ''part H'', and adding, in its place, ''part C'' in paragraph (b)(1).

16. Section 303.113 is amended by revising the heading, revising paragraph (b), and revising the authority citation following the section to read as follows:

§ 303.113 Reviewing public comments received.

* * * * *

(b) *Submission to the Secretary.* In submitting the State's application or policy to the Secretary, the lead agency shall include copies of news releases, advertisements, and announcements used to provide notice to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities.

(Authority: 20 U.S.C. 1437(a)(7))

§ 303.124 [Amended]

17. Section 303.124(a) is amended by removing the words ''and increase'' after the word ''supplement''.

18. Section 303.140 is revised to read as follows:

§ 303.140 General.

A State's application under this part must contain information and assurances demonstrating to the satisfaction of the Secretary that—

(a) The statewide system of early intervention services required in this part is in effect; and

(b) A State policy is in effect that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State.

(Authority: 20 U.S.C. 1434 and 1435(a)(2))

§ 303.144 [Amended]

19. Section 303.144 is amended by removing ''plan, develop,'' and adding, in its place, ''maintain''.

20. Section 303.145 is amended by removing ''(d)'' in paragraph (a), and adding, in its place, ''(e)''; adding ''including a description of any services provided to at-risk infants and toddlers as defined in § 303.16(b), and their families,'' in paragraph (d)(1) before the word ''consistent''; redesignating paragraph (e) as paragraph (f); and adding a new paragraph (e) to read as follows:

§ 303.145 Description of use of funds.

* * * * *

(e) *At-risk infants and toddlers.* For any State that does not provide direct services for at-risk infants and toddlers described in paragraph (d)(1) of this section, but chooses to use funds as described in § 303.3(e), each application must include a description of how those funds will be used.

* * * * *

21. Section 303.147 is revised to read as follows:

§ 303.147 Services to all geographic areas.

Each application must include a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State.

(Authority: 20 U.S.C. 1437(a)(6))

22. Section 303.148 is amended by revising the undesignated introductory text, paragraph (a), and paragraph (b); and, in note 1 following the authority citation, adding a period after the word ''agencies'' in the first bullet and removing the remainder of the sentence, adding a period after the word ''children'' in the second bullet and removing the remainder of the sentence, and removing ''sections 613(a)(15) and 614(a)(5) of the Act'' and adding, in its

place, ''section 612(a)(9) of the Act'' in the third bullet; and removing note 2 following the authority citation; to read as follows:

§ 303.148 Transition to preschool programs.

Each application must include a description of the policies and procedures to be used to ensure a smooth transition for children receiving early intervention services under this part to preschool or other appropriate services, including—

(a) A description of how the families will be included in the transition plans;

(b) A description of how the lead agency under this part will—

(1) Notify the local educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, as determined in accordance with State law;

(2)(i) In the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days, and at the discretion of the parties, up to 6 months, before the child is eligible for the preschool services, to discuss any services that the child may receive; or

(ii) In the case of a child who may not be eligible for preschool services under Part B of the Act, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive;

(3) Review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(4) Establish a transition plan; and

* * * * *

23. Sections 303.149 through 303.155 and the undesignated center heading preceding § 303.149 are removed.

24. The undesignated center heading preceding § 303.160 is amended by removing ''for years four, five, and thereafter''.

§ 303.160 [Amended]

25. Section 303.160 is amended by removing the words ''on reservations'' and adding, in their place, the words ''and their families residing on a reservation geographically located in the State''.

§ 303.163 [Removed and Reserved]

26. Section 303.163 is removed and reserved.

27. Section 303.167 is amended by revising paragraph (a); removing the period at the end of paragraph (b)(2), and adding, in its place, ''; and''; and adding a new paragraph (c) to read as follows:

§ 303.167 Individualized family service plans.

* * * * *

(a) An assurance that a current IFSP is in effect and implemented for each eligible child and the child's family;

* * * * *

(c) Policies and procedures to ensure that—

(1) To the maximum extent appropriate, early intervention services are provided in natural environments; and

(2) The provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only if early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

§ 303.170 [Amended]

28. Section 303.170 is amended by removing ''303.420'' and adding, in its place, ''303.419'' in paragraph (a); and inserting ''303.419,'' before ''303.420(b)'' in paragraph (b)(2).

29. Section 303.204 is amended by designating the existing text as paragraph (a), adding a new paragraph (b), and revising the authority citation following the section to read as follows:

§ 303.204 Payments to the jurisdictions.

* * * * *

(b) The provisions of Pub. L. 95–134, permitting the consolidation of grants to the outlying areas, do not apply to funds provided under paragraph (a) of this section.

(Authority: 20 U.S.C. 1443(a))

§ 303.205 [Removed]

30. Section 303.205 is removed.

§ 303.302 [Amended]

31. Section 303.302 and the note following the section are removed.

§ 303.320 [Amended]

32. Section 303.320 is amended by removing the words ''of information materials'' in the undesignated introductory text, and adding, in their place, '', especially hospitals and physicians, of materials''.

§ 303.321 [Amended]

33. Section 303.321 is amended by adding a period after the word ''services'' the first place it appears in paragraph (b)(2) and removing the remainder of the sentence.

§ 303.322 [Amended]

34. Section 303.322 is amended by removing the words ''including assessment activities related to the child and the child's family'' in paragraph (a)(1) and adding, in their place, ''and a family-directed identification of the needs of each child's family to appropriately assist in the development of the child''; removing the words ''related to enhancing the development of the child'' in paragraph (d)(1), and adding, in their place, ''and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child''; and removing the note following the section.

§ 303.341 [Removed and Reserved]

35. Section 303.341 is removed and reserved.

§ 303.344 [Amended]

36. Section 303.344(d)(1)(ii) is amended by adding ''§ 303.18'' after ''§ 303.12(b)'' and adding '', and a justification of the extent, if any, to which the services will not be provided in a natural environment'' after ''provided''.

§ 303.360 [Amended]

37. Section 303.360 is amended by adding ''and inner-city'' after the word ''rural'' in paragraph (c)(3); and adding ''or to other preschool or other appropriate services'' after the word ''Act'' in paragraph (c)(4).

38. Section 303.361 is amended by adding new paragraphs (f) and (g) to read as follows:

§ 303.361 Personnel standards.

* * * * *

(f) A State may allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, to assist in the provision of early intervention services to eligible children under this part.

(g) In implementing this section, a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to eligible children, including, in a geographic area of the State where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in paragraph (b)(2) of this

section, consistent with State law, within three years.

39. Section 303.406 is amended by revising paragraph (d)(1) to read as follows:

§ 303.406 Surrogate parents.

* * * * *

(d) * * *

(1) A person assigned as a surrogate parent may not be—

(i) An employee of any State agency; or

(ii) A person or an employee of a person providing early intervention services to the child or to any family member of the child.

* * * * *

40. The undesignated center heading preceding § 303.420 is revised to read ''Mediation and Due Process Procedures for Parents and Children''.

41. A new § 303.419 is added following the undesignated center heading to read as follows:

§ 303.419 Mediation.

(a) *General.* Each State shall ensure that procedures are established and implemented to allow parties to disputes involving any matter described in § 303.403(a) to resolve the disputes through a mediation process which, at a minimum, must be available whenever a hearing is requested under § 303.420. The lead agency may either use the mediation system established under Part B of the Act or establish its own system.

(b) *Requirements.* The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process—

(i) Is voluntary on the part of the parties;

(ii) Is not used to deny or delay a parent's right to a due process hearing under § 303.420, or to deny any other rights afforded under Part C of the Act; and

(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(3) The State shall bear the cost of the mediation process, including the costs of meetings described in paragraph (c) of this section.

(4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(5) An agreement reached by the parties to the dispute in the mediation process must be set forth in a written mediation agreement.

(6) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

(c) *Meeting to encourage mediation.* A State may establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party—

(1) Who is under contract with a parent training and information center or community parent resource center in the State established under sections 682 or 683 of the Act, or an appropriate alternative dispute resolution entity; and

(2) Who would explain the benefits of the mediation process and encourage the parents to use the process.

(Authority: 20 U.S.C. 1415(e) and 1439(a)(8))

§ 303.420 [Amended]

42. Section 303.420 is amended by revising the heading to read ''*Due process procedures.*''; adding ''including procedures for mediation as described in § 303.419,'' after the words ''written procedures'' in the undesignated introductory text; adding ''mediation and'' before ''due process'' in paragraph (a); adding ''§ 303.419 and'' before ''§ 303.421'' in paragraph (b)(1); and, in note 2 following the section, removing the second and third paragraphs.

§ 303.424 [Amended]

43–45. Section 303.424 is revised by removing ''section 680(1) of the Act'' and adding, in its place, ''section 639(a)(1) of the Act.''

§ 303.522 [Amended]

46. Section 303.522 is amended by removing paragraph (b)(5) and redesignating paragraphs (b)(6) and (7) as paragraphs (b)(5) and (6), respectively.

§ 303.527 [Amended]

47. Section 303.527 is amended by removing ''but for the enactment of Part H of the Act'' in paragraph (a), and adding, in its place, '', including any medical program administered by the Secretary of Defense, but for the enactment of Part C of the Act''.

48. Section 303.540 is amended by revising paragraph (a)(2) to read as follows:

§ 303.540 Data collection.

(a) * * *

(2) Provide for reporting data required under section 618 of the Act that relates to this part.

* * * * *

49. Section 303.600 is amended by revising paragraph (a) to read as follows:

§ 303.600 Establishment of Council.

(a) A State that desires to receive financial assistance under this part shall establish a State Interagency Coordinating Council.

* * * * *

50. Section 303.601 is amended by revising paragraph (a)(7) and adding new paragraphs (a)(8) and (9) to read as follows:

§ 303.601 Composition.

(a) * * *

(7) At least one member must be from the agency responsible for the State governance of health insurance.

(8) At least one member must be from a Head Start agency or program in the State.

(9) At least one member must be from a State agency responsible for child care.

* * * * *

§ 303.602 [Amended]

51. Section 303.602 is amended by removing the word ''by'' in paragraph (a) introductory text, and adding, in its place, the word ''of''.

52. Section 303.650 is amended by adding a new paragraph (c) to read as follows:

§ 303.650 General.

* * * * *

(c) Each Council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

§ 303.653 [Amended]

53. Section 303.653 is amended by adding ''preschool and other appropriate services.'' after the word ''to'' and removing the remainder of the sentence.

§ 303.670 [Amended]

54. Section 303.670 and the preceding undesignated center heading are removed.

[FR Doc. 98–9682 Filed 4–13–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 303

Office of Special Education and Rehabilitative Services, Part C of the Individuals With Disabilities Education Act (IDEA) Amendments of 1997

AGENCY: Department of Education.

ACTION: Notice of request for advice and recommendations on regulatory issues regarding Part C of IDEA.

SUMMARY: The Secretary of Education (Secretary) solicits advice and recommendations from the public—including persons with disabilities and their representatives, parents, members of interagency coordinating councils, service providers, program administrators, and Federal and State administrators—as to whether to develop new regulations implementing Part C (currently Part H), the Early Intervention Program for Infants and Toddlers with Disabilities under IDEA.

DATES: In order to be assured of consideration, comments should be received on or before July 31, 1998.

ADDRESSES: Comments should be addressed to Thomas Irvin, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3090, Mary E. Switzer Building, 330 C St., SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: JoLeta Reynolds or Thomas Irvin. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5465 or the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday, except Federal holidays.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to Katie Mimcy, Director of the Alternate Formats Center. Telephone: (202) 205–8113.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1997, the President signed into law Pub. L. 105–17, the Individuals with Disabilities Education Act Amendments of 1997, amending IDEA.

On June 27, 1997 (62 FR 35051), the Secretary asked for advice and recommendations from the public, particularly on areas in which regulations would be needed to clarify provisions of the statute. Most comments received were regarding Part B of IDEA.

On October 22, 1997 (62 FR 55026), the Secretary published proposed regulatory changes that described how the Secretary would incorporate the statutory changes of the IDEA Amendments of 1997 into the applicable subparts of the Department's regulations for Assistance to States for the Education of Children with Disabilities (34 CFR part 300) and Preschool Grants for Children with Disabilities (34 CFR part 301). Only six changes were proposed to the regulations governing Part H, the Early Intervention Program for Infants and Toddlers with Disabilities (34 CFR Part 303), to conform to proposed changes in part 300.

The Secretary is publishing in this issue of the **Federal Register** final regulations making technical changes to 34 CFR Part 303. These changes incorporate the statutory amendments to Part H of IDEA added by the IDEA Amendments of 1997. Those regulations will take effect on July 1, 1998, and at that time ''Part H'' will be renamed ''Part C.''

Invitation to Comment

This request for comments is designed to elicit the views of interested parties on whether additional revisions to the Part H regulations are needed to implement the requirements of Part C of IDEA. In addition to considering further regulatory changes based on the IDEA Amendments of 1997, the Secretary also invites comments on whether to revise the regulations in areas unaffected by the statutory amendments.

If the Department regulates, it will regulate consistent with its Principles for Regulating, under which the Department considers whether regulations are needed to promote quality and equality in educational opportunity, whether a demonstrated problem requires the issuance of regulations, whether regulations are needed to resolve ambiguity, and whether a uniform approach to a situation is appropriate. In developing regulations, the Department's policy is to provide flexibility and minimize burden to the extent consistent with ensuring the implementation of the Early Intervention Program for Infants and Toddlers with Disabilities, Part C of IDEA. The Department is particularly interested in public input on any areas in which the statutory changes in Part C of IDEA may need clarification.

The Secretary requests that each commenter identify her or his role in early intervention, special education, or regular education, if any, and the perspective from which she or he views the early intervention system—either as a representative of persons with disabilities or of an association, agency, type of service provider (public or private), or as an individual person with a disability, parent, or private citizen. The Secretary urges each commenter to be specific regarding her or his recommendations, including identifying the particular section of Part C of IDEA or its implementing regulations.

All comments submitted in response to this notice will be available for public inspection during and after the comment period in Room 3072, Mary E. Switzer Building, 300 C St., SW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins, and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: April 7, 1998.

Richard W. Riley,

Secretary of Education.

[FR Doc. 98–9683 Filed 4–13–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
April 14, 1998

Part IV

Department of Education

National Institute on Disability and Rehabilitation Research; Notice of Proposed Funding Priorities for Fiscal Years 1998–1999 for Rehabilitation Research and Training Centers; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Notice of Proposed Funding Priorities for Fiscal Years 1998–1999 for Rehabilitation Research and Training Centers

SUMMARY: The Secretary proposes funding priorities for five Rehabilitation Research and Training Centers (RRTCs) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1998–1999. The Secretary takes this action to focus research attention on areas of national need. These priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: Comments must be received on or before May 14, 1998.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Comments may also be sent through the Internet: comments@ed.gov.

You must include the term ''Disability and Rehabilitation Research—Employment'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880. Individuals who use a telecommunications device or the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna__Nangle@ed.gov.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street S.W., Washington, D.C., between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

The purpose of this notice is to invite interested parties to participate in a pre-application meeting to discuss the funding priorities and receive technical assistance through individual consultation and information about the funding priorities.

Pre-Application Meeting

Monday, June 8, 1998. Interested parties are invited to participate in a pre-application meetings to discuss the funding priorities for the employment-related RRTCs included in this notice and to receive technical assistance through individual consultation and information about the funding priorities. The pre-application meeting to discuss these funding priorities will be held at the Department of Education, Office of Special Education and Rehabilitative Services, Switzer Building, Room 1002, 330 C St. SW, Washington, DC between 10:00 a.m. and 12:00 a.m. NIDRR staff will also be available at this location from 1:30 p.m. to 5:00 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priority. NIDRR will make alternate arrangements to accommodate interested parties who are unable to attend the pre-application meeting in person.

FOR FURTHER INFORMATION CONTACT:

In order to obtain further information about the funding priorities and the pre-application meeting contact Donna Nangle, U.S. Department of Education, Room 3423 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742.

Background

This notice contains proposed priorities under the Disability and Rehabilitation Research Projects and Centers Program for five RRTCs related to: Disability and employment policy, State service systems, community rehabilitation programs (CRPs), workplace supports, and educational supports.

These proposed priorities support the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 761a(g) and 762).

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does *not* solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the notice of final priorities.

Rehabilitation Research and Training Centers

The authority for RRTCs is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 760–762). Under this program, the Secretary makes awards to public and private organizations, including institutions of higher education and Indian tribes or tribal organizations, for coordinated research and training activities. These entities must be of sufficient size, scope, and quality to effectively carry out the activities of the Center in an efficient manner consistent with appropriate State and Federal laws. They must demonstrate the ability to carry out the training activities either directly or through another entity that can provide that training.

The Secretary may make awards for up to 60 months through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, training, demonstrations, and related activities leading to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

Description of Rehabilitation Research and Training Centers

RRTCs are operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services. RRTCs serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates or authorized representatives of the individuals.

RRTCs conduct coordinated, integrated, and advanced programs of research in rehabilitation targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, to alleviate or stabilize disabling conditions, and to promote

maximum social and economic independence of individuals with disabilities.

RRTCs provide training, including graduate, pre-service, and in-service training, to assist individuals to more effectively provide rehabilitation services. They also provide training including graduate, pre-service, and in-service training, for rehabilitation research personnel.

RRTCs serve as informational and technical assistance resources to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of these individuals through conferences, workshops, public education programs, in-service training programs and similar activities.

RRTCs disseminate materials in alternate formats to ensure that they are accessible to individuals with a range of disabling conditions.

NIDRR encourages all Centers to involve individuals with disabilities and individuals from minority backgrounds as recipients of research training, as well as clinical training.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the Center. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

Proposed General RRTC Requirements

The Secretary proposes that the following requirements apply to these RRTCs pursuant to these absolute priorities unless noted otherwise. An applicant's proposal to fulfill these proposed requirements will be assessed using applicable selection criteria in the peer review process. The Secretary is interested in receiving comments on these proposed requirements:

The RRTC must provide: (1) Applied research experience; (2) training on research methodology; and (3) training to persons with disabilities and their families, service providers, and other appropriate parties in accessible formats on knowledge gained from the Center's research activities.

The RRTC must develop and disseminate informational materials based on knowledge gained from the Center's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties.

The RRTC must involve individuals with disabilities and, if appropriate, their representatives, in planning and implementing its research, training, and dissemination activities, and in evaluating the Center.

The RRTC must conduct a state-of-the-science conference in the third year of the grant and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities.

Research Priorities in Employment of Persons With Disabilities

Issues in the Employment of Persons With Disabilities

Unemployment and underemployment among working-age Americans with disabilities are ongoing problems. Data from the U.S. Census Bureau on the labor force status of persons ages 16 to 64 in fiscal year 1996 highlight the magnitude of this problem (see Table 1). While four-fifths of working-age Americans were in the labor force and over three-fourths were working, less than one-third of persons with disabilities were in the labor force, and only one-quarter of them were working. Fully two-thirds of working-age persons with disabilities were not in the labor force, a statistic suggesting that many who may want to work have given up looking for a job. Finally, among those in the labor force, the unemployment rate for persons with disabilities is more than double that of nondisabled workers (12.6 percent versus 5.7 percent).

TABLE 1.—LABOR FORCE PARTICIPATION OF WORKING-AGE ADULTS WITH DISABILITIES

Working-age Americans	In labor force	Employed	Not in labor force (percent)	
			Total (percent)	Full time (percent)
All working-age persons	81.3	76.7	62.6	18.7
Working-age persons with disabilities	31.8	27.8	17.7	68.2

Recent analyses of data from the Survey of Income and Program Participation (SIPP) (McNeil, J., Americans with Disabilities: 1994–99, Current Population Reports, P70–61, U.S. Census Bureau, 1997) describe earnings discrepancies among working adults based on disability status. As shown in Table 2, median monthly earnings of working males without a disability ($2,190) are nearly $1,000 higher than those of workers with a severe disability ($1,262). Working females without a disability earn $500 more in median monthly earnings than do females with a severe disability ($1,470 versus $1,000).

Recent trends in the nation's labor market exacerbate the difficulties experienced by persons with disabilities in their attempts to gain employment and even in their motivation to seek employment. Downsizing, for example, has led to a reduction in the percentage of individuals in the labor force with stable, long-term jobs that offer employee benefits. There has been an increase in the use of contingent labor as business and industry move to other configurations that fill labor needs without requiring a long-term commitment to workers. This ''contingent'' workforce takes many forms, including on-call workers, temporary help agency workers, workers provided by contract firms, and independent contractors paid wages or salaries directly from the company (Uchitelle, L., ''More Downsized Workers Are Returning as Rentals,'' New York Times, December 8, 1996; Clark, R., ''Planning for the Future Environmental Scanning Forum: Final Report,'' Office of Special Education and Rehabilitative Services (OSERS), Washington, DC, 1997). Many of these types of jobs lack the security and

benefits, particularly health insurance, that most persons with disabilities require in order to participate in the labor force. Further, some individuals believe that the nation's political climate is such that government supports for underemployed persons are likely to decline in the future (Clark, R., ibid.; Conlan, T., Planning for the Future Environmental Scanning Forum: Final Report, OSERS, Washington, DC, 1997).

TABLE 2.—MONTHLY EARNINGS OF NONDISABLED AND DISABLED WORKING ADULTS, 1994–95

Gender	Median monthly earnings		
	No disability	Non-severe disability	Severe disability
Male	$2,190	$1,857	$ 1,262
Female	1,470	1,200	1,000

In addition, while many of the nation's business and education communities point to the need for highly educated, highly skilled workers if the nation is to succeed in the increasingly competitive global economy, the reality is more complex. On the one hand, availability of high-skilled jobs combined with rapid advances in technology may in fact improve the employment prospects of persons with disabilities as well as other workers, through such work arrangements as telecommuting and expanding the market for self-employment or small business. On the other hand, a sizable segment of the labor market includes low-skilled, low-paying jobs, in which persons with disabilities are disproportionally represented (Hayward, B., and Tashjian, M., ''A Longitudinal Study of the Vocational Rehabilitation Service Program: Second Interim Report, ''Characteristics and Perspectives of Vocational Rehabilitation Consumers,'' Research Triangle Institute, 1996).

Researchers have suspected a relationship between changes in the configuration of the nation's labor market and growth in the number of persons with disabilities who are recipients of disability benefits, but such a relationship is hard to demonstrate empirically (Rupp, K. and Stapleton, D., ''Economic and Noneconomic Determinants of the Growth in the Social Security Administration's (SSA's) Disability Programs—Overview of Theories and Evidence,'' Social Security Bulletin, 58(4), pgs. 43–70, 1995). In the past ten years, the number of persons who receive cash benefits through Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) has increased by two-thirds, with SSA paying out approximately $72 billion annually to eight million recipients. Including Medicare and Medicaid benefits, the annual Federal expenditure exceeds $110 billion, and policymakers expect the costs of cash benefits alone will exceed $110 billion annually by the end of the current administration (Coelho, T., ''Keynote Speech: Employment Post the Americans with Disabilities Act,'' Conference sponsored by the SSA, Washington, DC, 1997).

In addition to the changing macroeconomic work world, there are important changes in the conceptualization of disability. In this ''new'' disability paradigm, there is increased emphasis on the environment's role in creating barriers to an individual with disability's participation in society. NIDRR will support research that focuses on how the individual interacts with society. In terms of employment, this interaction may focus on environmental barriers to employment, including transportation, accommodations, attitudes, or programmatic barriers such as health insurance.

Recent investigations into the explosive growth of the disability benefit rolls and the inability of the existing service delivery system to return greater numbers of beneficiaries to employment have identified a wide variety of issues that merit further research. For example, data available from the Longitudinal Study of the Title I Vocational Rehabilitation Program indicate that the current structure of SSA benefits and work incentives is not adequate to address consumer concerns about income security (Hayward, B. and Tashjian, M., op. cit.). As shown in Table 3, when asked to identify reasons for not working, a substantially higher percentage of beneficiaries identified concern about a loss of total income or medical coverage than did nonbeneficiaries.

Addressing the issue of medical coverage is especially critical, since less than half (43.7 percent) of all persons aged 22 to 64 years old with a severe disability have private health insurance (McNeil, J., op. cit.). Under the current benefit structure, availability of medical benefits is tied to eligibility for cash benefits. Loss of medical coverage associated with a return to work is the major concern for many beneficiaries contemplating employment. As the data also suggest, many beneficiaries, who have little to no work history, are concerned that the income they might receive from available employment will not match the combined value of cash benefits and medical coverage they receive through SSA.

TABLE 3.—SELF-REPORTED REASONS FOR NOT WORKING

Issues preventing consumers from obtaining employment or working regularly	SSI/DI beneficiaries (percent)	Nonbeneficiaries with severe disabilities (percent)
I am afraid I would lose my medical insurance	48.3	26.5
I am afraid I could not get back on benefits if I lost the job	50.8	26.1
I do not think I could earn as much working as I get from my benefits	42.1	19.8

A number of public and private initiatives target employment for persons with disabilities. These include the State-Federal Vocational Rehabilitation Program, community rehabilitation program services, school-to-work programs, and employer sponsored programs primarily targeted at individuals already in the work force. For the past 75 years, the chief avenue of publicly funded employment-related services to improve the employment status of persons with disabilities has been the State-Federal Vocational Rehabilitation Program, currently authorized under the Rehabilitation Act of 1973, as amended. Funded at $2.3 billion in Federal funds for fiscal year 1998 and a 22 percent State match for a total of an estimated $3 billion annually, the State-Federal Vocational Rehabilitation Program is designed to assist States in providing state-of-the-art, comprehensive and coordinated

vocational rehabilitation services. State Vocational Rehabilitation agency staff assist persons with disabilities to establish vocational goals that are consistent with their strengths, resources, priorities, concerns, abilities, and capabilities in order that they may prepare for and engage in gainful employment. The program is authorized to provide an array of services that are intended to facilitate the employment of persons with disabilities, such as assessment, counseling and guidance, vocational or other training, physical and mental restoration, maintenance, and other necessary services and supports.

Reform of the current rehabilitation service delivery system is underway, and the possible effects of changes in the system require investigation. The State-Federal Vocational Rehabilitation Program is increasing consumers' control and expanding their role in policy development, implementing program performance standards, and streamlining the vocational rehabilitation process. In addition to these and other changes in the State-Federal Vocational Rehabilitation Program, a host of other ongoing reforms in the broader service delivery environment are occurring. In particular, the recent growth in the number of SSI/SSDI beneficiaries has sparked considerable Congressional interest in reforming the system of employment services that target persons with disabilities. Congressional interest includes revising existing SSA work incentives and expanding consumer choice in the selection of a vocational rehabilitation service provider through return-to-work tickets or vouchers for some or all recipients of disability benefits. Implementation of a return-to-work ticket program may have significant implications for current and future SSI/SSDI beneficiaries, including the level of control they will have over decisions about whether to participate in such a program, the selection of an employment goal and specific rehabilitation services, and changes in service providers or employers over time.

There are nearly 7,000 CRPs serving approximately 800,000 individuals with disabilities each day with funding from State vocational rehabilitation agencies, Job Training Partnership Act (JTPA) programs, Workman's Compensation, Medicaid, private insurance, and other sources (Menz, F., ''Vocational Rehabilitation Research in the United States of America,'' Vocational Rehabilitation in Europe, p. 107, 1997). The role of CRPs in the overall service delivery environment may increase even further if Federal employment programs devolve to States and communities. CRPs may need to be prepared to offer a full range of vocational-related services, or highly specialized services to an increasingly heterogeneous consumer population. If return-to-work programs in which provider payments are based on successful consumer outcomes are among the new service delivery models implemented, new relationships between service providers and funding sources may emerge over the next few years. These new relationships are likely to require CRPs to adapt their current structure and operations in significant ways.

A number of questions about how these changes may potentially influence and affect CRPs remain unanswered. For instance, more needs to be known about the impact of consumer choice on different service delivery models and the efficacy of different models to maximize competitive employment outcomes for persons with severe disabilities or with specific types of disabilities. Finally, whether new funding mechanisms will promote increased competition and innovation in service delivery by CRPs is a major question. Knowledge about these and related areas is essential to validating assumptions around which pending reforms are predicated and to help shape the future direction of initiatives designed to increase the numbers of persons with severe disabilities who obtain and retain meaningful employment.

Workplace supports are programs or interventions provided in the workplace to enable persons with disabilities to be successful in securing and maintaining employment. Some workplace supports may be provided through formal mechanisms established by vocational rehabilitation programs, such as supported employment. Supported employment programs usually provide onsite assistance, provided by a job coach who works with the person with the disability as well as with co-workers and supervisors to ease the transition to the competitive employment setting (''Evaluating the Effectiveness and Efficiency of Supported Employment Programs,'' Policy Research Brief, Volume 5, No. 2, Center on Residential Services and Community Living, College of Education, University of Minnesota, 1993).

In addition, employers have developed a number of support mechanisms in the form of return-to-work programs and related disability management programs. These programs use case management strategies to ensure communication among medical providers, supervisors, and employees to prevent disability; or, when accidents or disease occur, to foster early return-to-work. Particularly important to these programs is the establishment of a framework that sends a clear message that the employer wants the employee to continue working or to return to work as quickly as appropriate. Workplace supports also include employer willingness to implement accommodations and to encourage supervisors to work to integrate the person with disability back into the workforce. Often the reintegration process requires that treatment personnel understand job requirements and essential job functions in order to assess the ability of the employee to perform the job adequately. Finally, incentives embedded in employee benefit plans must be used to encourage the worker to maintain employment.

In addition to workplace supports, employees are protected under Title I of the Americans with Disabilities Act (ADA) which prohibits discrimination on the basis of disability in employment. This law requires that employers with 15 or more employees provide qualified persons with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. The ADA prohibits employers from discriminating against workers with disabilities and applies to individuals with disabilities who are seeking employment, as well as to those who are employed. Employers must provide reasonable accommodations to workers to overcome disability-related barriers to performing essential job functions. In addition, various government programs have experimented with strategies to improve employer receptivity to workers with disabilities, including tax credits and partial support of health benefits to encourage employers to hire persons with disabilities. Given the role that workplace supports can play in assisting employers to expand and improve employment opportunities for persons with disabilities, investigation of issues related to the development and implementation of innovative workplace supports is essential.

Over the past 20 years, changes in the nation's labor market have increased the importance of post-high school education in terms of employment success. Gingerich reported unemployment rates of persons with disabilities by level of education as follows: 12 percent among individuals with less than a high school diploma, 6.3 percent among those with a diploma, 4.2 percent among persons

with some postsecondary education, and 2.5 percent among persons with at least four years of college. In 1992, earnings of college graduates were 50 percent higher than those of persons with only a high school diploma (Gingerich, J., ''Vast Spaces and Stone Walls: Overcoming Barriers to Postsecondary Education for Rural Students with Disabilities,'' American Council on Rural Special Education Conference, 1996).

Concurrently, the percentage of postsecondary students reporting a disability has tripled, from less than 3 percent in 1978 to over 9 percent (about 140,000) in 1994. The largest growth has been students reporting a learning disability, representing about one-third of all postsecondary students reporting a disability, double the 1988 figure of 15 percent (Henderson, C., ''College Freshmen with Disabilities: A Statistical Profile,'' American Council on Education, Washington, DC, 1995). Ongoing research sponsored by the Office of Special Education Programs (OSEP), U.S. Department of Education, is testing a methodology to determine the types of services youth exiting secondary school can be expected to require in their transition to adulthood (''Services Anticipated to Be Needed by Exiting Students with Disabilities: Results of the Second PASS Field Test,'' OSEP, 1996). While case management is the most frequently needed service (up to 80 percent of exiting youth require this service), over half will reportedly require services to support their participation in postsecondary education, including two- and four-year colleges and various forms of adult literacy programs (e.g., General Equivalency Diploma preparation, adult high schools, and adult basic education) (OSEP, ibid.).

Most of the nation's 3,000 postsecondary institutions offer support services to students with disabilities. Such services vary widely and may include: (1) Individual academic accommodations (e.g., note taking, library and typing assistance, alternative testing arrangements, books on tape, readers, interpreters, tutors, and waivers of course requirements); (2) adaptive equipment (portable wheelchair-accessible desks, voice-activated computers, speech synthesizer-equipped computers); (3) case management and coordination (liaison with vocational rehabilitation, independent living, and other community resources); (4) advocacy; and (5) personal counseling, academic and career advising.

Given that such disability-related services are a relatively new addition to the postsecondary environment, a number of issues associated with their provision merit investigation, including: (1) Whether the requirement that a person disclose his disability in order to obtain services is a deterrent to postsecondary enrollment and completion; (2) accessibility of vocational rehabilitation or other funding sources of funds for services not covered under ADA or Section 504 of the Rehabilitation Act of 1973, as amended, but necessary for a student's continued enrollment; (3) the impact of such services on students' completion of postsecondary education; and (4) the extent to which the institution provides transitional support to graduates as they attempt to enter the labor force.

To accommodate the changing nature of the nation's employment environment, along with anticipated policy changes that will affect all segments of the employment and training delivery system, NIDRR intends to apply new approaches and rigorous methods to research about the employment of persons with disabilities. Fundamental to these approaches and methods is NIDRR's intent to support research that is outcome based and has a high likelihood of making significant contributions to the advancement of knowledge and improved service delivery. NIDRR proposes a research agenda that emphasizes collaborative, interdisciplinary studies that contribute to knowledge about problems and issues related to the employment of persons with disabilities.

Proposed Priority 1: Disability and Employment Policy Background

The effect of macroeconomic trends on the employment of persons with disabilities and public policy responses to these trends merit increased investigation. A coordinated research effort must examine issues, (*e.g.*, the changing structure of the workforce, economic trends, labor market changes, new skill requirements, incentives and disincentives to work, devolution of responsibility for employment training to State and local levels, and new service delivery patterns that necessitate changes in Vocational Rehabilitation Program configurations) to improve employment and economic self-sufficiency for persons with disabilities. Of particular interest are implications of cross-agency and multiple agency developments and initiatives, including welfare reform, workforce development, changes in Social Security benefits and disability determination policies, Medicare and Medicaid changes, and the U.S. Department of Education—U.S. Department of Labor school-to-work program. Investigative studies that are national in scope and test alternative models for financing services, and infrastructure changes that may yield increased opportunities for persons with disabilities are essential.

Proposed Priority 1

The Secretary proposes to establish an RRTC on disability and employment policy for the purpose of improving our understanding of public policy and its relationship to improving employment outcomes for persons with disabilities. The RRTC shall:

(1) Develop predictive models for national macroeconomic trends affecting employment of persons with disabilities;

(2) Identify and analyze the relationship between select Federal and State policies including, but not limited to, welfare reform and innovations in Social Security programs affecting persons with disabilities, the Executive order on ''Increasing Employment for Adults with Disabilities'', and issues of contingent workforce and accompanying changes (*e.g.*, part-time benefits and demands for new and flexible skills), upon the employment of persons with disabilities;

(3) Using existing data, conduct a comprehensive analysis of the employment status of persons with disabilities, identifying gaps in current data availability and collection methodologies;

(4) Identify and analyze the factors, such as pre- and post-disability earnings, education, type of job, personal assistance service, and benefit design, that predict return-to-work;

(5) Analyze the policy implications of outcome-based reimbursement on the delivery of employment and rehabilitation services to persons with disabilities;

(6) Identify and analyze the effect of civil rights protections and environmental factors (*e.g.*, barriers to transportation and employer attitudes) on significantly promoting or depressing the employment status of persons with disabilities; and

(7) Identify and analyze policies and resource availability issues that foster or impede the participation of transitioning students in rehabilitation training or employment services programs.

Proposed Priority 2: State Service Systems Background

The public vocational rehabilitation service system is in the midst of major reform. The 1992 amendments to the Rehabilitation Act mandated: (1)

Expanded consumer choice in the selection of goals, services, and providers; (2) implementation of program performance standards for State vocational rehabilitation agencies; and (3) an expanded consumer role in policy developed through the Rehabilitation Advisory Councils. The influence of these and other changes, such as a streamlined vocational rehabilitation process, on employment outcomes for persons with disabilities is unknown. Moreover, the current and future impact of recent reforms in the broader service delivery system, such as workforce development consolidation and return-to-work programs employing vouchers or ''tickets,'' merit investigation.

Proposed Priority 2

The Secretary proposes to establish an RRTC for the purpose of improving the effectiveness of State service systems on promoting employment outcomes for persons with disabilities. The RRTC shall:

(1) Describe the State systems that deliver employment services to persons with disabilities, including transitioning students. Identify how and to what extent the different components of the system, such as State vocational rehabilitation agencies, disability determination services, JTPA's Private Industry Councils, one-stop shops, and schools, coordinate their efforts;

(2) Analyze existing State and Federal data sets, including client and service provider characteristics, to determine different employment outcomes for persons with disabilities;

(3) Describe how State vocational rehabilitation agencies and other agencies within the State service delivery system overcome environmental barriers (e.g., using assistive technology, jobsite modifications, and personal assistance services) in order to improve employment outcomes;

(4) Evaluate the success of State service system efforts to address the unique employment-related needs of SSDI and SSI beneficiaries and identify State systems that have implemented demonstrably effective employment programs in assisting recipients of disability benefits to achieve a successful return-to-work; and

(5) Describe the progress of State and Federal initiatives to consolidate workforce development programs and identify policies and procedures that have been successful in ensuring the availability and provision of services to persons with the most severe disabilities.

Proposed Priority 3: Community Rehabilitation Programs Background

Proposed restructuring of the financing of employment-related services for persons with disabilities assumes a major role for CRPs. The capacity and potential contributions of an estimated 7,000 CRPs across the nation require thorough investigation. Further, the potential of this system to assume greater responsibility for service delivery under contractual or other agreements (e.g., return-to-work ''ticket'' systems for SSDI and SSI recipients) merits study.

Proposed Priority 3

The Secretary proposes to establish an RRTC on CRPs to improve their role in promoting employment outcomes for persons with disabilities. The RRTC shall:

(1) Describe the CRPs service delivery system, including the characteristics of providers, funding sources, nature and extent of the services provided, and individuals served, and identify the relative contributions of the programs to providing rehabilitation and employment services.

(2) Identify how services delivered by CRPs to State vocational rehabilitation agency consumers differ in quality, timeliness, quantity, costs, or outcomes from those delivered to consumers through other payor sources;

(3) Investigate the extent to which CRPs provide consumers with choices in the selection of employment goals and specific rehabilitation services;

(4) Analyze the impact of Federal and State policies on the structure and operation of CRPs, including management approaches, staffing configurations and staff training, outreach to underserved populations, and emerging service configurations; and

(5) Evaluate the nature and success of employment outcomes of persons who obtain services from CRPs.

Proposed Priority 4: Workplace Supports Background

The work environment for persons with disabilities, including both the physical environment (as represented by job requirements, job site accommodations, and technological aids), and the roles of employers, supervisors, and co-workers, has received insufficient attention in past research. An improved understanding of the work environment and employer needs and preferences is necessary to improve employment outcomes. Employer disability management and return-to-work programs are one potential source of information on effective employer accommodation strategies for employees with disabilities. NIDRR will support research that investigates employer roles, collaboration between education and rehabilitation professionals and employers, strategies to improve employer receptivity to workers with disabilities, and the impact of incentives, such as tax credits and partial support of health benefits, to encourage employers to hire persons with disabilities. In addition, this research will examine the viability of new work structures, including telecommuting, flexible work hours and self-employment, for persons with disabilities.

Proposed Priority 4

The Secretary proposes to establish an RRTC on workplace supports for the purpose of identifying and evaluating effective workplace supports that improve employment outcomes for persons with disabilities. The RRTC shall:

(1) Analyze the potential of existing or new employer incentives, such as tax credits or Medicare buydowns to improve labor force participation of persons with disabilities;

(2) Develop and test financial analysis methodologies analyses, such as return on investment or economic value added to measure effectiveness of employer workplace supports and their contribution to employer profitability;

(3) Identify and evaluate effective employer disability management, return-to-work, or other strategies that affect hiring, retention, and advancement of workers with disabilities;

(4) Evaluate the impact of workplace support on changes in the employment status of persons with disabilities in terms of job types, career advancement, and other outcomes important to meaningful employment of persons with disabilities;

(5) Conduct research to determine how changes in work structure will affect hiring, retention, advancement, and job satisfaction for persons with disability; and

(6) Examine perspectives of employers to determine their needs (e.g., for information, training, and resources) that will facilitate the employment of individuals with disabilities with necessary work support.

Proposed Priority 5: Educational Supports Background

The U.S. Department of Education Strategic Plan, 1998–2002, describes

postsecondary education as ''America's traditional gateway to the professions, more challenging jobs, and higher wages.'' Insufficient information exists about the use and impact of educational supports for persons with disabilities in postsecondary environments. Of particular interest are the types of educational and transition assistance that postsecondary institutions make available to improve the educational and subsequent labor market success of students with disabilities. Systemic and environmental barriers to full participation in postsecondary programs by individuals with disabilities must be studied as well. In addition, promising postsecondary educational practices important to the career mobility and success of individuals with disabilities must be investigated, at a minimum, to determine whether educational supports are available as needed, and whether they are effective in improving the educational performance of individuals with disabilities.

Proposed Priority 5

The Secretary proposes to establish an RRTC on educational supports to increase access and improve outcomes for individuals with disabilities in postsecondary education programs. The RRTC shall:

(1) Identify the nature and range of educational supports that are available to students with disabilities in postsecondary educational programs by type of program (e.g., colleges, vocational and technical institutes, adult educational programs), and type of disability;

(2) Examine the contributions of technological advances to the effectiveness of student support systems at the postsecondary level;

(3) Investigate the effectiveness of educational supports in terms of educational outcomes and labor force participation; and

(4) Investigate the extent to which institutional supports extend to the employment environment, with particular emphasis on the special needs of persons with severe disabilities.

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(Catalog of Federal Domestic Assistance Numbers 84.133B, Rehabilitation Research and Training Centers)

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Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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State and political subdivision obligations; cross-reference; comments due by 4-22-98; published 1-22-98

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S. 758/P.L. 105–166

Lobbying Disclosure Technical Amendments Act of 1998 (Apr. 6, 1998; 112 Stat. 38)

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